LABOUR MIGRATION AND HUMAN TRAFFICKING.

An analysis of laws, regulations and policies in Thailand and Cambodia.

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During the past few years, Thailand has been criticised by the international community for insufficient efforts to address human trafficking. Shortcomings clearly manifested in 2015 when Thailand was ranked Tier 3 in a Trafficking in Persons report (The Department of State, 2015, 2017). In the same year, Europe issued a yellow card to Thailand over the existence of illegal, unreported and unregulated fishing activities (IUU), which also relate to forced labour and trafficking within the fishing industry. Failure to prove that the Royal Thai Government has made sufficient efforts to handle these issues could lead to high economic sanctions.

The economic disparity between Thailand and Cambodia and the labour shortage in Thailand has led to the large-scale migration of workers. Thailand and Cambodia signed a Memorandum of Understanding (MoU) in 2003 to bring Cambodian migrant workers to Thailand. However, so far, only a small number of Cambodian migrants are going to Thailand through the MoU agreement in comparison with the number of migrants leaving via irregular channels.

Migrants in unsafe conditions are easy prey for human trafficking. Legal channels to register status are not easily accessible to migrants because of the lengthy documentation procedure and high costs. This circumstance pushes migrants to rely on brokers and irregular channels, leaving them vulnerable to trafficking or abuse.

The Thai Government has attempted to address such issues by introducing laws and implementing mechanisms to promote safe migration and to prevent human trafficking. In 2017, the Thai Government passed the Royal Ordinance on Migrant Worker Management with the aim of standardising the procedure to bring all undocumented migrant workers under the MoU process. However, this was achieved by increasing the penalty for employers and employees for working without proper documents. The Ordinance caused an exodus of Cambodian migrant workers and was followed by an amendment in 2018.

The Royal Ordinance is only the latest in a series of challenges faced by Cambodian migrant workers. The review of current laws and regulations and their practices identified the following problems in Thailand:

1. **Difficulty in accessing legal channels.** Cambodian migrant workers in Thailand have trouble registering their legal status. Despite efforts by the Thai Government in promoting migration through MoU channels, costs on either side of the border and the time taken to secure permits mean that the measure remains unfeasible for poor migrant workers. Difficulty in changing employers as well as time limitations in looking for new employers makes it even more difficult for migrant workers to maintain their legal status in Thailand.

2. **Restriction of migrant workers’ rights.** Limitations have been placed on the industries in which migrant workers can be employed and the jobs they can perform. Migrant workers are also not allowed to establish their own union. There are few community based organisations (CBOs) that support Cambodian migrant workers, and hence, workers have little recourse to access information or grievance mechanisms.

3. **Limitations in trafficking laws.** The time limitation in the victim verification process could be considered as a challenge. As of January 2018, only 24 hours are foreseen for victim verification with a 7-day extension. This process could present a challenge, especially when government officers need to tackle numerous cases and victims are not prepared to testify due to fear, language problems and lack of trust. The absence of support for non-trafficking cases could also discourage migrants from filing lawsuits against abusers.
The Cambodian Government has also initiated various measures to promote safe migration and combat trafficking. These include reducing the cost of passports for migrant workers by regularising private recruitment agencies (PRAs), issuing a Nationality Verification (NV) guideline and establishing inter-governmental agencies to coordinate relevant ministries combatting human trafficking. However, challenges persist:

1. **Continued preference for irregular channels.** Due to several reasons, including expensive and time-consuming legal channels, flaws in disseminating information on legal channels for work-related migration to Thailand, and lack of trust between communities and the Government, as well as between communities and PRAs, irregular channels remain popular for migration.

2. **Non-standardised costs.** The Government has made efforts to regulate PRAs on pre-departure training and fees charged. However, this process still needs standardisation and close monitoring.

3. **Capacity building for front line officers in Thailand and Cambodia.** There is a need for officers operating at the front line in both Thailand and Cambodia to have a common understanding on trafficking in order to fight it more effectively.

4. **Lack of coordination.** Despite establishing the National Committee for Counter Trafficking in Persons (NCCT) and mandating inter-ministerial and inter-agency cooperation, communication gaps and lack of coordination continue to pose a challenge, as information dissemination from the national agencies to the provincial offices does.

To address such issues, the report makes the following recommendations:

**To the Thai Government**
1. Make it easier to become and remain a legally documented migrant worker
2. Make it easier for migrants to change jobs
3. Allow migrant workers to form their own unions
4. Support creation of CBOs for Cambodian migrant workers
5. Tackle the issue of statelessness
6. Improve identification of trafficked people

**To the Cambodian Government**
1. Reduce the time and cost of the MoU process
2. Shift the responsibility of payment from the employees to the employers
3. Increase accountability and monitor actions of PRAs
4. Improve coordination among different working groups under NCCT
5. Joint training of Cambodian and Thai officers at operational level for common understanding on trafficking victim identification
6. Improve definition of child trafficking

**To the civil society in Thailand**
1. Lobby the Government to ensure safe migration and protection of migrants, especially undocumented migrants
2. Work with the private sector to sensitise employers
3. Coordinate with civil society in Cambodia
To the civil society in Cambodia
1. Monitor PRAs and disseminate information to potential migrants
2. Lobby the Government to reduce costs and procedures for documented migration
3. Coordinate with civil society in Thailand

To the private sector in Thailand
1. Work with civil society and Government to ensure safe working and living conditions for migrants

To the civil society in Cambodia
1. Work with civil society and Government to improve the standard of PRAs

To the international community
1. Exert pressure on the Thai Government to ratify key international conventions
2. Support civil society organisations working on migration issues in Thailand and Cambodia
3. Tackle migration issues at ASEAN and international level, to ensure equal laws and treatment for migrants of all nationalities
4. Disseminate information and raise global awareness
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ACRA</td>
<td>Association of Cambodian Recruitment Agencies</td>
</tr>
<tr>
<td>AHTJP</td>
<td>Anti-Trafficking and Juvenile Protection Police</td>
</tr>
<tr>
<td>AMC</td>
<td>Asian Migration Centre</td>
</tr>
<tr>
<td>ATPD</td>
<td>Anti-Trafficking in Person Division</td>
</tr>
<tr>
<td>CBOs</td>
<td>Community based organisations</td>
</tr>
<tr>
<td>COMMIT</td>
<td>Coordinated Mekong Ministerial Initiative against Trafficking</td>
</tr>
<tr>
<td>DoE</td>
<td>Department of Employment</td>
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<tr>
<td>DSI</td>
<td>Department of Special Investigation</td>
</tr>
<tr>
<td>ECPAT</td>
<td>End Child Prostitution in Asian Tourism</td>
</tr>
<tr>
<td>GAATW</td>
<td>The Global Alliance Against Traffic in Women</td>
</tr>
<tr>
<td>GMS</td>
<td>Greater Mekong Sub-region</td>
</tr>
<tr>
<td>GVC</td>
<td>Civil Volunteer Group</td>
</tr>
<tr>
<td>HRDF</td>
<td>The Human Resources Development Fund</td>
</tr>
<tr>
<td>IJM</td>
<td>International Justice Mission</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>IUU</td>
<td>Illegal, unreported and unregulated fishing activities</td>
</tr>
<tr>
<td>LPN</td>
<td>Labour Rights Promotion Network Foundation</td>
</tr>
<tr>
<td>LSCW</td>
<td>Legal Support for Children and Women</td>
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<tr>
<td>MAC</td>
<td>Manpower Association of Cambodia</td>
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<tr>
<td>MCCT</td>
<td>Municipal Committee for Counter Trafficking in Persons</td>
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<tr>
<td>MMN</td>
<td>Mekong Migration Network</td>
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<tr>
<td>MoEYS</td>
<td>Ministry of Education, Youth and Sport</td>
</tr>
<tr>
<td>MOLVT</td>
<td>Ministry of Labour and Vocational Training</td>
</tr>
<tr>
<td>MOSALVY</td>
<td>Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation</td>
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<tr>
<td>MoU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MOWVA</td>
<td>Ministry of Women’s and Veterans’ Affairs</td>
</tr>
<tr>
<td>MSDHS</td>
<td>Ministry of Social Development and Human Security</td>
</tr>
<tr>
<td>MWG</td>
<td>Migrant Working Group</td>
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<tr>
<td>NCCT</td>
<td>National Committee for Counter Trafficking in Persons</td>
</tr>
<tr>
<td>NCPO</td>
<td>National Council for Peace and Order</td>
</tr>
<tr>
<td>NOCHT</td>
<td>National Operation Centre for Prevention and Suppression of Human Trafficking</td>
</tr>
<tr>
<td>NPA</td>
<td>National Plan of Action</td>
</tr>
<tr>
<td>NV</td>
<td>Nationality Verification</td>
</tr>
<tr>
<td>OAG/DAHT</td>
<td>Office of the Attorney General, Department of Anti-Human Trafficking</td>
</tr>
<tr>
<td>OSS</td>
<td>One-Stop Service Centres</td>
</tr>
<tr>
<td>PCCT</td>
<td>Provincial Committee for Counter Trafficking in Persons</td>
</tr>
<tr>
<td>PIC</td>
<td>Parliamentary Institute of Cambodia</td>
</tr>
<tr>
<td>POCHT</td>
<td>Provincial Operation Centres on Prevention and Suppression of Human Trafficking</td>
</tr>
<tr>
<td>PRA</td>
<td>Private Recruitment Agencies</td>
</tr>
<tr>
<td>RTG</td>
<td>Royal Thai Government</td>
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<tr>
<td>SHG</td>
<td>Self-Help Group</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>UN-ACT</td>
<td>United Nations Action for Cooperation Against Trafficking in Persons</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>UNIAP</td>
<td>United Nations Inter-Agency Project on Human Trafficking</td>
</tr>
<tr>
<td>UNODC</td>
<td>United Nations Office on Drugs and Crimes</td>
</tr>
<tr>
<td>USAID</td>
<td>The United States Agency for International Development</td>
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</table>
In 2015, Thailand ranked Tier 3 in a Trafficking in Persons report (The Department of State, 2015, 2017), receiving international criticism for insufficient efforts to address human trafficking. In the same year, Europe issued a yellow card to Thailand for illegal, unreported and unregulated fishing activities (IUU), which also relate to forced labour and trafficking within the fishing industry. Failure to prove that the Royal Thai Government (RTG) has exerted sufficient effort to handle these issues could lead to high economic sanctions.
The Thai Government’s statistical data indicates that trafficking victims totalled 982 in 2015 and 824 in 2016. The number of female trafficking victims almost equalled that of males: 531 females and 451 males in 2015 and 413 females and 411 males in 2016 (MSDHS, 2017) (See Table 1.1). Of the 824 victims identified in 2016, 52 were Cambodians, representing the fifth largest group among different nationalities. In Cambodia, 155 people were identified as victims of trafficking (NCCT, 2017). Some reports, such as the Global Slavery Index, suggest that the number of actual trafficking victims is far higher than government figures indicate (The Minderoo Foundation, 2016). Although obtaining data and information is difficult, the extent of the problem is clear.

Table 1.1: Number of victims by nationality, as identified by the victim identification process

<table>
<thead>
<tr>
<th>Year</th>
<th>Male</th>
<th>Female</th>
<th>Thai</th>
<th>Myanmar</th>
<th>Laotian</th>
<th>Cambodian</th>
<th>Vietnamese</th>
<th>Filipino</th>
<th>Bangladeshi</th>
<th>Sri Lanka</th>
<th>Uzbekistani</th>
<th>Rohingya</th>
<th>Unknown</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>451</td>
<td>531</td>
<td>360</td>
<td>409</td>
<td>87</td>
<td>9</td>
<td>1</td>
<td>-</td>
<td>27</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>89</td>
<td>982</td>
</tr>
<tr>
<td>2016</td>
<td>411</td>
<td>413</td>
<td>333</td>
<td>238</td>
<td>58</td>
<td>52</td>
<td>127</td>
<td>4</td>
<td>-</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>10</td>
<td>824</td>
</tr>
</tbody>
</table>

Source: MSDHS, 2017: p. 84

Migrants in unsafe conditions are easy prey for human trafficking. According to the Mekong Migration Network’s (MMN) July 2017 report, 160,881 Cambodians had work permits for Thailand issued under the Memorandum of Understanding (MoU), and 84,599 workers had completed the Nationality Verification (NV) process. However, 400,000–500,000 Cambodians were working in Thailand as of May 2017 (MMN, 2017). This suggests that over 250,000 Cambodians are living in Thailand as undocumented workers, a population highly vulnerable to trafficking. Lack of documentation is related to the likelihood of being trafficked (ADB, 2013). GAATW (2017) illustrates that being undocumented heightens the risk of being trafficked since such migrants are forced to rely solely on brokers and their chances of turning to lawful channels for assistance are limited.

Chantavanich et al. (2013) note that even when migrant workers are registered, they are considered legally irregular (Immigration Act B.E. 2552).
That is, they do not enjoy the same rights and protection as other citizens and are vulnerable to abuse and exploitation. Further, undocumented migrant labourers are vulnerable to trafficking because the government often does not know of their presence in the country and they do not want to be detected by the authorities (Sorajjakool 2013).

To combat the problem of human trafficking, both Thai and Cambodian Governments have introduced various legislations. However, many of these are oriented towards national security and ensuring labour for the Thai economy rather than protecting workers’ rights. This makes laws and regulations ineffective in promoting safe migration, and human trafficking continues. It is important to review both anti-trafficking and labour migration laws and regulations to identify gaps and inconsistencies in their phrasing and implementation.

This study aims to identify areas that various stakeholders need to address to combat human trafficking and ensure safe migration for Cambodians to Thailand. To do so, it:

1. reviews current legislations on human trafficking and labour migration in Thailand and Cambodia,
2. assesses the effect of the implementation of such legislations and
3. provides recommendations on areas for various stakeholders (governments, international communities and civil society) to focus on.

The study is limited in its scope since some legislations are still new and their impact is difficult to assess. It relies on the analysis of past legislations to infer possible impact. The study only focuses on Cambodians, although the Burmese form the largest number of labour migrants in Thailand. This study is desk-based with a few key informant interviews (See Annexure 1 for the list of key informants) conducted from July 2017 to January 2018. Key informants were identified from government offices, NGOs and the private sector. Interviews were conducted with the consent of the key informants. Questions posed were tailored to the scope of each informant’s work. Due to time and resource restrictions, no primary data was collected. The stories of migrants presented in this research were gathered by GVC1 staff during Self-Help Groups (SHG) meetings organised in the framework of the Migra Action project in Cambodia (from the SHGs in Siem Reap and Oddor Meanchey province, collected from July 2017 to March 2018), as well as extracted from previous studies, the source is clearly cited.

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1 GVC has been working to prevent human trafficking and labour exploitation of Cambodian migrants in Thailand since 2013 leading three projects co-funded by the European Union: Migra-Safe project, Migra-Action project and Mig-Right project.
LEGAL MEASURES ON LABOUR MIGRATION AND HUMAN TRAFFICKING IN THAILAND

This chapter reviews the current laws and regulations concerning human trafficking and labour migration, problems in their implementation and their effectiveness in ensuring safe migration. Although this chapter explores legislation in Thailand, since some laws are relevant to both Thailand and Cambodia (such as those related to the MoU), some aspects cover issues in Cambodia as well. Although Thailand has ratified international conventions recognising human rights, some conventions regarding the rights of migrant workers have not yet been ratified. (See Annexure 7 for International conventions on the rights of migrant workers that Thailand has yet to ratify).
2.1. LABOUR MIGRATION

To ensure that Cambodians can safely migrate to Thailand for work, the Thai Government has laid out the following legal routes: (1) Arrangements based on the Memorandum of Understanding (MoU); (2) Temporary passports through nationality verification (NV) and work permits; and (3) Border passes for migrant workers in special areas. Legally, the NV process that allows workers to register after they arrive in Thailand is a temporary measure towards the MoU process. In the following paragraphs, we review how the MoU and NV processes work, we analyse the new Ordinance and amendment of 2017 and 2018, and finally, we introduce border passes as well as migration regulations in specific occupations.

2.1.1. MEMORANDUM OF UNDERSTANDING (MOU)

The Governments of Thailand and Cambodia signed a MoU on Cooperation in Employment of Workers in 2003. Employers or recruitment agencies can bring migrants into Thailand. They must be certified by the Ministry of Labour as mandated by the 2016 Thai Royal Ordinance on Recruiting Migrant Workers to Work with Thai employers, which was subsequently substituted by the 2017 Thai Royal Ordinance on Migrant Worker Management. The objectives of such laws are to regulate the movement of migrant workers through a MoU.

Costs involved in bringing in migrant workers under the MoU procedure are as follows, as determined by the Department of Employment (DoE)²:

1. Application forms (for work permit): 100 Baht (every 2 years)
2. Work permit: 1800 Baht (every 2 years)
3. Visa stamp: 500 Baht (annually)
4. Medical check-up: 500 Baht (annually)
5. Medical insurance: 1600 Baht (annually)

The DoE issues work permits in collaboration with the countries of origin. Under the Ministerial Regulation of 2016 (as well as in the Royal Ordinance of 2017), employers must provide a cash guarantee to the office of employment. Guarantee for less than 90 migrants cost 1,000 Baht per person; for more than 90 migrants, employers must procure a guarantee costing 100,000 Baht³. A contract under the MoU lasts for two years and can be extended for up to four more years (Srongkawrop, 2017). Migrants can work in

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² An interview with Director, Foreigner Affairs Office, Department of Employment, on 20 October 2017.
³ The amount placed as guarantee may be refunded to employers after the migrant worker returns home.
Thailand for four years continuously. If, after four years, they are still willing to work in Thailand, they must return to their home countries and wait for 30 days before applying under the MoU again. Migrants can enter through MoU channels to work as labourers and domestic workers. Under the MoU process, private recruitment agencies based in Thailand have to deposit 5 million Baht as guarantee and pay 20,000 Baht as license fees to recruit and import migrant workers from other countries.

The Ordinance does not specify who should pay these fees, but most of the time, it is deducted from the migrant workers’ salaries as reported by emerging research (Veena N. and Kusakabe). Although the number of migrants entering Thailand through the MoU is gradually rising, it is still small (Reungsitichai, 2017; Prachachat, 2017; Voice TV, 2017). Of the 400,000-500,000 Cambodian workers estimated to be working in Thailand (MMN, 2017), only 150,000 entered under the MoU (see Table 2.1).

Table 2.1: Migrant labourers entering through the MoU channel and remaining in Thailand (2010-2016)

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</thead>
<tbody>
<tr>
<td>Total migrants*</td>
<td>43,032</td>
<td>72,356</td>
<td>93,265</td>
<td>174,042</td>
<td>206,168</td>
<td>279,331</td>
<td>392,749</td>
</tr>
<tr>
<td>Cambodian migrants</td>
<td>26,515</td>
<td>49,724</td>
<td>63,405</td>
<td>89,680</td>
<td>87,398</td>
<td>114,436</td>
<td>152,320</td>
</tr>
<tr>
<td>Increase/ decrease in Cambodian migrants from previous year</td>
<td>-</td>
<td>23,209</td>
<td>13,681</td>
<td>26,275</td>
<td>-2,282</td>
<td>27,038</td>
<td>37,884</td>
</tr>
</tbody>
</table>


ILO (2013) found that only around 10% of Cambodian workers opt to migrate to Thailand via MoU channels. This is because the actual cost of the MoU process is often far higher than the amounts officially cited (MOLVT & ILO, 2014; PIC, 2016), as well as time consuming. In addition, the cost of the documentation process in home countries is not explicit and lacks clarity. The problem is that the cost for migrating under the MoU method, as listed above, only includes fees required by Thailand; a large fee is necessary on the Cambodian side of the border as well (see chapter 3). Although the PRA and the MoU process guarantees security and protection to migrant workers, the cost involved makes it unfeasible for poor migrants, who opt for undocumented migration. Vutha et al. (2016)’s study of Cambodian mi-

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5 Interview with Program Manager, Legal Support for Children and Women, 29 July 2017.
6 Interview with Program Manager, Legal Support for Children and Women, 29 July 2017.
7 Interview with the representative of the ACRA, 28 October 2017.
grants showed that 55% of respondents said that reasons for resorting to undocumented migration are the cost of legal migration which is too high and the need to depend on moneylenders to finance their travel. Interviews conducted by MMN (2017) revealed the challenges people faced in accessing such legal channels: costs, lengthy documentation and the urban location of offices.

‘Coming to work in Thailand through the MoU was a complicated process. It required a lot of paperwork and was more expensive than paying a broker.’

(Cambodian migrant worker, female, aged 38, cited in MMN, 2017: p. 30)

‘The location for applying for all legal documents should be near migrants who are in the provinces, and the process should be cheap and fast.’

(Cambodian migrant worker, male, aged 18, cited in MMN, 2017: p. 30)

‘I have decided to migrate to Thailand as an undocumented worker, as it is too complicated for me to obtain documents in Cambodia and I have decided to get all legal documents, including my passport, in Thailand.’

(Female participant at SHG meeting, Siem Reap province, September 2017)

The Parliamentary Institute of Cambodia (PIC, 2016) pointed out that the PRA, although authorised by the government, does not adhere to the government’s initial intention. In principle, the PRA is mandated to charge prospective migrants a flat rate of $49. In practice, the PRA reportedly charges more than $49 (Yi and Sok, 2014). A Ministry of Labour and Vocational Training (MOLVT) officer in Cambodia said that in practice, no standard rate existed and various fees were charged by different agencies depending on the length of the documentation process.

Some migrants do not see the merit of going through the MoU process, since it is more expensive and does not guarantee security or a longer stay in Thailand. In an interview with LPN, we found that the cost of travelling to Thailand is 1000–3000 Baht and a bribe of around 500 Baht per month helps migrants live in Thailand indefinitely. In comparison, the MoU channel costs around 20,000 Baht. All these reasons could motivate migrants to enter Thailand through irregular channels.

Migrants who decide to stay on after the period of the MoU contract be-

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8 Vutha et al. (2016) in another research promoted by GVC noted that 55% of legal migrants used financial resources from household savings, while 52% of holders of temporary documents obtained financial resources through moneylenders. This shows that those who do not have household savings cannot afford to go through legal channels and moreover, accumulate debt by borrowing from moneylenders.

9 Interview with the representative of MOLVT, 28 October 2017.

10 Interview with the manager of LPN, 26 August 2017.

11 The approximate cost that a migrant worker needs to pay for documentation and services of recruitment agencies is 20,000 Baht. This cost is informed by a key informant.
come irregular migrants and thus become vulnerable to trafficking. Hence, the MoU channel does not guarantee a stronger status for migrants.

To bring in migrant workers, employers or recruiters in Thailand need to receive quotas approved by the employment office. Not all businesses and sectors can request such quotas. According to the Rule of the Department of Employment on the Criteria to Allocate the Number of Migrant Workers (the 2nd rule), approved on 24 May 2016, only 25 types of businesses can request quotas to apply for MoU. These are 1) fisheries, 2) agriculture and husbandry, 3) construction, 4) fishery-related industries, 5) agriculture-related industries, 6) livestock-related industries, 7) recycling or waste collection, 8) ore and stone mining, 9) production and sale of metal-related products, 10) production and sale of food and beverages, 11) production and sale of soil, 12) production and sale of construction materials, 13) stone processing, 14) production or sale of garments, ornaments and parts of shoes, 15) production and sale of plastic, chemicals, fertilizers and toy products, 16) production or sale of paper products, 17) production or sale of electronic, electric, battery and vehicle products, 18) logistics on ground and on water and warehouses, 19) wholesaling, retailing, stalls in the market and general grocery, 20) garages and car washes, 21) gas stations, 22) education, foundations, associations and hospitals, 23) service sectors except sub-contractors, 24) marine product processing and 25) domestic work.

Employers in Thailand often find that migrants do not have the necessary skills because of the lack of standardised pre-departure training. Employers have to depend on recruitment agencies to bring in workers, and contacting a Cambodian PRA directly costs approximately 22,000 Baht per worker. However, Thai employers often do not have connections to these PRAs and depend on Thai recruitment agencies that often double the costs.

2.1.2. NATIONALITY VERIFICATION AND WORK PERMIT

Numerous migrants opt to cross the border without documents and later apply for legal documents when the Thai Government annually permits registration of undocumented workers. In principle, immigration laws do not allow any migrant to work in Thailand, especially as labourers, since the job is reserved for Thais. However, labour shortage coupled with the number of migrants in Thailand has compelled the government to allow migrant workers from three neighbouring countries to be employed as labourers and domestic workers. Since 2001, a series of temporary permits have been issued,
with the last being issued in 2017.

Every year, the Thai Government passed the cabinet resolution to permit undocumented migrants to stay in Thailand temporarily, holding the status of “pending deportation”. After registering, the migrants received an identity card for non-Thai citizen—the most recent one is the “pink card”. In 2003, the Thai Government signed a MoU with the Cambodian Government to bring Cambodian migrants to work in Thailand.

In parallel, the governments of both countries launched the Nationality Verification (NV) process to change the status of migrants permitted to stay in Thailand from “pending deportation” or undocumented status to legal migrant workers with Travel Documents and Work Permits. However, the process of shifting undocumented migrants to the NV process did not go as smoothly as expected as witnessed by various cabinet resolutions extending the deadline for Nationality Verification.

The validity of the temporary registration (pink card) was to be abolished on 31 March 2018; however, this was postponed until June 2018. After the temporary registration (pink card) is abolished, all migrant workers who are not under the MoU process need to go through a Nationality Verification (NV) process and obtain Travel Documents and other documentation. The process of NV, in accordance with the Royal Ordinance, is being defined in the ministerial announcement of the Ministry of Labour on Criteria, Methods and Conditions to Apply and Grant Permission to Work in Compliance with Thai Royal Ordinance on Migrant Worker Management 2017 dated 6 July 2017. Later, the announcement issued in July was substituted by the ministerial announcement of the Ministry of Labour on Criteria, Methods and Conditions to Apply and Grant Permission to Work in Compliance with Thai Royal Ordinance on Migrant Worker Management 2017 dated 17 October 2017. These regulations attempt to convince migrants with temporary stay permits to undergo NV. The plan for registering migrant workers was initially set with the aim of finishing all relevant processes including NV, medical check-ups, issuing work permits and visas before 31 March 2018. However, the Government soon realised that it was impossible to complete all the processes by the expected date. As a result, the Ministry of Labour changed the requirements for registration and allowed employers only to inform their intention to employ migrants. By expressing the intention, they can then proceed with the documentation until 31 June 2018 (Foreign Workers Administration Office, 2018)\(^\text{15}\).

The fees for NV vary by country; it is fixed at 4,360 Baht for Cambodian migrants and 2,360 Baht for Myanmar migrants. Migrants from Lao cannot undergo the NV process in Thailand; they have to do it back home.

\(^{15}\) [https://www.doe.go.th/prd/ alien/news/param/site/152/cat/7/sub/0/pull/detail/view/detail/object_id/14496](https://www.doe.go.th/prd/alien/news/param/site/152/cat/7/Sub/0/pull/detail/view/detail/object_id/14496)
For Cambodian migrants holding pink cards (temporary registration for undocumented migrants that gives them a temporary stay permit), the costs for NV include:\(^\text{16}\):

1. Travel documents: 2,360 Baht (including a 10 Baht operation fee as determined by the Cambodian Government)
2. Visa: 500 Baht
3. Medical check-up: 500 Baht
4. 3-month health insurance: 500 Baht
5. Work permit until 31 March 2018: 500 Baht

In October 2017, the Ministry of Labour announced methods by which migrants could:

1. change their employers, especially if their employers differed from the ones mentioned in their documents, or 2) correctly register their status (for undocumented migrant workers). Such migrant workers could change their employers under five conditions: 1) death of employer, 2) bankruptcy of employer, 3) abuse by employer, 4) non-compliance with the contract or Labour Protection Act, and 5) a potentially harmful working environment.

To standardise the different status of migrant workers, the Ministry of Labour declared different rules for migrants specifying different conditions to obtain work permits in an announcement dated 17 October 2017:

1. Migrants who have gone through the NV process and have received the documents of Non-Immigrant L-A Visa but have not applied for a work permit within 15 days since obtaining the Visa to stay in Thailand must submit a request for a re-employment contract provided by the employer. This group is permitted to work in Thailand only until 31 March 2018, with just one extension until 31 March 2020.

2. Among migrants who have undergone the NV process and migrant workers that have been permitted to temporarily stay in Thailand with the status of “pending deportation”, those who are employed but their actual employer is different from the one named on the card can contact the Department of Employment (Provincial office) to rectify the name of the employer.

3. For migrants who decide to apply for documents including passport, temporary passport, and travel documents in their countries of origin, such migrants and their employers must prove their working relationship before receiving the certified letter to travel. When the migrants return with the documents and Visa, the employer requires them to apply for a work permit in a provincial labour office. The in-charge authority will permit them to work until 31 March 2018.

\[^{16}\text{See https://www.doe.go.th/prd/alien/news/param/site/152/cat/7/sub/0/pull/detail/view/detail/object_id/8342}\]
a. If the above migrants do not obtain Visa, the migrant can approach the immigration office and ask for Visa. Later, the employer needs to take the migrant to apply for the work permit. The in-charge authority could permit them to work until 31 March 2018.

b. If the above migrants cannot obtain the documents from their home countries and have to return to Thailand, immigration could offer a temporary stamp to permit them to come to Thailand. When the legal documents issued by their home countries arrive, the migrants need to apply for Visa. In turn, their employers have to take them to apply for a work permit.

c. Migrants who have received the letter can apply for the documents from different countries in the labour centre of migrant workers located in Thailand.

4. Migrants from Myanmar, Cambodia and Lao PDR working without legal documents follow a similar process, but could undergo NV in Thailand by commissioned officers from their countries of origin. Once they receive the documents, they need to apply for Visa and subsequently a work permit in the company of their employer. This group will be permitted to work until 31 March 2018.

5. Migrants who are allowed to stay in Thailand in accordance with the cabinet resolution of 23 February 2016, 25 October 2016, and 24 January 2017 are permitted to work until 1 November 2017 and 31 March 2018 if they have undergone NV. After receiving the Visa, the employers need to take the employee to apply for a work permit, which will last until 1 November 2017 or 31 March 2018. If the above-mentioned migrants have children under 18, their children will receive visas equivalent to their parents.

Before October 2017, after proving their employment, Cambodian migrants had to return to their country to apply for a passport, which could take about a month, before coming back to Thailand to apply for a work permit (Prachatai, 2017). This is because Cambodia had no NV centres in Thailand. However, since October 2017, NV centres for Cambodian migrants have been set up in Ladprao in Bangkok, as well as in Rayong and Songkhla provinces in Thailand (Daily News, 2017).

Due to ambiguity over whether undocumented migrant workers from countries other than Myanmar could register in Thailand, the Ministry of Labour enacted an announcement on 17 October 2017. Unlike the July announcement, the October announcement made a very clear statement in Section 9:
‘In case of Cambodian, Laotian, and Burmese migrant workers in Thailand without any documents or with some documents that have not been stamped for stay in the Kingdom of Thailand or with documents that were stamped but have now expired, employers can submit an application to the migrant worker centre in the province showing their willingness to hire such workers.’
(Translated by author)

Allowing migrants to go through the NV process without having to go back to their own country has alleviated a financial burden for migrants, who used to avoid the NV process because of its cost of travelling back and forth. In each province, the provision of services is slightly different. In Rayong and Songkhla, One-Stop Service Centres (OSS) are provided. Once the migrants obtain travel documents, they can instantly apply for Non-immigrant L-A visa, get a medical check-up and apply for a work permit, also obtaining a receipt to prove that the work permit is being processed. The centre in Bangkok cannot provide such services. Consequently, migrants have to obtain a visa, get their medical check-up and apply for a work permit in the province where they work (DoE, 2017).

There are four major problems in the Nationality Verification process:

(i). The first is information dissemination. This remains problematic because the Ministry of Labour hotline does not seem to be functioning, leading to considerable pressure on civil society organisations. In addition, the service is provided in Thai, Khmer, Burmese and English languages during working hours (8.00–16.00) on working days, which makes it difficult for migrant workers to seek information. For Cambodian migrants already in Thailand, accessing the NV process is not easy because of poor information dissemination. The law assumes that employers will automatically inform their employees (MMN & AMC, 2013), but this does not necessarily happen. The documents needed for an NV can be difficult to obtain for many migrant workers, who need to rely on brokers, which can be very costly.

(ii). The second is that NV is linked to employment and makes it extremely difficult for workers to change jobs, even though the costs for the NV are covered by the employees. The current registration system makes migrant workers’ status dependent on their employer and weakens their position, exposing them to abuse and exploitation, as reported to GVC:

‘I was working in Thailand and received 220 Baht per day. I could not survive with my children and I started looking for a new employer, but I could not change, because I did not have approval from my employer’.

(Female participant at SHG meeting, Siem Reap, July 2017)

17 Interview with Director, LPN, 26 August 2017
18 Interview with Director, LPN, 26 August 2017 and Inspector, Immigration Police, October 2017.
19 Interview with Manager, LPN, 26 August 2017 and Inspector, Immigration Police, October 2017.
20 Interview with Program Manager, Legal Support for Children and Women, 29 July 2017.
When we (a group of migrants working for the same Thai employer) need to return home, for example for Khmer New Year, we have to ask the employer’s permission. Normally, our employer will appoint a broker who transports us to the border. Once we reach the border, he will hand us our documents (pink cards or passports obtained in Thailand). After we cross the border and are in Cambodia, the same broker will come to take back the documents. We paid 20,000 to 25,000 Baht for these documents, but we only see them for less than an hour.

(Female participant at SHG meeting, Siem Reap, January 2018)

Their precarious status also makes them easy victims of raids and bribes. As Kanchanadich (2017) points out, some migrants find themselves abandoned by employers and pushed back to their countries.

‘I migrated to Thailand with a broker to work on a construction site. I was undocumented. After a month of working my employer helped me obtain full documents, but it turned out they were not complete. I decided to go back to Cambodia to obtain new documents and I used this opportunity to change my employer.’

(Male participant at SHG meeting, Siem Reap province, June 2017)

If oppressed migrants change jobs, their status changes to irregular. The NV does not guarantee their safety and rights in Thailand.

‘I have been working in Thailand as an undocumented worker for about a year. I have changed my employer five times, because I have never been paid, even if I was promised to be paid 300 Baht per day. In the end, I decided to go back home.’

(Female participant at SHG meeting, Siem Reap province, August 2017)

Migrants’ negotiation power is diminished because they are dependent on their employers to register and approve their status; this could also force them to bribe authorities21.

Registration and the difficulty of changing employers could pose some challenges for migrants. As previously mentioned, the conditions to be able to change employers are very limited. Once the migrant worker quits his/her job, they have only 15 days to find a new employer; if they cannot, they risk being deported. There is no support for migrants to find new jobs. A representative of the foreign workers’ administration offices highlighted the contradiction between the law and the reality22:

‘Migrant workers are human. If they find a better opportunity, they will go. We cannot tell them to stay with an employer forever. For instance, staying with employer A probably earns them 10,000 Baht, but if they are invited to work for employer B, they will probably earn 30,000 Baht. So, we cannot force them to stay.’

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by their peers to earn 12,000 Baht, they will go. Employers in Thailand want cheap labour, but keep saying that they run out of labour. In fact, if they pay well, even Thais will do the job.’

It is noted that, in an attempt to address the labour shortage in the fisheries and seafood processing industries, the DoE guideline of October 2017 allowed migrant workers in this sector to change jobs freely, as well as enabling workers not in the fish industry to join employers in the fisheries and seafood-processing sector. This measure ended on 31 December 2017. As of January 2018, further ministerial announcements or regulations are expected on the subject of migrant workers who would like to change employers. Nevertheless, having legal documents might not completely guarantee rights and protections of those working in the fish industry. Despite some improvements in regularising the working conditions and monitoring systems, issues related to retention of migrants’ documents have been identified recently (ILO, 2018; Human Rights Watch, 2018). A recent report produced by Human Rights Watch reveals the employers’ behaviours in restraining the mobility of migrants on fishing vessels and preventing migrants from changing employers by retaining their documents. As a result, leaving their jobs also leads to loss of their documents (Human Rights Watch, 2018).

(iii). The third is the slow process of NV. Staff shortage hinders the NV procedure mandated by the new Royal Ordinance on Migrant Worker Management. As the chief governor of the Ministry of Labour said:

‘Currently, for Cambodians, only 200 cases of nationality verification can be conducted per day which is lower than our initial goals. If we want to finish the process by the end of this year, we have to complete 2,000 cases per day. We hope that we can improve the system to meet our target.’

(Daily News, 2017)

A representative of Legal Support for Children and Women (LSCW) said this statement clearly indicated that inadequate infrastructure, budget and staff could affect the success of the NV procedure.

(iv). The fourth and the largest problem is that the system aims at managing migrants and not protecting them.23

As evident from the testimony of a migrant worker below, the new law has been exploited to extract money from migrants rather than making it easier for migrants to become legally documented. The system is used to harass migrants who have trouble obtaining documents.

‘Working in Thailand is difficult, but it is better than (working) in Cambodia. Life in Thailand is more convenient because Thai laws are improving, but Thai authorities have to be cautious in implementing laws. Previously, al-
most all fishing workers were undocumented and at police checkpoints, they were searched for (migrant worker) cards. In reality, the police were searching for money because they knew that most workers had no cards. The police would take all the money they found. If they did not find any money, they would take the workers somewhere dark, beat them, and threaten them. Some workers would call their friends to bring them money to pay the police. However, sometimes the police would just arrest workers and put them in jail before sending them back to Cambodia. Now that workers are more likely to be documented, the police searches at checkpoints and the harassment have decreased. If they find illegal migrant workers, the case is settled by workers paying money. If migrant workers don’t have money to pay, they are arrested and put in jail.


2.1.3. THE 2017 ROYAL ORDINANCE AND THE 2018 AMENDMENT

The Royal Thai Government has noted that laws and regulations around labour migration from neighbouring countries are not comprehensively managing migrant workers. A new Ordinance was issued in 2017 in order to re-organise, protect, prevent, remedy and implement law and promote collaboration among all stakeholders involved in migrant labour management (Royal Ordinance on Migrant Worker Management, 2017: p. 31, translation of Ordinance titles by author). The new Thai Royal Ordinance on Migrant Worker Management 2017 was issued in June 2017, replacing the Migrant Act of 2008 and the 2016 Act governing the import of workers to Thailand. This Ordinance calls for the deportation of undocumented migrant workers and aims to abolish temporary registration (pink card) in 2018. The Royal Ordinance stated that from 22 June 2017, harsh punishment would be meted out not only to migrants (as stated in Section 101), but also to employers (Section 102). The deputy secretary of the Ministry of Labour, Waranon Pitiwan who was also the acting general director of the DoE, noted that by 31 March 2018, the pink card would not exist because the 1.3 million pink cardholders from Myanmar, Lao PDR and Cambodia are going through the NV process (Thairathonline, 3 March 2017). The deputy secretary ruled out the likelihood of a labour shortage arising from this move since migrants are not being prohibited from entering Thailand. They would, however, have to use the proper channel or MoU for which employers could request a quota from the provincial employment office (ibid.).

The June 2017 Royal Ordinance essentially differs from the Migrant Act of 2008 in the severe punishment stipulated for employers who employ undocumented migrant workers. The 2008 Act only stipulated a fine for em-
ployers who hired migrants for jobs reserved for locals (fine of 10,000 Baht per head) or employed undocumented migrant workers (fine of 10,000–100,000 Baht per head). This fine was increased drastically in the Royal Ordinance of 2017 to 400,000–800,000 Baht per undocumented migrant worker (Section 102) and 400,000 Baht per head for employing migrants in jobs different from that stated in work permits (Section 123). Section 103 states that smugglers, traffickers or others who bring undocumented migrant workers into Thailand will be fined up to 100,000 Baht or jailed for up to 6 months or both. Section 101 states that migrants who are not trafficked victims but are illegally working in Thailand will be fined 2,000–100,000 Baht and jailed for up to 5 years unless they leave Thailand within 30 days.

The laws also includes very harsh penalty for persons who deceive migrant workers for jobs. According to section 128:

“Any person who makes any deceitful representation to another person that he can bring foreigners for working with employers in the country or can procure foreign workers for employers and, through such deceit, obtains money or property or any other benefit from the deceived person shall be liable to imprisonment for a term of three to ten years or to a fine of six hundred thousand to one million Baht for each foreigner or to both.”

The punishment is extended to conspirators as well. The conspirators will be liable to imprisonment for a term of one to three years or to a fine of 200,000 to 600,000 Baht or both.24

Similar to previous laws, changing employers is still challenging under the 2017 Decree. Migrant workers could work with other employers under the restricted conditions and timeframe as stipulated in section 51:

“In the following cases, the employer must notify the Director-General in accordance with the rules and procedures prescribed in the Notification of the Director-General:

(1) where the employer terminates employment of a foreigner without justifiable reason;

(2) where the employer is unable to continue the operation of the business;

(3) where a foreigner resigns on account of the employer’s breach of contract of employment or violation of the law.

In case of termination as per paragraph one, if the foreigner intends to work with another employer, the other employer who intends to employ such foreigner must pay the security deposit under section 46 and obtain the Director-General’s permission for employing the foreigner. In this regard, such foreigner must start working with the other employer within fifteen days from the date of cessation of working with the original employer.”

24 Section 129 of Royal Ordinance on Migrant Worker Management 2017.
The failure to find employers within the given timeframe will lead to deportation of migrant workers. The most recent employer will bear the duties to send the migrants home.

The 2017 Royal Ordinance also prohibits employers to retain migrant workers’ documents. The violation could lead to jail term for 6 months or less and a fine not exceeding 100,000 Baht or both. The harsh penalties of the Royal Ordinance of 2017 resulted in an exodus of migrants (Channel News Asia, 2017). Khmer Times & Reuters (2017) reported that at the Poipet International Checkpoint alone, 4,200 Cambodian migrant workers returned in five days. Although precise data is lacking, an estimated 30,000 unregistered migrants headed back to their countries after the promulgation (Nanuam, 2017). This is similar to the exodus of 2014, when around 200,000 Cambodian workers left Thailand following a crackdown on undocumented migrants by the then head of NCPO PM General Prayut Chanochar (MMN, 2015: p. 13).

The short notice given in this Royal Ordinance and the extremely harsh punishment stipulated for employers was met with strong opposition from employers. Therefore, a month after the promulgation of the Thai Royal Ordinance, the NCPO in July 2017 issued Regulation NCPO 33/2017, a temporary measure to address the technical problems in the governance of migrants. This aimed to address the problems caused by Sections 101 and 102 specifically; the sections regarding punishment for violation were put on hold until 1 January 2018. While using the NCPO regulation to suspend the effects of Sections 101, 102, 119 and 122 of the Royal Ordinance and extend the time to register undocumented workers until 1 January 2018, Gen Chalermchai, the NCPO secretary-general, said these changes were put in place to give people time to make adjustments.

Following up on Regulation 33/2017, an amendment was introduced to the 2017 Thai Royal Ordinance on Migrant Worker Management in March 2018, especially articles related to the penalty. In section 101, the penalty for undocumented migrant workers who are not victims of human trafficking has been adjusted from 20,000–100,000 Baht and jail for up to 5 years unless they leave Thailand within 30 days to 5,000-50,000 Baht without

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25 Section 131 of Royal Ordinance on Migrant Worker Management 2017
26 Such a huge outmigration could affect the Thai economy. The Office of Agricultural Economics (2017) calculates that the decrease in migrant labour in the agricultural sector could result in a loss of 868.62 million Baht. Kasikorn Research Centre estimates that the hasty promulgation of the Royal Ordinance will cost Thailand around 1.24 trillion Baht or around 0.08% of GDP. In the medium term, it will translate into economic losses of around 2.84 trillion Baht or 0.2% of GDP. This number considers lost economic opportunities but not the increase in costs induced by registration of migrants. The sectors most affected include agriculture, hospitality, restaurants, construction and commerce, where migrants account for 65% of total labour. The agricultural sector—which has around 320,000 migrant labourers—for instance, will face a labour shortage along the entire supply chain, bringing about a steep increase in cost and damages to crops that cannot be harvested in time due to labour shortages (Matichon, 2017; Manager Online, 2017).
27 Initially, it was supposed to be in effect from 22 June 2017, but because of the outcry, it was postponed to January 2018, and then amended in March 2018. Though it was technically in effect from Jan-March 2018, it was never enforced.
imprisonment. Section 102 has reduced penalty for employers who employ undocumented migrant workers from 400,000-800,000 Baht to 10,000-100,000 Baht per undocumented migrant worker. If the perpetrator repeats the crime, the penalty will be aggravated to imprisonment up to 1 year and/or fine between 50,000-200,000 Baht. In addition, the amendment has abolished sections 121\textsuperscript{28}, 122\textsuperscript{29} and 123\textsuperscript{30}.

Aside from reducing the severity of penalty, the 2018 amendment also clarifies some sections that were debatable in the 2017 Royal Ordinance. With regard to the cost of registration, the 2017 Royal Ordinance did not specify who is to pay for the cost of registration for migrant workers. The 2018 Amendment clarified that employers can advance these costs and deduct them from the salary of the workers, but that the deduction should not exceed 10\% of their salary vide Section 24 abolishing the article 49 of 2017 Ordinance and replaced by the following.\textsuperscript{31}

“An employer who brings migrants to work with him/herself cannot demand or receive money or property relating to bringing the migrants except expenditures to be borne by the migrants which the employer spends in advance. Those expenditures include passport, medical check-up, work permit, or other similar costs announced by the notification of Deputy-General. The employer can deduct money from wages, overtime pay, holiday pay and holiday overtime pay. The employer shall deduct the money which is realistically paid but must not exceed 10 percent of the employee’s salary.”

Regarding the capability to change employers, while the 2017 Ordinance allowed the change of employers only if the employer was at fault\textsuperscript{32}, the 2018 amendment allows workers to change employers even before their contract expires. Section 25 of the 2018 amendment abolished section 51 of 2017 Royal Ordinance and replaced it with the following statement: \textsuperscript{33}

“If any migrant labourer working with employers in accordance with section 43 (Coming to Thailand by private recruitment agencies) and section 46 (Coming to Thailand by individual employer applying to hire migrant workers themselves) leaves their job before contract expiration, they cannot work with other employers, except if he/she can prove that they are leaving by fault of the employers or the migrant has paid damages to the employer. In this case, the concerned authority could issue new work permits or endorse the work permit to show the right to change employers.”

\textsuperscript{28} Section 121 states that any person granted permission for working who carries out the work differently from that specified by the work permit shall be liable to a fine not exceeding 10,000 Baht.
\textsuperscript{29} Section 122 states that any person who employs foreigners who do not have a work permit with them shall be liable to a fine not exceeding 100,000 Baht for each foreigner.
\textsuperscript{30} Section 123 states that any person who allows a foreigner to work in a manner different from the requirement specified in the work permit shall be liable to a fine not exceeding 400,000 Baht for each foreigner.
\textsuperscript{31} Section 24 of Thai Royal Ordinance on Migrant Worker Management 2017 2nd Amendment, 2018 translated by author
\textsuperscript{32} Section 51 of Thai Royal Ordinance on Migrant Worker Management 2017
\textsuperscript{33} Translated by author
The amendment also extends the period to find new employers from 15 to 30 days. Otherwise, the migrant will be deported to their country.

The 2017 Royal Ordinance prohibits document retention by employers. The 2018 amendment further clarified that even when migrant workers “voluntarily” give up their documents, employers are subject to punishment if they do not give back documents on workers request.

“All person who retains migrant workers’ work permit or personal documents are liable to jail term not exceeding 6 months or fine between 10-100,000 Baht or both.

In cases where the migrant workers allow any person to keep their work permits or documents dictated in para 1, such person must agree and facilitate the migrant workers to access the documents when requested. The violation will be liable to penalties similar to para 1.”

2.1.4. MANAGEMENT OF MIGRANT WORKERS IN SPECIAL AREAS

Migrants working along the border of Thailand and travelling back and forth between Thailand and their countries have access to another channel. Section 64 of the Royal Ordinance 2017 explains:

‘A foreigner who is a national of a country having a border adjacent to Thailand, in the case of entering the Kingdom with a border pass or an official document which has been issued to him by the country of origin and entitles his entry into the Kingdom, may be granted permission by the Registrar for working in the Kingdom temporarily for a period or a season and in a locality specified.’ (DoE, 2017: p. 24)

This Section aimed at addressing problems over the interpretation of Section 14 of the Migrant Act 2008. Since 2017, Section 64 allowed migrant workers to work in Thailand’s border province on a temporary basis. However, areas, nationalities, types of work and working conditions pertinent to Section 64 are to be elaborated by a cabinet resolution. At present, no such cabinet resolutions have been announced. To fill this gap, Section 145 of the new Royal Ordinance 2017 has stipulated:

‘All by-laws or orders issued or given by virtue of the provisions of the Foreigners’ Working Act, B.E. 2521 (1978), the Foreigners’ Working Act, B.E.

34 Section 64 of the Royal Ordinance is similar in many ways to the Migrant Workers Act of 2008. However, the 2008 Act broadly mentions that travel documents should be used to apply for work permits. This led to a question whether travel documents included border passes. To address this issue, the 2017 Royal Ordinance specified the type of documents required to apply for work permits for seasonal workers.

35 Section 64 of the Royal Ordinance is similar in many ways to the Migrant Workers Act of 2008. However, the 2008 Act broadly mentions that travel documents should be used to apply for work permits. This led to a question whether travel documents included border passes. To address this issue, the 2017 Royal Ordinance specified the type of documents required to apply for work permits for seasonal workers.

36 The cabinet resolution regarding this was announced on 18 February 2015.
This suggests that the cabinet resolution dated 18/02/2015 determining the areas, conditions, nationality and the period the migrants could come to work in border areas in compliance with Migrant Workers Act 2008 is still applicable. Thai laws have allowed Cambodians to work in 7 border provinces: Ubonrachathani, Srisaket, Surin, Burirum, Sraekaw, Chantaburi and Trat. They can be employed in seasonal work or along the border area, which gives them the flexibility to travel back and forth between Cambodia and Thailand.

Although documentation is still required, the nature of it differs. Employers who would like to employ migrant workers must inform the provincial employment office of their willingness to do so and submit a list of the names of the migrants and fix a date to pick up the workers. After picking up the migrants, the employers must bring them in for a medical check-up to apply for health insurance. Subsequently, the migrants must be brought to the provincial employment centre to apply for a 3-month (maximum period) work permit. Migrant workers need to present themselves at the border every 30 days for a new stamp extending their stay (Tak Immigration Office, n.d.). The Bangkok Post noted that the local authorities of Banteay Meanchey province are now requiring that all border passes be signed by the governor, unlike before when migrants could obtain one at the Poipet border checkpoint.

During the SHGs, several migrants have reported to GVC staff members that border passes are the preferred way to cross the border into Thailand, as the process seems less complicated:

‘My son works and lives in Thailand now. He had extended his pink card for 5,000 Baht in Thailand. Later on, he came back to Cambodia to process his passport. However, he decided to go back to Thailand with a border pass, because he could not wait any more for the completion of the process. It has been 3 months already’. The father of the migrant worker added: ‘Most of the migrant workers from our village use the border pass and pink card and it seems that no one has any issues with it’.

(Male and female participants at SHG meeting, Siem Reap, August 2017)

As of January 2018, the Thai Government has not enacted new regulations on seasonal work. Consequently, old regulations are still in force. In addition, there are no national guidelines on employing seasonal migrant workers in border areas; hence, this report only refers to guidelines produced by the immigration office of Tak province.

The employee and employer usually know each other before the list of names is submitted.
A man working in Thailand for over 10 years shared his experience:

‘I went to work in Thailand using the border pass in the past and now I have already obtained my passport at a cost of 24,000 Baht for full documentation. My employer helped me. However I found out that it is more easy to use a pink card and border pass instead of a passport.’

(Male participant at SHG meeting, Siem Reap province, June 2017)

2.1.5. RESTRICTIONS ON COLLECTIVE ACTION

The Thai Labour Relation Act 1975 does not exclude migrants from membership of labour unions. Yet, migrant workers cannot form their own labour union as per Section 88, which lists Thai nationality as a qualification to establish a union. The committee and the head of the union must be Thai in accordance with Section 101.

Phil Robertson (Isaranews, 2017), the Human Rights Watch representative for the Asian region, commented on Section 18 of the Royal Ordinance on Migrant Worker Management 2017:

‘Section 18 dictates that the representatives of the employee and the specialised committee shall have Thai nationality. However, migrants are direct stakeholders in these issues. Many of them can speak fluent Thai but do not have the right to determine the policies that might affect them. The government should allow them to take part.’

Representatives of the Migrant Working Group (MWG) note that language barriers further hinder migrants from voicing their concerns when laws that affect them are implemented:

‘We cannot access Thai law fully because we cannot read Thai. The ministry tends to translate punishments in a brochure. It should also translate laws into all languages. Although the law is suspended, it does not help because it has already been promulgated. Why don’t they ask people who are affected? When an incomplete law is passed, then it turns out like this.’ (Isaranews, 2017)

Burmese workers have community volunteers and assistance from civil society and international organisations as over the past few decades international attention has been focused on the political situation in Myanmar, thereby increasing Burmese migrant workers’ visibility and support. LPN, which facilitated the establishment of community-based Burmese migrant worker groups in Samut Sakorn, has found that such groups have become a channel to disseminate information related to rights and support migrants who are in trouble. Unfortunately, Cambodian migrants do not have such vis-

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39 The MWG was established in 2006 by organisations that perceived the hardships faced by migrant workers in social security registration. This group consists of 22 organisations such as LPN, HRDF, IOM and so on. Its objectives are to consolidate organisations working with migrants and push laws and policies that could help achieve the well-being of migrant workers.
ibility and support\textsuperscript{40}. Therefore, they are extremely fearful of authority, and prefer to work with community-based informal networks. They do not have formal community-based organisations and do not receive much support from civil society or international organisations.

\section*{2.1.6. RESTRICTIONS IN OCCUPATIONS FOR MIGRANT WORKERS}

Migrant workers can access a limited number of occupations. The Royal Decree on Occupations Prohibited to Migrants 1979 (4\textsuperscript{th} Amendment in 2005) was updated and lists 39 occupations that migrant workers cannot work in (see Annexure 8). Cabinet resolutions have determined that workers from neighbouring countries (including Myanmar, Laos and Cambodia) can take up two jobs in Thailand, namely that of labourer or domestic worker. Migrant workers can also work as translators or bi-lingual coordinators (regulated by the Resolution of the Prime Minister with effect from 15 November 2016) under the condition that job announcement and recruitment must prioritise Thais by announcing the vacancy to them at least 15 days before others are notified. However, the term ‘labourer’ is very vague. The legal text in Thai is ‘กรรมกร’ (labourer) which refers to any kind of job that demands physical strength. However, in the absence of further explanation, the term leaves room for interpretation. For instance, a migrant who constructs a wall needs to layer bricks. This task could be considered bricklaying, which is prohibited to migrants\textsuperscript{41}.

The job options available for migrants are relatively restricted, especially for semi-skilled or unskilled labourers and might not be in line with the needs of employers. Nevertheless, there is an initiative to delimit restrictions endorsed by the Ministry of Labour. At a ministry meeting held on 26 September 2017 to collect opinions from stakeholders, it was recommended that 10 occupations be available to migrant workers, namely\textsuperscript{42}:

1. Labour work
2. Agriculture, animal husbandry, forestry or fishery, except work requiring expertise, specialised work or farm supervision
3. Bricklaying, carpentry or other construction work
4. Shop/outlet work (as attendants)
5. Cutting or polishing diamonds or precious stones
6. Mattress and quilt making
7. Shoemaking
8. Hat-making
9. Dressmaking

\textsuperscript{40} Interview with Manager, LPN, 26 August 2017
\textsuperscript{41} Interview with the Director, LPN, 26 August 2017.
\textsuperscript{42} These 10 occupations are under public consultation with all stakeholders.
10. Pottery or ceramic ware

This permission is granted under the condition that migrants work only as employees and not as owners. The meeting also suggested reserving three other occupations for Thais: 1) security guards, 2) Thai masseur/masseuse and 3) business ownership. This process is still under review (Daily News, 2017).

2.1.7. INSTITUTIONAL ARRANGEMENT TO MANAGE LABOUR

Mainly administrative officers under the DoE, Ministry of Labour, govern migration. They aim to 1) develop processes to manage migrant workers, 2) monitor the working conditions of migrants, 3) organise migrant worker databases, 4) disseminate information related to migrants, and 5) manage deportation funds. The department’s mandate is broad and covers the governance of migrants but also Thai labourers seeking jobs in Thailand and overseas (Ministerial regulation concerning division of office within DoE, 2016).

The Royal Ordinance 2017 on Migrant Worker Management has replaced the Migrant Worker Repatriation Fund with the Migrant Worker Management Fund which extends its scope of work beyond repatriation to 1) support abused documented labourers; 2) support or subsidise projects of the government or non-state organisations working to improve provision of welfare, education, public health, labour protection; 3) arrange returns (money) to migrants who contribute to the fund in accordance with the Migrant Workers Act 2008; 4) administer the fund and 5) manage migrants’ work in accordance with the Royal Ordinance43.

Unlike in the past when contribution to such funds was cut from the salary of migrants, money for the migrant worker management fund in accordance with Thai Royal Ordinance 2017 will come from 1) finances transferred from migrant deportation funds in accordance with Section 140 of the Royal Ordinance of 2017, 2) fees paid by employers in accordance with the Royal Ordinance of 2017, 3) additional finances in accordance with Section 11 para 3 of the Royal Ordinance of 201744, 4) donations of money or property, 5) benefits or interests accrued on the fund, 6) government subsidy released as required, and 7) any other money or property that the fund receives.

To manage migrant workers in Thailand effectively, the DoE collaborates with other relevant departments due to the difference in authority

43 See section 77 of the Royal Ordinance on Migrant Worker Management 2017.
44 Section 11 of the Royal Ordinance on Migrant Worker Management 2017 authorises the Ministry of Labour to determine the fee to be charged to employers who would like to employ migrant workers in Thailand. Paragraph 3 stipulates that if the employer does not pay this fee, they should be fined two-fold. This money will be transferred to the migrant worker management funds.
and mandates. An interview with representatives of the offices showed that the DoE had to liaise with at least: 1) the immigration department for visa-related matters, 2) the Ministry of Interior (MoI) to permit undocumented workers to stay in Thailand temporarily and 3) the Ministry of Health (MoH) for medical check-ups45.

2.2.
HUMAN TRAFFICKING

2.2.1. ANTI-TRAFFICKING LAW

The principal law to combat trafficking in Thailand is the Prevention and Suppression of Human Trafficking Act, B.E. 2551 (2008), also called Anti-Trafficking Act 2008, some sections of which were revised in 2017. The 2008 law defined trafficking in Section 6 as:

‘Any person who, for the purpose of exploitation, commits any of the following acts:

(1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receipt of any person, by means of threat or use of force, abduction, fraud, deception, abuse of power or giving money or benefits to a guardian or caretaker of the person to achieve the consent of the guardian or caretaker of such person to allow the offender to exploit the person under his or her control or

(2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receipt of a child; shall be said to be committing an offence of human trafficking.’ (Royal Thai Government, 2008: p.3)

However, this definition is criticised for not covering force with domination and debt bondage46. Section 6 of the Prevention and Suppression of Human Trafficking Act, No. 3, published in the Royal Gazette on 27 January 2017 attempts to fill the gap by refining the definition as follows:

‘Any person [who] conducts the following acts:

1) procuring, buying, selling, lodging from a location or to a location, detaining, providing accommodation or accepting a person by threatening, physical coercion, abducting, deceiving, exploiting and dominating due to his/her physical, mental, educational or other superiority, threatening to incorrectly impose the law or give money or other benefit to parents or guardians to permit the perpetrator to exploit a person under their guardianship or

2) procuring, buying, selling, giving or lodging a child from or to a location, detaining, providing accommodation or accepting such a child.'
If the purpose of such acts are to exploit children, such persons commit human trafficking.

The exploitation discussed in paragraph 1 refers to sexual exploitation, pornography production or dissemination, other forms of sexual exploitation, slavery, forced begging, forced labour, commercial organ transplantation or other action, regardless of the person’s consent.

Forced labour in paragraph 2 refers to coercing a person to work or provide a service by the following acts:

1) Frightening to harm their lives, bodies, liberty, reputation or property
2) Threatening
3) Physically assaulting
4) Withholding documents of a person or bondage through debt.' (Translated by author)

In addition to the Prevention and Protection of Human Trafficking Act 2008, which is a substantive law, the Thai Government passed a law on the procedure for prosecuting trafficking in 2016. Unlike in other legal matters where accusers have to prove wrongdoing through a legal representative, trafficking cases follow the inquisitorial approach, allowing judges to interrogate and find evidence by themselves (Section 8). Trial hearings are conducted via video conference (Section 9). The law gives the court extensive authority to decrease the punishment of a perpetrator if they provide useful information.

The anti-trafficking law not only mentions punitive measures, but also extensively covers protective measures for trafficking victims. For instance, Section 33 mandates that the Ministry of Social Development and Human Security (MSDHS) provide shelters and basic needs for victims of trafficking. More specifically, if the victim is a child, the anti-trafficking law has established special measures in accordance with the Child Protection Act 2003 under the section titled welfare protection47.

2.2.2. TRAFFICKING IN THE FISHING INDUSTRY

Besides laws directly related to suppressing human trafficking, the Thai Government also passed laws to tackle the scandal in the fishing industry that brought criticism from the United States and the European Union (European Commission, 2015). The measures deployed by the Thai Government include reporting systems for boat owners and ensuring better working conditions on board the boats. Thai Royal Ordinance of Fisheries 2015 requires boat owners to inform authorities of departures and arrivals of boats, the catch in each trip, and other details at the port in/port out centre (PIPO). In addition, documents and port control systems try to prevent traf-

47 The Anti-Trafficking Law of 2008 recognises anyone under the age of 18 as a child.
ficking in fishing vessels. Before departing, skippers of boats have to declare the number of crewmembers, who must each have seaman books. Based on the Ministry of Labour’s regulation in 2014, employers should follow certain methods of payment, ensure first aid is available and maintain bathroom hygiene on boats.

Nevertheless, the current monitoring systems are still far from successful. Reports have recorded some improvement in working conditions, payment and decline in child labour practices in the fishing industry (ILO, 2018). However, abusive labour practices such as document retentions, extensive working hours, payment lower than minimum wage, salary withholding and restrictions on mobility can still be identified (Greenpeace, 2016; ILO, 2018; Human Rights Watch, 2018).

In part, the flaws in practice are due to the gaps in the functioning of the monitoring systems of government agencies including PIPO centre and One Stop Service (OSS) Centre, which should be able to identify migrants who are at risk of being trafficked. Both PIPO and OSS staff are expected to speak with the migrants and screen whether they could potentially be at risk of trafficking. In fact, due to the amount of paperwork to be filled and the shortage of staff, the interviews conducted by both agencies are not substantial. The law permits employers to designate any person, and hence, employers tend to seek the services of brokers to handle the paperwork. This practice leads to additional operational costs which could be passed on to the migrants and weaken the negotiation power of workers (Human Rights Watch, 2018). ILO (2018) noted that about 83 percent of migrants working on fishing vessels have a Pink Card. Legal documents to recognize the legal status of migrant workers can make their circumstances easier, but difficulties in changing employers and the practice of confiscating legal documents of migrant workers could put them in adverse circumstances (Human Rights Watch, 2018).

2.2.3. MONITORING AND FIGHTING TRAFFICKING CASES

Another emerging challenge is access to victims of trafficking. Trafficking is hidden from public view and is camouflaged by lawful businesses. Consequently, authorities cannot directly access victims, except when a rescue is requested48,49.

The Thai Government has realised that trafficking victims should be allowed to stay in Thailand so that they can testify; during this period, they also need to earn some money to feed themselves and their families. The Regulation on Victims of Trafficking Cases (3rd), issued on 17 February 2017, allows

48 Interview with representatives of ATPD, Deputy Superintendent, Anti-Trafficking in Persons Division, 27 October 2017.
49 Interview with an inspector of immigration police, October 2017.
trafficking victims to stay and work in Thailand for a year with the option of a year’s extension while their cases are being tried. These migrants can request to work either inside or outside the shelters where they are housed. Of 561 trafficking victims in shelters, 196 had the opportunity to work while their cases were being heard. Of these, 139 were sent to work in construction and electrical wiring, coffee shops and agricultural and animal farming. They earned 300 Baht per day. Victims working in shelters do not earn fixed incomes because they work as beauticians, handicraft makers, food vendors, masseurs, artisans and tailors (MSDHS, 2017).

For trafficking victims whose cases have been heard, the announcement from the Ministry of Interior on Permitting Migrants to Specifically Work for Victims of Trafficking, Section 3, issued on 17 February 2017, allows them to continue working in Thailand for two years with the option of a one-year extension with the approval of the chief governor of MSDHS.

One of the biggest problems in implementing anti-trafficking laws is identifying victims. A key issue raised in the interview with LPN was the victim verification procedure. Law enforcers having the authority to enforce the immigration or anti-trafficking act selectively is problematic. Many trafficking cases have been identified by civil society organisations, but in many cases, authorities do not identify victims as ‘trafficked’. In addition, authorities are hostile to trafficked victims working aboard fishing vessels. Interrogations involve leading questions that could easily confuse potential victims. An interview with a representative of the anti-trafficking department under MSDHS revealed that the Government recently put a new screening process in place. This might bring about positive changes in the victim identification process, but this issue needs to be closely monitored.

Section 29 of the Ministerial Order 2009 and Anti-Trafficking Act 2008 specifies that the screening process must be completed within 24 hours. However, trafficking victims are often reluctant to testify. The 24-hour limitation can be extended up to seven days if the interview cannot be finished. This still poses some challenges. The screening interview could be time-consuming because it is conducted by an interdisciplinary team including an investigative police officer, social workers, a psychologist and sometimes, a translator. If they need to screen numerous cases, the seven-day extension might not be sufficient.

If migrants are unable to prove that they are victims of trafficking or other criminal offences, their case is treated as a labour-related one and does not receive the same type of support and protection. If they are underage, they can be given protection and allowed to stay in Thailand under

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50 Interview with Manager, LPN, on 26 August 2017.
51 Interview with representatives of ATPD, Deputy Superintendent, Anti-Trafficking in Person Division, 27 October 2017.
the Child Protection Act 2003\textsuperscript{52}. Under the Immigration Act of 1979, clear guidelines and laws are lacking with respect to the management of migrants who are not classified as being victims of trafficking. In practice, the length of stay for ‘rescued’ migrants depends on the discretion of the concerned authority in Thailand. Even if migrants win their case, it is difficult to locate their residence in their countries of origin to deliver compensation due to lack of house registration\textsuperscript{53}. The considerable difference in the treatment of trafficking victims and non-documented migrants creates more complications in identifying the former. As a representative of the Anti-Trafficking in Person Department of the Royal Thai Police points out\textsuperscript{54}:

‘Investigating police officers are the ones who determine whether someone is a victim of trafficking. Sometimes, migrants testify that they are victims simply because this will bring them support and assistance mandated by the many laws. These migrants might not be victims of trafficking.’

Such difficulty in identifying victims is exacerbated by the lack of translators, which hampers communication between victims and authorities. Interviews with representatives of the Anti-Trafficking Department under MSDHS, immigration police and The Anti-Trafficking in Person Division (ATPD) show that scarcity of translators, especially when dealing with ethnic minorities is a problem\textsuperscript{55,56,57}.

### 2.2.4. INSTITUTIONAL ARRANGEMENT

In 2005, Thailand established a National Operation Centre for Prevention and Suppression of Human Trafficking (NOCHT) hosted by the Ministry of Social Development and Human Security. Its purpose is to coordinate anti-trafficking action, integrate information, mobilise services, and support from different quarters. Its’ role has been mandated by the Prevention and Protection of Human Trafficking Act 2008. The committee of the National Operation Centre is headed by the Prime Minister and includes Ministers of relevant ministries such as defence, foreign affairs, tourism and sport, social development and human security, interior affairs, justice, and labour as well as other experts.

\textsuperscript{52} Frequently, child migrants tend to lie about their age to be permitted to work. This is a challenge for government officers and civil society organisations in identifying protective measures.

\textsuperscript{53} Interview with legal specialist, LPN, on 28 October 2017.

\textsuperscript{54} Interview with representatives of ATPD, Deputy Superintendent, Anti-Trafficking in Person Division, 27 October 2017.

\textsuperscript{55} Interview with the Director of Anti-Trafficking in Persons Committee, Ministry of Social Development and Human Security, 27 October 2017.

\textsuperscript{56} Interview with an inspector of the immigration police, October 2017.

\textsuperscript{57} Interview with representatives of ATPD, Deputy Superintendent, Anti-Trafficking in Person Division, 27 October 2017.
The National Operation Centre (NOCHT) and Provincial Operation Centres on Prevention and Suppression of Human Trafficking (POCHT) have been set up to put into operation the Anti-Trafficking Act. At the provincial level, chief governors, social security, and human development offices facilitate, monitor and conduct prevention tasks and support victims of trafficking. NOCHT focuses on supervising provincial offices.

The police have established Anti Trafficking in Person Divisions (ATPDs) within the Royal Thai Police. Each of Thailand’s six regions has an ATPD office. The Government has also established an anti-trafficking centre within DSI, which has a similar function – Office of the Attorney General, Department of Anti-Human Trafficking (OAG/DAHT). It addresses human trafficking at the domestic and international levels, conducts advocacy, improves laws, participates in convention ratification procedures and analyses data. All departments under the Attorney General’s office have to report to this centre and undergo training. The Thai Government also collaborates with neighbouring countries under the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) scheme 58.

To develop a database and responsive mechanisms in accordance with the data, the OAG/DAHT signed a MoU with Department of Special Investigation (DSI), Royal Thai Police and MSDHS in 2015. The data can be classified into two groups: (i) concerning the prosecution of the perpetrator collected by interrogation procedures by the Royal Thai Police, ATPD, DSI (Anti-Human Trafficking Centre) and, (ii) the prosecutor and court proceedings collected by OAG/DAHT. The Ministry of Human Security collects data related to the victims.

Interviews conducted point to collaboration between government officers and NGOs such as LPN 59, Stella Maris, Foundation for Women, etc., in improving the likelihood of success in cases and prevention activities. The list of NGOs supporting migrant workers and trafficking victims in Thailand is provided in Annexure 4.

Trafficking cases demand collaboration between different agencies. Clear guidelines are needed to demarcate the roles of each agency, from victim verification to repatriation. The MSDHS, in collaboration with IOM and HRDF, released guidelines for practitioners in 2013 (MSDHS et al., 2013). The 360-page document details each procedure and identifies government agencies mandated to deal with different stages. However, laws have since changed and some procedures are now outdated as a result.

58 COMMIT refers to an inter-agency project launched by the United Nations to fight trafficking in GMS regions. The project tries to establish ministerial collaboration among GMS countries and generate action plans and comprehensive monitoring in the regions.

59 The Thai national TIP report 2016 mentions LPN once.
2.3 CITIZENSHIP STATUS FOR MIGRANT CHILDREN BORN IN THAILAND

Migrant children born in Thailand become a perfect target for human trafficking if left stateless. The path to obtain citizenship for migrants born in Thailand is strewn with challenges. The main law determining citizenship for migrant children born in Thailand is the Nationality Act 1965. Section 7 of the law dictates the conditions under which an individual can claim Thai citizenship. Section 7 (bis), is directly relevant to migrant workers, and is as follows:

‘Any person born in Thai territory to a foreign father and mother shall not obtain Thai citizenship if at the time of their birth, his/her lawful father has not married his/her mother or if their mother is:

(1) a person who is temporarily permitted to stay in Thailand as a special case.

(2) a person who is permitted to stay in Thailand only temporarily.

(3) a person who is staying in Thailand without legal permission in accordance with the Immigration Act.

For a specific case, the minister could consider and issue a specific order or general order to grant an individual Thai citizenship in accordance with specific conditions determined by the cabinet.

A person born in Thailand in accordance with the first paragraph will stay in Thailand under whatever status or conditions, in keeping with the ministerial regulation in the interest of national security and the principle of human rights. If a Ministerial Regulation is not yet in place, the law will consider such person as staying illicitly in Thailand in accordance with the Immigration Act.’ (Translated by author)

Subsequent to Section 7 (bis) of the Nationality Act 1965, the Ministry of Interior issued a Ministerial Announcement granting Thai citizenship in general and in special cases for those born in Thailand from foreign parents and not having Thai citizenship, signed 16 February 2017. This announcement was specifically promulgated to handle the issue of stateless persons of ethnic minorities and children of migrants in specific conditions. In order to obtain Thai citizenship, both groups must have birth certificates or similar documents and their names in household registration. For ethnic minorities, the claim for Thai citizenship is based on ethnicity. Migrants, however, need to hold a bachelor’s degree from a Thai university recognised by the Ministry of Education, be fluent in Thai, be loyal to the monarchical democracy and not hold other citizenships. For children too young to have a degree and whose parents cannot be identified, a paper issued by offices under the Ministry of Social Development and Human Security is necessary, attesting that they are ‘rootless persons’ (คนไร้รากเหง้า) (Section 3).

This does not mean that children who do not meet these requirements
cannot stay in Thailand. After considerable efforts by the Thai Government to deal with the ambiguous residential status of migrant children born in Thailand, the Ministry of Interior on 17 August 2017 passed a Ministerial Regulation to allow non-Thais born in Thailand to stay in the country temporarily.

Section 2 of the regulation gives Thai-born children the same status as their parents. That is, if the parents' status is 'pending to be deported', the children will share this status. When the parents are deported, the children will be too. Orphans can stay in Thailand if the Ministry of Social Development and Human Security approves. The regulation makes an exception allowing some migrants born in Thailand to stay regardless of their parents' status:

1) A person who is not younger than 18 years old or has reached legal age by marriage, except one whose nationality is verified and is willing to return to their country;

2) A person who cannot go back to their country where their father or mother used to reside in accordance with the conditions dictated by the ministerial announcement;

3) A person who has parents, spouse or children holding Thai citizenship;

4) A person who has a residence in Thailand and has continuously stayed in Thailand;

5) A person who is studying in an educational institute recognised by the Ministry of Education;

6) A person who devotes themselves to and contributes to society. (Translated by author)

Such persons have to submit their application to the governor’s office and will receive a response within nine days. Nevertheless, such criteria remain problematic, and further, granting of citizenship is completely at the discretion of the concerned authority. People who are unable to get citizenship risk eventually becoming stateless.

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60 Section 3 of the Ministerial Regulation on the status and conditions for staying in Thailand for non-Thai citizens who were born in Thailand issued on 17 August 2017.

61 Discussion at seminar on "Participation of migrant workers, civil societies, business in upgrading the solution to address child labour, forced labour, human trafficking and migrant worker management in Thailand" organised by LPN on 9 November 2017 in Bangkok.
LEGAL MEASURES ON LABOUR MIGRATION AND HUMAN TRAFFICKING IN CAMBODIA
3.1. LABOUR MIGRATION

3.1.1. LAWS IN EFFECT

The efforts of the Cambodian Government to regulate migration date back to 1995 when sub-decree 57 on sending Khmer migrants to work abroad was put in place. This regulation focuses mainly on a recruitment agency’s responsibilities such as conducting pre-departure training for migrants and efforts for their return. Sub-decree 190 was announced in 2011 for the management of Cambodian workers going abroad through PRAs. It covers migrant-related issues, including the mandates of and criteria for PRAs, protective and preventive measures for migrants and even remittances of migrant workers. This sub-decree aims at protecting not only current migrants but also other stakeholders, namely potential migrants, Cambodian workers and recruitment agencies in Cambodia. Briefly, the main objectives of this law are to:

- find a market and provide Cambodian workers with overseas jobs;
- improve the living conditions of the Cambodian people
- ensure the safety of Cambodian workers abroad
- contribute to the development of human resources
- contribute to the implementation of the Royal Government of Cambodia’s policy on poverty reduction

To help implement the law, the MOLVT has issued various Prakas62 to specify the operational requirements:

- Prakas 45/2013 explaining key terms used in sub-decree 190
  This regulation is a glossary of sub-decree 190 and explains its legal terminology.

- Prakas 46/13 on recruitment process and pre-departure orientation training (13 February 2013)
  This regulates the conditions under which PRAs can operate. It also specifies the pre-departure orientation training for migrating Khmer workers to ensure that each worker is accessing legitimate work, is in good physical and mental health and has clearly understood their responsibilities, rights, benefits and the working environment, discipline, vocational skills, language, living conditions, laws, and cultural traditions of the destination country.

- Prakas 47/13 on private recruitment agencies (13 February 2013)
  A PRA is considered a legal entity that needs PRAKAS authorisation from

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62 Prakas refer to proclamations by a ministry or multiple ministries on a particular issue.
the Ministry of Labour and Vocational Training for recruiting, providing orientation, training, sending and managing Khmer workers abroad. To register as a PRA, each legal entity must submit proof of necessary conditions and after 15 days, deposit the equivalent of 100,000 US dollars in Cambodian Riel into the MOLVT’s bank account.

- **Prakas 249/13 on complaint receiving mechanism for migrant workers** *(23 September 2013)*
  This was to clarify the method for receiving and resolving complaints of migrant workers and was established by the Department of Employment and Manpower of the Ministry of Labour and Vocational Training and provincial Departments of Labour and Vocational Training. These departments can invite concerned parties to cooperate and advice, resolve, conciliate or send complaints to the relevant institution for each case.

- **Prakas 250/13 on inspection of private recruitment agencies** *(23 September 2013)*
  The Ministry of Labour and Vocational Training will inspect PRAs to ensure the effective application of laws and regulations relevant to the management of Cambodian migrant workers.

- **Prakas 251/13 on penalties and rewards to private recruitment agencies** *(23 September 2013)*
  This defines penalties and rewards to PRAs who send Cambodian workers overseas.

- **Prakas 252/13 on on-site service of private recruitment agencies and repatriation** *(23 September 2013)*
  This defines PRAs’ obligation to provide on-site service and repatriation. It aims to strengthen monitoring, coordination and problem-solving on living and working conditions, health, violation, tracking and notifying the disappearance of workers placed abroad and preparing for their repatriation.

- **Prakas 253/13 on minimum standards of the contract for job placement service abroad (plus annex containing Final Placement Services Contract)** *(23 September 2013)*
  The minimum standards of Job Placement Services Abroad Contract are attached in the annex and are promulgated to ensure effective implementation of sub-decree No.190. These laws have been passed to check illicit brokers and foster the efficacy of the channels established through the MoU with the Thai Government in 2003. Concurrently, the governments are committed to conduct the Nationality Verification (NV) to legalise the status of illegal migrants in Thailand. As explained in the previous chapter, the deadline to complete the NV process has been constantly extended. Until 2017, the Thai Government pressured all undocumented migrant workers
to undergo NV. In 2018, the MoU is the sole channel to work in Thailand legally and the relevant process is as portrayed in Figure 3.1.

The passport processing fee depends on the length of time for issuance. For 20 working days issuance, it costs $100; for 10 days, $150; and for an overnight issuance, it costs $200. Family book and national ID card costs 10,000 riels ($2.5) each. Following the 2014 exodus of Cambodian migrant workers from Thailand, the Cambodian Government enacted sub-decree 205 and cut the cost of a passport to $4. Inter-ministerial Prakas 2574 allows migrants to apply for passports at the provincial office of passport of MOI and Provincial Department of Labour and Vocational Training (MOLVT & ILO, 2014). The law stated that the government was responsible for the financial burden of the passport and the migrant would only need to pay for the passport photo ($4) (PIC, 2016). The whole process is explained in the figure below. In practice, as observed by GVC and partner NGOs, migrant workers end up paying many times more than the indicated US$49.

In addition to regulating government bodies, the Cambodian Government also regulates recruitment agencies, which send migrants overseas through the MoU channel. Around 82 such PRAs operate nationwide. PRAs must register with the MOLVT. Certified PRAs can register to become members of a recruitment agencies’ association, which could provide them expertise and support on training candidates and staff, and share updated laws and regulations, problem-solving techniques, etc. At present, Cambodia has two such associations: Association of Cambodian Recruitment Agencies (ACRA) and Manpower Association of Cambodia (MAC). These play a key role in supporting migrant workers, who can seek assistance if they are in trouble or need to change jobs or negotiate with employers.

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63 This is not available on the official website. The researcher reviewed several other sources of information. Source: https://www.cambodiadaily.com/news/interior-ministry-publicizes-official-price-list-to-combat-bribery-81443/.

64 Interview with Executive director of ACRA, 29 September 2017.

65 ACRA provides training to migrants only when the PRA requests it.
Figure 3.1: DOCUMENT PROCESS TO SEND REGULAR WORKERS THROUGH PRIVATE RECRUITMENT AGENCIES

1. MIGRANTS
   - National ID Card, or
   - Birth certificate, or
   - residential Book, or
   - Family Book

2. Private Recruitment Agency
   - Must have quota and demand letter from Thai Ministry of Labour
   - Job placement service contract between migrants and Agency
   - Migrants choose work place (type of job, location, and employer)
   - (2 days)

3. Ministry of Labour and vocational Training
   - Cambodian Overseas Worker Card
   - Fee: 10$
   - Prepares a list of migrant worker candidates.
   - Sends request for migrant’s passport to Ministry of Interior
   - (2 days)

4. Ministry of Interior Department of Identification
   - Department of Passport
   - Issues migrant’s passport
   - Fee: 4$
   - (20 days)

5. Private Recruitment Agency
   - Prepares a request for migrant’s visa to Cambodian Ministry of Foreign Affairs and International Cooperation
   - Prepares a request for approval to enter and work in Thailand to the Thai Ministry of Labour
   - Quota and demand letter from Thailand
   - (4 days: preparation)
   - (3 days: sending of the documents)

6. Cambodian Ministry of Foreign Affairs and International Cooperation
   - Approves the request for visa with a diplomatic Note
   - (4 days)

7. Thai Ministry of Labour
   - Approves request to enter and work in Thailand
   - (15 days)

8. Thai Embassy in Cambodia
   - Issues work permit and Non-immigrant (LA) visa
   - Fee: 20$
   - (3 days)

9. Private Recruitment Agency
   - Migrants
   - Thai employers
   - Preparation for departure to work

NOTE:

DOCUMENT PROCESS

53 days

SERVICE FEE

49$

Overseas worker card = 10$
Passport = 4$
Work permit visa from Thai embassy = 20$
Transport cost = 10$
Food = 5$

Source: Unofficial translation of the public announcement by MOLVT dated 24.06.2014.
To ensure that migrant workers receive appropriate legal protection overseas, Prakas 252/2013 mandates that PRAs provide on-site services. The law has broadly mandated the duties of PRAs when their recruits are in trouble overseas. The law requires PRA representatives or staff to be based in Thailand to resolve the problem. To ensure that PRAs can effectively address problems, their qualifications have been specified in the law. Thailand-based PRAs must work closely with the Cambodian Embassy to provide details in case of disputes between employers and employees. The law even dictates the duties of the agencies to deal with legal costs. As of August 2017, 57 Cambodian PRAs are permitted to send migrant workers to Thailand, as per the records of the Department of Employment of Ministry of Labour.

3.1.2. INSTITUTIONAL ARRANGEMENT

The Department of Employment and Manpower under the Ministry of Labour and Vocational Training is responsible for managing migrant workers. In 2005, the Cambodian Government promulgated sub-decree 52 on the organisation and functioning of the Ministry. The Ministry’s mission with regard to Cambodian migrant workers includes: 1) managing Cambodian workers within and outside the country and collaborating in managing expatriates who come to work in the country; 2) studying and preparing the National Policy on Employment and Manpower Management; 3) collaborating with the Ministry of Foreign Affairs and International Cooperation to maintain good communication with ministries, institutions and regional and international organisations to promote labour and 4) reinforcing the policy of the Royal Government, international treaties and conventions on child labour.

The Ministry’s tasks directly related to migrant workers consist of 1) studying and preparing the National Policy on Employment to determine the needs of the labour market; 2) designing and developing policies on employment based on the National Policy on Education, Technical and Vocational Training and 3) collaborating with the Ministry of Foreign Affairs and International Cooperation to maintain good communication with other ministries, institutions and regional and international organisations to promote education and technical and vocational training.

Article 13 of Sub-decree 52 lists the following duties for the Department of Employment and Manpower:

- Study and propose measures to be developed to protect employment;

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66 See Section 2 and 4 of Prakas 252/2013 on on-site service by PRAs and repatriation.
67 See Article 4 of Prakas 252/2013 on on-site service by PRAs and repatriation.
68 For more details, see https://www.doe.go.th/prd/assets/upload/files/alien_th/1fd1f736b36df4c2f9-227548c502353844.pdf
• Manage the issuance of employment cards, labour ledger and employment visa for Cambodian workers within the country and abroad;
• Monitor and issue employment cards and labour ledgers to any foreigner who conducts business in the Kingdom of Cambodia;
• Prepare jurisdictional framework on all measures, reinforce and monitor the implementation of those measures;
• Establish employment agencies in every provincial/municipal department of labour and vocational training;
• Develop both local and international employment and manpower statistics in accordance to the level of economic activities;
• Compose laws and regulations on the Management of Foreigners who do business in the Kingdom of Cambodia, on Labour Force Management and Cambodian migrant workers;
• Manage foreigners who do business in the Kingdom of Cambodia and Cambodian migrant workers by cooperating with relevant ministries and institutions. In case there are too many Cambodian migrant workers, a proposal for the establishment of a labour attaché may be made;
• Seek job markets for Cambodian workers to work abroad;
• Perform other tasks assigned by the Ministry.

(Kingdom of Cambodia, 2005: p. 9)

3.1.3. PREFERENCE FOR INFORMAL CHANNELS

Despite the establishment of an official channel, Cambodian migrants still prefer the irregular one. This decision might be influenced by the relationship between brokers and migrants. The Government tries to promote safe migration measures at the commune level by disseminating relevant information and raising awareness, but challenges persist.

GVC and partner NGOs found that Cambodian migrants display more trust towards brokers, who are often relatives or acquaintances, than towards government officials, or even NGO representatives.

The brokers are sometimes successful migrants, who return to Cambodia and invite their families and friends to join them in Thailand, or taxi drivers, who help migrants to cross the border into Thailand. The participants of Self-Help Groups (SHG) reported that there is a network of brokers in Cambodia and Thailand supporting migrant workers with the necessary documents, starting from the application for passport in Cambodia and a visa, as well as providing support in Thailand to seek further legal documentation.

Since prospective migrants in Cambodia have to mandatorily use the services of PRAs, people assume that the broker can obtain all the relevant documents for them, as reported for example by this woman from Siem Reap:

69 Interview with a representative of the Cambodian Ministry of Interior on 22 September 2017.
province who shared her testimony during a SHG group:

‘If I want to obtain the documents, I have to find a broker to support me in the whole process.’
(Female participant at SHG meeting, Siem Reap province, January 2018)

However, not all brokers (middlemen) are representing certified PRAs who recruit migrants through the MoU channel, and not all of them are connected to employers in Thailand. Some of them, as reported to GVC by the returned migrants, are uncertified brokers, who smuggle migrant workers across the border; others charge excessive amounts of fees for obtaining the passport and in some cases, provide migrants with a tourist visa or false promises:

‘I got a phone number of a broker from a friend, who migrated to Thailand. I paid the broker 200 US$ to obtain a passport. I have not received any documents so far.’
(Male participant at SHG meeting, Siem Reap province, January 2018)

‘I travelled to Thailand with a local broker for 2,000 Baht to work in a construction site with a verbal agreement of receiving 300 Baht per day. Unfortunately I have never received any of this money.’
(Male participant at SHG meeting, Siem Reap province, December 2017)

‘I travelled to Thailand undocumented two times. I worked in a construction sector. I kept my motorbike in a pawnshop for a fee with a broker. It is very difficult to escape the Thai police. I have always returned home with no money.’
(Female participant at SHG meeting,Oddor Meanchey province, June 2017)

‘I migrated to work in Thailand with a broker. He transported me across the border in the pickup with 25 other migrants. It was very difficult and I wanted to go back. When I arrived in Thailand, I was offered a job as construction worker and received 300 Baht per day. I felt very uncomfortable, because I had to run from the police several times.’
(Male participant at SHG meeting, Oddor Meanchey province, June 2017)

12 people reported to GVC staff that they are processing their documents through a recruitment agency in Phnom Penh, a contact provided to them by a taxi driver from the area. They paid $350 and the recruitment agency promised to provide them with jobs in a garment factory in Thailand. They have not received any proof of payment, nor do they have a contract or the processed documents.
(12 participants at SHG meeting, Oddor Meanchey province, February 2018)
Education plays a key role in determining access to information as well. Many participants of GVC SHGs, returned migrants or their families are illiterate and have little possibility of accessing information published on the Government’s websites or in front of buildings in Phnom Penh (for example the price of the passport). Even understanding the visa types represents a challenge for migrant workers: the acronyms for a visa in their passports are in English: TR stands for tourist, and LA for labour and no translation is available.

UN-ACT & UNDP (2015) found that knowledge about human trafficking might not really protect migrants from exploitation or cheating. Those with such knowledge seem to have no greater protection than those without. It is the information source that is more important; migrants with information about jobs in Thailand or those who have their direct connections with employers were less likely to be trafficked than those informed by brokers or recruiters. Another interesting finding is that the possibility of trafficking is linked to how employees lose their jobs. Respondents who choose to quit their jobs are less likely to be trafficked than those who abandon their job and escape. Dissemination of knowledge about human trafficking thus does not necessarily seem to guarantee protection from trafficking. Other support mechanisms are needed to help migrant workers access information about availability of jobs such as direct contact with employers who can mobilise labour or better dissemination of work opportunities, for example by means of an application or internet websites offering direct placements for migrants.

Although the governments of both countries try to initiate several support mechanisms, migrants might not trust these mechanisms. An MMN report (2017) points out that migrants do not trust the legal channel to protect their rights and benefits in the country of destination. Such lack of trust together with actual barriers to access the regular channel for migration, as well as lack of dissemination of information on employment opportunities through legal channels deter potential migrants from using the official channel for migration. This is reflected in the stories of migrant workers who decided to work in Thailand through irregular channels:

‘I looked for a job via a phone number passed on from someone I knew – this is a normal channel for Cambodian people. I did not think I would be cheated, though I never knew that person before. I was also warned by people in my village to beware of being sold for work in Thailand. I did not think it would happen to me but it did. I have told my story to one person and she is also afraid of what might happen to her but she still thinks she can help herself if she ends up having problems. This is the way we Cambodians know how to look for a job. If we don’t use this method of trusting brokers, we don’t know how to find a job in Thailand.’

(Nam, Cambodian migrant cited in GAATW, 2017: p. 16)
Because of the lack of job opportunity in Cambodia, we have little choice but to migrate. However, we feel that we are blind and we do not know how we will end up. We are willing to go through legal channels but some of my friends were deceived by unregistered recruitment agencies. We do not have much information. What we heard is from radio broadcasting by recruitment agencies and not much from the Government. Once at our destination, it is too late to return to our country, we have no choice as we have spent a lot of money and need work. When our employer deceives us, we have no idea where we can find help. If we were on a boat and in middle of the sea, we have no information or services we can access."  
(GAATW, 2017: p. 31)

3.2. HUMAN TRAFFICKING

3.2.1. LEGAL MEASURES

The principal law aimed at tackling human trafficking in Cambodia is the Law on Suppression of Human Trafficking and Sexual Exploitation 2008. Its objective is clearly stated in Section 1 and is not only suppression of trafficking but also implementation of the UN protocol and the UN Convention against Transnational Organised Crime. The scope of this law is extensive; it covers actions that are internationally determined as trafficking. It outlaws all forms of trafficking in accordance with international standards. In addition, punishments for each offence are commensurate with other grave offences such as rape. Legislatively, the Cambodian Government seems quite progressive (The Department of State, 2017). This law firmly states that trafficking within the Cambodian territory or extra-territory is punishable by law:

‘Article 2: Application of this law within the Territory
This law shall apply to any offense committed in the territory of the Kingdom of Cambodia.
For the purposes of this law, the territory of the Kingdom of Cambodia is deemed to include any vessel or aircraft entitled to fly the flag of Cambodia.
An offense shall be considered committed in the territory of the Kingdom of Cambodia whenever one of its constituent acts (elements) takes place within the territory of the Kingdom of Cambodia.

Article 3: Application of this Law outside the Territory
This law shall apply to any felonies or misdemeanours committed outside the territory of the Kingdom of Cambodia by a Khmer citizen.
This law shall apply to any felonies or misdemeanours committed outside
the territory of the Kingdom of Cambodia by a foreigner if the victim is a Khmer citizen at the time of the commission of the offense.’

However, this law still has notable gaps when it comes to the issue of child pornography. Article 40 defines child pornography as:

‘Visible material such as a photograph or videotape, including material in electronic form, depicting a minor’s naked figure which excites or stimulates sexual desire.’

The law does not cover audio generated by using children for sexual purposes (ECPAT, 2014). In the subsequent article, the law defines child trafficking and the punishment for child pornography. In addition, the definition of trafficking in Article 12 diverges from international standards set to protect children from trafficking. According to Article 12, which deals with unlawful recruitment for exploitation, child trafficking is defined on par with trafficking in adults, in which movement has been induced by deception, abuse of power, confinement, force, threat or any coercive means. As Article 12 of the law mentions:

‘The act of unlawful recruitment in this law shall mean to induce, hire or employ a person to engage in any form of exploitation with the use of deception, abuse of power, confinement, force, threat or any coercive means ...

The offences stipulated in this Article shall be punished with imprisonment from 15 to 20 years when:

- the victim is a minor,
- the offence is committed by a public official, who abuses his /her authority over the victim,
- the offence is committed by an organised group.’

While the Cambodian law does not differentiate between adults and children, the protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (Palermo Protocol) does. Article 3 of the protocol states70:

‘For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others'}

70 http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx
or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.’

The Palermo Protocol considers any movement of children for exploitative purposes as trafficking, regardless of consent or the means employed to move the children, while Cambodian laws recognise consent even for children. The Cambodian law leaves gaps in these aspects.

3.2.2. INSTITUTIONAL ARRANGEMENT FOR PROSECUTION

Cambodia is one of the six COMMIT member nations. It signed a ministerial-level MoU, in 2004, on cooperation and action against human trafficking (UN-ACT & UNDP, 2015). To implement domestic laws effectively and comprehensively, the Cambodian Government established an inter-agency taskforce to tackle human trafficking, the National Committee for Counter Trafficking in Persons (NCCT) vide Royal Decree No. NS / RKT / 0614/808 dated 25 June 2014. It is a single mechanism responsible for enforcing national and international policies in the fight against human trafficking and monitoring and evaluating the status of and challenges in combating human trafficking within and outside Cambodia.

The NCCT consists of 21 ministries that have formed six working groups to cover various issues ranging from prevention to prosecution of trafficking:

1. Prevention Team, led by the Ministry of Education, Youth and Sports;
2. Victims Support Team led by the Ministry of Social Affairs, Veterans and Youth Rehabilitation;
3. Law Enforcement Team led by the National Police Commissioner;
4. International Cooperation Working Group led by the Ministry of Women’s Affairs;
5. Justice Task Force led by the Ministry of Justice; and
6. Migrant Working Group led by the Ministry of Labour and Vocational Training.

On the provincial/municipal level, the PCCTs or Municipal Committee for Counter Trafficking in Persons (MCCT) where relevant, were established.
by the Decision on the Organisation and the Functioning of the Sub-National Level Committee for Counter Trafficking with a task to lead the implementation of the National Plan of Action (NPA). The structure of M/PCCT reflects that of the NCCT. The communication between the national and provincial representatives occurs mainly via Telegram (a mobile phone application). The meetings are organised on monthly, quarterly and annual basis, serving as a platform to exchange information between the Working Groups, NGOs, CSOs and further development partners. M/PCCT is disseminating information about good practices related to safe migration, as well as sharing information on trafficking cases and newly identified unlicensed brokers. However, information sharing still remains a challenge, especially as not all representatives of Working Groups are able to join the meetings on regular basis. Besides, there are budgetary and human resource constraints, which impede M/PCCT from carrying out its duties71.

The Cambodian Government has also adopted tools to facilitate the efficacy of law enforcers. In 2015, NCCT launched the national guidelines on forms and procedures for identifying trafficking victims and providing appropriate services. The guidelines were developed by a committee established by the NCCT, led by MOSALVY, with participation from other relevant ministries, technical support from Winrock International under the USAID’s CTIP II Project, UN-ACT, UNODC and numerous other agencies. They were finalised in 2015 by NCCT’s Technical Working Group, led by H. E. Chou Bun Eng, Permanent Vice Chair of NCCT. The guidelines aim to address major challenges in identifying trafficking victims and will enable greater provision of services to survivors (IJM, 2016). The guidelines define human trafficking, identifying legal characteristics and dissect the legal components to help screeners. Since different stakeholders provide services to trafficking victims, their mandates and referral systems must be determined. To do this, the guideline has mapped out stakeholders in charge of providing comprehensive services to victims or prospective victims of trafficking. The procedure has also been clarified, as shown in Figure 3.2.

The guideline also has instructions on ethical and psychological aspects for practitioners. It stipulates that victims must be helped to recover before they are interviewed. Other relevant considerations to help the screening process are also listed.

The Government has also established focal offices within the police department, entitled Anti-Trafficking and Juvenile Protection Police (AHTJP) to deal exclusively with trafficking cases and collaborate with other countries such as Thailand. These not only handle the case, but also provide training to local staff on necessary skills to cope with trafficking cases72.

71 Interview with Sok Sethypong, Manager of Local Facilitators, GVC Cambodia (April 2018).
72 Interview with representatives of AHTJP, 29 October 2017.
Figure 3.2: PROCEDURE FOR PROVIDING SERVICES TO VICTIMS OF TRAFFICKING

Migrants eligible for victim identification
- Conduct preliminary identification and provide counselling

Judicial police
- Identify suspected perpetrators, investigate and arrest suspects
- Document the case and forward to court

Social affairs officials
- Provide counselling
- Identify the support services and channels required

Offices and officials offering services
- Provide appropriate services: health, legal, rehabilitation, job, life skills, employment and other support

Source: Drawn from NCCT (2015: 14)
Nevertheless, interjurisdictional cases requiring close collaboration between Cambodian and Thai Government agencies to exchange information and collect evidence, presented many challenges. In practice, authorities share information through formal and informal channels such as messenger application, when tackling cases in which the offence occurs in two countries. Even so, there are sometimes differences in decision whether the case should be considered a trafficking case or not. For instance, there was a case that the Cambodian authority considered as trafficking whereas the Thai Government perceived it as a labour exploitation case.

Further, the relation between the offenders and the victims of trafficking is reportedly one of the challenges faced by the authorities. Victims are often not willing to identify the accused who are relatives or parents.

In addition, the capacity of the government agencies is still a key challenge. Structures for policymaking have been established at the centre and for implementation and action at the local level and the frontline. However, knowledge transfer through training still has some challenges. Lack of capable staff has been identified as a key challenge in furthering the national action plan on human trafficking in Cambodia (Winrock & USAID, 2017). Given the complexity of the issues, the existing training sessions can be too short to cover all topics. There is also a problem in the selection of training participants. Often, participants of these trainings are team leaders and officers who do not work at the frontline any longer.

3.2.3. INSTITUTIONAL ARRANGEMENT FOR PREVENTION

Under the NCCT, the Ministry of Education, Youth and Sport (MoEYS) leads thematic working groups on prevention of trafficking in collaboration with various stakeholders. Different government / non-governmental / international agencies have conducted various activities. The Cambodian Government has also tried to establish the community as a watchdog to prevent irregular migration that could increase vulnerability to trafficking. The mechanism could be called peer-to-peer prevention. Community meetings are held twice a month and information is disseminated. Members also monitor ongoing situations within the community. Such activities emphasise awareness raising and explore the circumstances that make people vulnerable to trafficking (USAID & Winrock, 2017).

The Ministry of Women’s and Veterans’ Affairs (MOWVA) and Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (MO-
SALVY) have set up a blueprint to handle trafficking systematically. Their programmes focus on tackling the root causes of the crime through information campaigns for potential victims, education, employment support and income generation, participation of women and children in activities aimed at countering trafficking and advocacy. Cambodia is oriented towards dealing with human trafficking systematically and sustainably.

In addition, the Government is also improving the quality of the MoU process and grievance-redressal mechanisms to help migrant workers in destination countries. This emphasis has appeared in the National Action Plan on anti-trafficking 2014–2018 (USAID & Winrock, 2017). The Cambodian Government seems to be working closely with civil society for support and delivery of services. For instance, LSCW works on raising awareness in the community on trafficking issues and providing legal support to victims. CSOs also play an important role in information dissemination. GVC has discovered that peer-to-peer information dissemination is an effective channel to reach communities, migrant workers, their families or migrant returnees. Self-Help Groups, informal gatherings on migration have been established across 7 provinces of Cambodia and 70 communes in the frame of the Migra-Safe project, Migra Action project and Mig-Right project, during which the villagers meet to discuss their migration experiences and are informed about legal migration channels. Five Social Ambassadors have been selected, former migrants who experienced a situation of abuse in the past and have now returned to Cambodia. Social Ambassadors share their stories with the SHG members and serve as a point of reference to those who want to migrate. In addition, to address illiterate people of most remote areas GVC, together with the Phare Ponleu Selpak association linked to the famous Cambodian Phare Circus, organised 45 theatre shows, reaching more than 36,000 people.

GVC collaborates closely with the PCCTs as well and informs about suspected cases of human trafficking or labour exploitation for PCCTs to investigate further. The list of NGOs and civil society organisations working against trafficking in Cambodia can be found in Annexure 5.

During an interview with a representative of LSCW, an issue related to information access for specific groups of migrants was revealed. Some migrants, such as those working in the agricultural sector, were unable to access information on processes and official costs stated in the promulgation of the Royal Ordinance on Migrant Worker Management 2017 in Thailand. They relied on their employers for such information and in some cases reported to GVC that they were asked to return home to obtain documentation:

“I migrated to Thailand with a broker, paying 2,500 Baht. I worked in the port carrying rice sacks placing them in the ships. My employer asked me to...”
go back to Cambodia to obtain my passport. I have asked support from people living close to my village who met with a company processing passports. I paid 12,000 Baht and was told that the process would take about 20 days, however I still have not received my passport.
(Male participant at SHG meeting, Oddor Meanchey province, August 2017)

‘I was told by my employer in Thailand to go back to Cambodia to process the documents, but I don’t know how long the process will take.’
(Female participant at SHG meeting, Siem Reap province, October 2017)

‘I returned from Thailand, where I worked as undocumented worker in the construction sector. I paid the broker 3,000 Baht and earned 270 Baht per day. With the new law, my employer asked me to return to Cambodia to process legal documents.’
(Female participant at SHG meeting, Oddar Meanchey province, September 2017)

A mechanism is needed to ensure that every migrant, regardless of their migration status and sector/location in which they work, can access relevant information and have access to mechanisms to redress grievances.

3.2.4. COORDINATION BETWEEN DIFFERENT MINISTRIES

Although a principal organisation has been established, the coordination between different ministries is still problematic. An interview with a representative of the Cambodian Ministry of Interior revealed an interesting fact:

‘We have all the laws on paper, but we do not talk to each other much to leverage what we have.’

Under the structure of the NCCT, there are six thematic working groups focusing on different issues including prevention, victim protection, law enforcement, justice, international cooperation and migration. Different ministries with a different work culture head each working group. USAID and Winrock (2017) highlighted the challenges in coordination among NCCT members in their evaluation report titled National Plan of Action 2014-2018 of National Committee for Counter Trafficking in Persons: Mid-term Review Report:

‘The ongoing monitoring of the national action plan is not yet coordinated, so activities, outputs and progress are not linked to set indicators. Each thematic working group works on its own priorities. While these are
closely linked to the national action plan, the results are not readily measurable.’
(USAID & Winrock, 2017: p.5)

In our desk-study of the migration polices of Cambodia, we found several similar issues. MOLVT is considered chiefly responsible for implementing policies on safe and smooth migration, but it also relies on other relevant agencies namely Ministry of Interior and the Ministry of Foreign Affairs and Cooperation. However, communications among different ministries seems to be lacking (MOLVT & ILO, 2014).
The previous chapters described the laws and regulations introduced in Thailand and Cambodia to ensure safe migration and to combat human trafficking. However, many challenges remain in terms of implementation, and translating the intent of laws and regulations into practice. In the following conclusions we summarise the main challenges and offer recommendations that could improve the situation.
4.1. CONCLUSIONS

Major issues faced in both countries include:

THAILAND

1. Difficulty in accessing legal channels. Cambodian migrant workers in Thailand have trouble registering their legal status. Despite the efforts of the Thai Government in promoting migration through the MoU channels, costs on either side of the border and the time taken to secure permits mean that the measure remains unfeasible for poor migrant workers. Difficulty in changing employers as well as time limitations in looking for new employers also makes it difficult for migrant workers to maintain their legal status in Thailand. Further, difficulties for the migrant workers in accessing information about legal channels, pushes them to rely on informal channels of information such as brokers or recruitment agencies, family members or friends or their Thai employers.

2. Restriction of migrant workers’ rights. Limitations have been placed on the industries in which migrant workers can be employed and the jobs they can perform. They are also not allowed to establish their own union. There are few CBOs that supports Cambodian migrant workers and migrants have little recourse to access information or grievance mechanisms.

3. Limitations in trafficking laws. The time limitation in the victim verification process could be considered as a challenge. As of January 2018, even though 24 hours are foreseen for victim verification with a 7-day extension, the process still presents a challenge, especially because government officers need to tackle numerous cases and victims are not ready to testify. The absence of support provided to non-trafficking cases could discourage migrants from filing lawsuits against abusers.

CAMBODIA

4. Continued preference for irregular channels. Due to several reasons, including expensive and time-consuming legal channels, flaws in disseminating information on legal channels for work-related migration to Thailand, and lack of trust between communities and the government, as well as between communities and PRAs, irregular channels remain popular for migration. This is also connected to the lack of information dissemination. Migrant workers rely heavily on
the information provided to them by brokers, middlemen or former migrants.

5. **Non-standardised costs.** The government has made efforts to regulate PRAs on pre-departure training and fees charged. However, this process still needs standardisation and close monitoring.

6. **Capacity building for front line officers in Thailand and Cambodia.** There is a need for the officers operating at the front line in both Thailand and Cambodia to have a common understanding of trafficking in order to fight it more effectively.

7. **Lack of coordination and information dissemination from the capital to the provinces.** Despite establishing the NCCT and mandating inter-ministerial and inter-agency cooperation, communication gaps and lack of accountability continue to pose a challenge.

**Future research:** The following directions for future research are recommended, oriented to develop gender sensitive policies for migrant workers in Thailand.

1. Studies on payments received by migrant workers, especially on gender pay gap, which has been highlighted by recent studies conducted by GVC. There is a need to study whether minimum wage laws and equal pay laws are implemented among migrant workers.

2. Even though registered migrants can be covered by social security, we are not sure how many migrants are covered by social security, and how many are actually benefitting from a social security system.
4.2. RECOMMENDATIONS

THAI GOVERNMENT

1. **Make it easier to become legally documented migrant workers:** As of January 2018, the Thai Government is strengthening the stick but offering few carrots to entice migrants to become legally documented. Rather than increasing the fine for undocumented workers, reducing paperwork and costs involved in becoming a documented migrant worker would be more realistic and suitable. There is the need to conduct a comprehensive study to identify affordable costs and requirements for migrant workers and facilitate their registration. Coming through the MoU is expensive and lengthy. The NV system is again lengthy and costly especially since the process requires migrants to use agents. The whole system needs to be simplified (including instructions in the language of migrant workers) so that migrants can complete the process without the help of agents.

2. **Make it easier to change jobs:** One of the biggest problems for migrants is that they cannot change jobs easily. Once they change jobs, they can become undocumented although they might have originally entered the country with legal documents. Not only is it difficult to change employers, if migrants want to change, they have very limited time to look for a new employer. It is important that they are given a reasonable period of time to look for a new employer. Linking their status with their employment facilitates exploitation. The government must detach registration from employment and allow migrants to register on their own, informing the government of their employer. Data of migrant workers must be kept online and be easily retrievable by them, documentation must not be withheld by the employer.

3. **Allow migrant workers to form their own union:** It is important that migrant workers have their own voice. The government must allow them to form their own labour unions. This calls for an amendment to Section 101 of Labour Relation Act 1975.

4. **Support creation of CBOs for Cambodian migrant workers:** Unlike Burmese migrant workers, Cambodian migrant workers do not have many CBOs that they can call on for help. As seen from the positive experience among Burmese migrant workers, peer-to-peer support groups are effective not only for information dissemination and for sharing but to support migrants to tackle the challenges that they face in the place of destination.

5. **Tackle the issue of statelessness:** If migrant children remain stateless, they can become easy prey for traffickers. As of January 2018,
the route to obtain Thai citizenship is unclear for children born in Thailand to foreign parents. There is a need to clarify processes and procedures for these children to obtain citizenship. Current regulations state that achieving higher education is a requirement for obtaining Thai citizenship. It is hence important to strengthen support for stateless children to pursue education.

6. **Improve trafficking identification:** Identifying trafficking victims is extremely difficult. It is important that there is sufficient time to screen victims. Furthermore, an appropriate number of well-trained translators needs to be added to law enforcement teams, who shall share definitions for identifying victims with Cambodian officers.

**CAMBODIAN GOVERNMENT**

1. **Reduce the time and cost of the MoU process:** Cambodian workers often avoid the MoU process because of its cost and time. The government needs to regulate/guide PRAs to reduce the cost and time involved. The government must monitor how much migrants are being charged for services. To increase access to the MoU channel, the government should assess what would be a realistic cost and document requirement for prospective migrants and what duration would be viable, and then set document requirements, cost and time required to process accordingly. Such information needs to be openly available, so that PRA charged cost could be controlled.

2. **Increase accountability of PRAs:** To bolster workers’ trust in PRAs, the government must monitor the performance of these agencies and hold them accountable for the workers. Such monitoring and assessment must be conducted in consultation with civil society and communities. The government should also establish a ranking and blacklisting system for PRAs. To establish such a system, both the government and civil society should comprehensively gather data; migrants who have returned should also be contacted. In addition, a mandatory and standardised pre-departure training should be organised.

An already existing mechanism, which could be leveraged in Cambodia, is Prakas 250 on Inspection on Private Recruitment Agencies dated 23 September 2013, which authorises officers to call for evidence, both documents and testimony. If this law were amended to allow civil society participation to ensure transparency in inspections, it would increase accountability.

3. **Improve coordination among different working groups under NCCT:** The lack of communication and coordination between various
working groups under NCCT remains a challenge. Information sharing needs to be strengthened, especially in terms of capital – province.

4. **Joint training with Cambodian and Thai officers at operational level for common understanding on trafficking victim identification:** The differences in defining trafficking among Thai officers, Cambodian officers and civil society groups remains a problem. It is important that a joint training between Thai and Cambodian frontline officers is conducted so that such discrepancies are minimized and deeper collaboration be achieved. Further, capacity building of local government officials in disseminating information to migrant workers and potential migrants about the legal process of migration is required.

5. **Improve definition of child trafficking:** As of January 2018, the Government uses the same trafficking definition for both adults and minors. It is important that the definition of child trafficking include the movement of children for the purpose of exploitation regardless of their consent.

6. **Address the issue of informal brokers:** Introduce quality control systems, hold officials accountable to reduce informal payments and extortions. Conduct behavioural change campaigns to address the issue of trust in the communities.

**CIVIL SOCIETY (THAILAND)**

1. **Lobby the government to ensure safe migration:** Civil society in Thailand can lobby the government to implement the above-mentioned recommendations or other measures to ensure safe migration. To lobby the government, civil society can monitor the migration situation and report/disseminate pertinent information to raise awareness and exert pressure on the government to act.

2. **Work with the private sector:** It is important that civil society in Thailand work with the private sector to raise awareness of laws related to labour migration and best practices for employing migrant workers. Employers can be made to realise that creating better working conditions for migrant workers will make them stay longer, which will lower their cost of hiring and training new workers.

3. **Coordinate with civil society in Cambodia:** As has already been done, civil society in Thailand can continue to work with its counterparts in Cambodia to inform them of the labour migration situation in Thailand and coordinate on advocacy issues to improve the condition of migrant workers.
CIVIL SOCIETY (CAMBODIA)

1. Monitoring PRAs and disseminating information to potential migrants: Civil society in Cambodia can continue to help monitor the performance of PRAs and disseminate information about their performance, so that potential migrants can make appropriate decisions. They can also work closely with the government to rate the performance of PRAs.

2. Lobby the government to reduce cost/shorten procedure for documented migration: Civil society in Cambodia can continue to lobby the government so that it becomes easier for migrants to travel overseas for work using legal channels.

3. Coordinate with civil society in Thailand: Civil society in Cambodia further coordinates with counterparts in Thailand to monitor the working and living situation of migrants to ensure their safety, report any violations of human rights (including human trafficking) and support victims.

4. Enhance peer-to-peer information dissemination while ensuring the quality of this information. Work closely with the community and former migrants, train several migrants to become agents of change and create informal hubs of quality information.

PRIVATE SECTOR (THAILAND)

1. Work with civil society and government to ensure safe working and living conditions for migrants: It is important that employers understand that creating better working conditions for migrant workers will decrease their recruitment and training costs in the long run. They need to work with civil society to better understand the situation of migrant workers and improve their working and living conditions. They also need to work with the government and civil society to come up with better measures for the documentation of workers.

PRIVATE SECTOR (CAMBODIA)

1. Work with civil society and government to improve the standard of PRAs: It is recommended that PRAs upgrade their standard to gain the trust of migrant workers. They also need to work with the government to lower their costs and come up with standard pricing that is affordable to workers. It is essential that they work with civil society to weed out substandard agencies to improve the image and quality of PRAs.
THE INTERNATIONAL COMMUNITY

1. Exert pressure on the Thai Government to ratify key international conventions: The international community can exert pressure on the Thai Government to ratify key international conventions aimed at protecting the rights of migrants (see Annexure 7 for key international conventions related to migration and human trafficking that the Thai Government is yet to ratify). The international civil society could lobby the Thai Government directly as well as indirectly through other governments to implement measures to ensure safe migration and prevent human trafficking.

2. Support civil society working on migration issues in Thailand and Cambodia: International civil society organisations should technically and financially support organisations in Thailand and Cambodia as well as migrant worker CBOs advocating safe migration. They can also support civil society in collecting information and monitoring the government’s progress in ensuring safe migration, for further dissemination and global advocacy.

3. Disseminate information and raise global awareness: The international community can support civil society and migrant worker CBOs, in collecting evidence and making their voices heard across the world, especially in policy-making arenas.
REFERENCES


MSDHS, IOM, American Center for International Labor Solidarity and HRDF (2013) คู่มือสำาหรับเจ้าหน้าที่ในการป้องกันและปราบปรามการลักพาท์. Bangkok: Thailand, สังกัดอธิบดีสำนักงานพิจารณา การจดทะเบียนข้าราชการต่างถิ่น. Retrieved from http://thaircrimes.org/download%E0%B8%84%E0%B8%B9%E0%B9%88%E0%B8%A1%E0%B8%B7%E0%B8%AD%E0%B8%AA%E0%


LIST OF OFFICIAL DOCUMENTS

Thai laws, Royal Ordinances, decrees, regulations and Ministerial Announcements

LAWS AND ROYAL ORDINANCES

Royal Ordinance on Recruiting Migrant Workers to Work with Thai Employers, 17 June 2560 (2017). https://www.doe.go.th/prd/assets/upload/files/bkk_th/ba0ba01f8ad0f08909a24c46739be7c38.pdf

Royal Ordinance on Migrant Worker Management. 15 August 2559 (2016). https://www.doe.go.th/prd/assets/upload/files/bkk_th/3c35c06309c7e8942a8f6ea363b8b916.pdf


ROYAL DECREES


MINISTERIAL ANNOUNCEMENTS


Ministerial announcement of the Ministry of Labour on Criteria, Methods and Conditions to Apply and Grant Permission to Work in Compliance with Thai Royal Ordinance of Migrant Worker Management 2017. 6 July 2017. Retrieved from https://www.doe.go.th/prd/assets/upload/files/bkk_th/f8765a984b0cd7e67207c7b28f43e05b6.pdf


MINISTERIAL REGULATIONS


REGULATIONS AND CABINET RESOLUTIONS


Rule of Department of Employment on the Criteria to Allocate the Number of Migrant Workers (2nd rule), 24 May 2016. Retrieved from https://www.doe.go.th/prd/assets/upload/files/alien_th/01fc116eaedc0f0df02e39eaed8dbd650.pdf


CAMBODIAN LAWS, DECREES AND PRAKAS

Royal Decree

Royal Decree No. NS / RKT / 0614/808 on Establishment of National Committee for Counter Trafficking. 25 June 2014
Royal Decree No. NS/RKM/0208/005 on Suppression of Human Trafficking and Sexual Exploitation 2008

SUB-DECREES


Prakas 250/13 on inspection of private recruitment agencies (23 September 2013)


INTERNATIONAL CONVENTIONS AND AGREEMENTS

## ANNEXURE 1
List of key informants in Cambodia and Thailand

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<tr>
<th>Name</th>
<th>Position</th>
<th>Organisations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cambodia</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Mr. Tiev Tithiakomol</td>
<td>Officer</td>
<td>Ministry of Labour and Vocational Training (MOLVT)</td>
</tr>
<tr>
<td>2. Mr. Ouk Ravulth</td>
<td>Officer</td>
<td>Ministry of Labour and Vocational Training (MOLVT)</td>
</tr>
<tr>
<td>3. Mr. Lao Lin</td>
<td>Chief of Citizen Protection Department</td>
<td>Anti-Human Trafficking and Juvenile Protection (AHTJP)</td>
</tr>
<tr>
<td>4. Mr. Kim Chenda</td>
<td>Director of Anti-Human Trafficking</td>
<td>Anti-Human Trafficking and Juvenile Protection (AHTJP)</td>
</tr>
<tr>
<td>5. Mr. Pin Vireak</td>
<td>Director of ACRA</td>
<td>Association of Cambodian Recruitment Agencies</td>
</tr>
<tr>
<td>6. Ms. Chao Bun Eng</td>
<td>Chairperson</td>
<td>The National Committee for Counter Trafficking in Person (NCCT)</td>
</tr>
<tr>
<td>7. Mr. Sokchar Mom</td>
<td>Program Manager</td>
<td>Legal Support for Children and Women (LSCW)</td>
</tr>
<tr>
<td><strong>Thailand</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Mr. Sompong Srakaew</td>
<td>Director</td>
<td>Labour Rights Promotion Network Foundation (LPN)</td>
</tr>
<tr>
<td>2. Ms. Patima Tungpuchayakul</td>
<td>Program Manager</td>
<td>Labour Rights Promotion Network Foundation (LPN)</td>
</tr>
<tr>
<td>3. Mr. Samuk Tubhanee</td>
<td>Director of the anti-trafficking centre</td>
<td>Labour Rights Promotion Network Foundation (LPN)</td>
</tr>
<tr>
<td>4. Ms. Suwaree Jaiharn</td>
<td>Director of anti-trafficking in persons committee</td>
<td>Ministry of Social Development and Human Security</td>
</tr>
<tr>
<td>5. Pol. Col. Mana Kleabsatabus</td>
<td>Deputy Superintendent</td>
<td>Anti-Trafficking in Persons Division (ATPD), Royal Thai Police</td>
</tr>
<tr>
<td>6. Pol.Lt.Col. Choosak Apaipak</td>
<td>Deputy Superintendent</td>
<td>Anti-Trafficking in Persons Division (ATPD), Royal Thai Police</td>
</tr>
<tr>
<td>8. Mr. Patrawut Pheusaela</td>
<td>Director</td>
<td>Department of Foreign Workers Administration Office, Ministry of Labour</td>
</tr>
<tr>
<td>9. Ms. Tuk</td>
<td>Representative</td>
<td>The network of migrant worker managers (private sector)</td>
</tr>
<tr>
<td>10. Ms. Chilada</td>
<td>Representative</td>
<td>The network of migrant worker managers (private sector)</td>
</tr>
</tbody>
</table>
ANNEXURE 2
Questions for key informants in Thailand

A. Questions for LPN

1. Personal information
   a. Name
   b. Gender
   c. Role in the organisation

2. Could you describe the role of your organisation in promoting the rights of migrant workers?

3. In Thailand, what are the notable differences among Cambodian, Burmese and Laotian migrant workers?
   a. Comparative differences
   b. Notable characteristics
   c. The sector they are employed in

4. Have you seen the change in the circumstances of these migrants with respect to their rights, relevant laws and patterns of migrations in the past decade?
   a. Changes in laws and rights
   b. Patterns of migration

5. Do you think the Thai government has an adequate legal mechanism to promote safe migration?
   a. Definition of safe migration
   b. The difficulty of the registration process
   c. The consistency of legal enforcement at the provincial level

6. Why do many migrant workers decided to migrate without documents?

7. Do you think migration has become safer than it was around 5 years ago? 10 years ago? Why?

8. Does the legal mechanism in relation to immigration align with the reality of the migrants?
   a. MoU
   b. The documentation process such as nationality verification
   c. Migrants’ dependents

9. Does the gap between the legal mechanism and the reality of immigration increase the risk of being trafficked? If yes, how?

10. Are the trafficking laws and legal mechanisms established by the government sufficient to eradicate trafficking? Why do you think so?

11. In your opinion, what are the causes of human trafficking?

12. Are anti-trafficking laws consistently imposed?
   a. Does the authority in each province have equal expertise?
   b. What are the problems you have experienced?

13. What are the challenges created by the laws and the authorities that LPN has encountered?

14. In your opinion, what roles can the following play to prevent unsafe migration: Ministry of Labour, immigration authorities, local governments?

15. From your perspective, what are the legal mechanisms needed to decrease the risk of being trafficked and ensure safe migration?

16. Any additional remarks to be highlighted for this research.

B. Questions for representatives of the Ministry of Social Welfare and Human Security (MSWHS), emphasising the work of National Operation Centre on Prevention and Suppression of Human Trafficking (NOCHT) hosted by MSWHS

1. Personal information
   1.1 Name
   1.2 Gender
   1.3 Position

2. What is the main reason for establishing this specific public office?
   2.1 The TIP report
   2.2 Other reasons

3. What is the main role of this centre? What is the significance of collaboration with other agencies?
   3.1 What are the responsibilities of each public office?
   3.2 What are the main roles of MSWHS in relation to combating trafficking?

4. Are there any particular laws authorising this centre? If yes, please elaborate.
   4.1 How have these laws changed since 2008?
5. Please elaborate on the prevalence of human trafficking in Thailand?
   5.1 Definition of trafficking in Thailand, difference and similarity to the international definition?
   5.2 In which sectors?
   5.3 Characteristics?
   5.4 Statistical data?

6. Could you describe the response to a report of a trafficking case? Which offices take part and in what capacity?

7. How do you ensure consistency at the provincial level?
   7.1 Training/capacity building
   7.2 Monitoring system

8. Does this centre collaboratively work with other civil society organisations?
   8.1 Which organisations?
   8.2 In what way?

9. What are the challenges in handling trafficking incidents in Thailand?
   9.1 In relation to existing laws
   9.2 In relation to expertise
   9.3 Other aspects

10. What are the tentative strategies or mechanisms needed to alleviate trafficking in Thailand for the time being?

11. Among all the measures and programs you have implemented, which ones were most effective? Why do you think so? Which ones need to be improved? Why are these difficult to implement?

C. Questions for the immigration police

1. Personal information
   a. Name
   b. Gender
   c. Position

2. What are the main tasks of the immigrant police?
   a. The arrangement of the organisation
   b. The sub-departments

3. Could you explain the department’s main roles in relation to migrant workers, especially from Cambodia?
   a. What is the process followed when a migrant enters Thailand illegally for work?
   b. What is the deportation process?

4. How many migrants have declared their status in the past few decades?
   a. From which countries do most migrants come?
   b. How have trends changed?
   c. Statistical data

5. Does the government have specific policies aimed at migrants from neighbouring countries, especially in the context of ASEAN communities?
   a. If yes, what are these policies?
   b. Currently, pink cards, passports and passport for work permit are in existence. What is the purpose of having these different kinds of documents and how will this situation change in the future?

6. What are the specific characteristics of migrants from neighbouring countries, especially Cambodia?
   a. Which sectors do they predominantly work in?
   b. Which province do they mainly stay in?
   c. What is the ratio of men and women among the migrants?

7. What are the main problems migrants, especially from Cambodia, tend to experience?
   a. Does this differ from what their Burmese counterparts experience?

8. In your opinion, why does human trafficking happen? Why do unsafe migration practices continue?

9. Does the scope of your work relate to trafficking?
   a. If yes, in what way? Please elaborate.
   b. How can the pattern of migration, from Cambodia as well as other neighbouring countries, increase the risk of trafficking?

10. In light of trafficking, why does your organisation need to collaborate with other public organisations?
   a. What are these organisations?
   b. In what way do you collaborate?

11. What are your organisation’s challenges in handling migrants?
   a. Principal laws
   b. Internal guidelines
   c. Characteristics of migration per se
12. In your opinion, why is it that combating human trafficking is difficult?

13. In your opinion, why is it that promoting/ensuring safe migration is difficult?

14. What are the laws that currently protect migrant workers from being trafficked?
   a. The Immigration Act 1979
   b. The Working of the Migrant Act 542
   c. Any others

15. From your perspective, are existing laws sufficient to promote safe migration?
   a. If yes, why?
   b. If no, why?

16. Do you have any suggestions to promote safe migration and combat trafficking?
   a. In relation to laws and legal mechanisms
   b. In relation to expertise
   c. In terms of cooperation among agencies and others
   d. In terms of law enforcement

D. Questions for respondents from the Ministry of Labour

1. Personal information
   1.1 Name
   1.2 Gender
   1.3 Position

2. Could you provide an overview of migrant workers in Thailand, especially those from Cambodia, in the context of ASEAN, in the past few decades?
   2.1 Which sectors do they predominantly work in?
   2.2 Noticeable characteristics
   2.3 Change in trends
   2.4 The practical challenge in managing or monitoring those migrants in the context of AEC

3. In relation to migrant workers, what are the relevant laws and policies authorising the Ministry of Labour?
   3.1 The principal laws (acts, royal ordinances)
   3.2 Ancillary laws (announcement of Ministry of Labour, resolutions, etc.)
   3.3 Bilateral agreements (MoU and other international agreements)

4. In relation to managing migrant workers in Thailand, with what other offices in the Ministry of Labour do you need to work closely with? In what way?
   4.1 Do you work with the Ministry of Interior on legal documents for migrants?

5. How many legal channels are available for migrants from Cambodia to come to Thailand for work? Please explain each process.
   5.1 MoU
   5.2 Nationality verification
   5.3 Other channels
   5.4 If their working contract (if any) is terminated, can migrants re-register in the same way?

6. Could you explain the recently announced CI for Burmese migrant workers in Thailand? How is it different from other channels?
   6.1 How is this different from previous registration?
   6.2 Is this only applicable for the Burmese?

7. Given the demand for labourers in diverse sectors such as fisheries and other light industries, does the government have any policies to facilitate migrant workers?
   7.1 Policies regarding migrants
   7.2 Policies regarding their dependents

8. Does the Ministry of Labour collaborate with other governments or civil society in other countries to promote safe migration?
   8.1 In terms of dissemination of data concerning working in Thailand
   8.2 Accessibility to authorised agencies in host countries

9. Can you measure the proportion of documented to undocumented migrant workers in Thailand? Why does undocumented migration occur?

10. Does your work cover anti-trafficking policies? If yes, how?
    10.1 If it is a committee, which is the host organisation?
    10.2 When Thailand was put into TIER 3 by the
United States and a yellow card issued by the EU, how did the Ministry of Labour respond?

11. Could you describe the challenge of managing and monitoring migrants, as encountered by the Ministry of Labour?
   11.1 In relation to laws and policies
   11.2 In relation to collaboration with other public offices
   11.3 In relation to collecting concrete data enabling the ministry to respond to changes in trends

12. Do you have any suggestions for improving existing laws to promote safe migration?

E. Questions for the network of migrant worker managers (private sector)

1. Personal information
   a. Name
   b. Gender
   c. Position

2. For members of the network:
   a. What benefits do they receive?
   b. What are the rules and sanctions?

3. What are the association’s main policies on CSR & human rights and international migration?
   a. Definition of those policies (the way they are interpreted)
   b. What internal policies encourage the members to comply with these policies?

4. Could you elaborate on the demand for migrant labour in Thailand?
   a. Which sectors have great demand?
   b. Why is the demand great in these sectors?

5. In response to the demand for such labour, does the confederation play any role in promoting good labour practices?
   a. Recruiting methods (through trustworthy agencies)
   b. Through MoU

6. Do you face any challenges in recruiting migrant workers?
   a. Laws and regulations
   b. Other issues
ANNEXURE 3
Questions for key informants in Cambodia

A. Questions for anti-trafficking and juvenile police (AHTJP)

1. What are the main laws that you deploy to prosecute trafficking? Do you have internal regulations or decrees to facilitate your department’s operations?

2. What are the gaps in laws and in practice that impede the success of prosecuting trafficking cases?

3. Do you have statistical data on the prevalence and characteristics of trafficking cases?

4. In interjurisdictional cases, what is the role of AHTJP? How does it collaborate with other departments in both Thailand and Cambodia? How could the collaboration increase the likelihood of success?

5. AHTJP was reportedly trained by the Australian government to equip it with the necessary skills to handle trafficking cases. Please provide details about the training. Please share the materials of the training.

6. How can the AHTJP ensure consistency in policing practice in different provinces? If victims or potential victims are not appropriately treated, where can such misbehaviour be reported? How often is this mechanism applied?

Guidelines for victim verification

1. Since 2013, the government has released guidelines for victim verification. What is the role of AHTJP as mandated by these guidelines? How do these guidelines contribute to AHTJP’s work in suppressing trafficking in persons?

2. Please explain the process mandated by the guideline from the time trafficking is reported until it is prosecuted both in Cambodia and other territories? At which stage is the AHTJP involved? Who are the main partners collaborating with ATPD and in what way?

3. If trafficking happens in Thailand, how does international collaboration deal with it? With what organisations in Thailand does ATPD collaborate? How long does the process take in general?

4. Does every member of AHTJP have to be trained in effective use of the guideline? Is there a follow-up or monitoring mechanism to check whether the guideline is being utilised consistently? What are these mechanisms? How often are they employed?

5. To have access to victims of trafficking, collaboration with civil society organisations is very important. Do you collaborate with any such organisations? How do you do so?

6. What are the main challenges in effectively applying the guideline? Why do these challenges exist? What needs to be done to address these challenges? Will the guidelines be upgraded soon?

B. Ministry of Labour and Vocational Training (MoLVT)

Regulation and Law

1. The UN women report in 2013 on The Review of Laws, Policies and regulations Governing Labour Migration in Asian and Arab States makes the following observations: The main law related to migration was sub-decree No 57 which focused on the responsibility of recruitment agencies, conducting pre-departure training for migrants and coordinating efforts for their return. However, the law cannot be enforced in destination countries. A new sub-decree, No 190, has some positive change: recruitment agencies are to be periodically inspected by the MOLVT; lawyers are to be provided for migrants engaged in legal proceedings abroad; contracts between agencies and workers are to be written in Khmer language and training centres must ensure a ‘decent’ standard of living. However, the negative changes of this new sub-decree represent a step back as it removes or eliminates some of the rights previously afforded to workers and fails to address the serious problem raised over the years by NGOs and migrant worker advocates.

Do you agree with the report? What do you think about the issues raised?

2. What are the key challenges for MOLVT in implementing relevant laws?
3. Besides sub-decree No 57 and No 190, does Cambodia have any laws related to migration?

MoU Cambodia-Thailand
1. What are the roles and responsibilities of MOLVT regarding this MoU?

2. What kind of collaboration exists among the MOLVT and other government agencies such as the Ministry of Social Welfare and Ministry of Foreign Affairs and Ministry of Women’s and Veteran’s Affairs on this MoU?

Safe Migration
1. What is the process of sending Cambodian workers aboard (legal migrants, to Thailand) through the MoU?

2. Does the MoU ensure that migrant workers will be safe in the destination country? Has there been any instance of migrants travelling through the MoU experiencing trafficking? Why did this happen?

3. According to the Cambodian embassy’s announcement in Thailand on 01 July 2017, the Thai government has revised the royal decree on management of migrant workers. What are MOLVT’s reactions to this?

4. Does it help workers to migrate through the legal process?
   a. If so, how does MOLVT enforce the legal process?
   b. With respect to this announcement, please describe briefly the process of managing Cambodian workers in Thailand.

5. How do recruitment agencies cooperate with MOLVT in sending Khmer workers abroad?
   a. What is the pre-departure training provided to migrant workers?
   b. Is this training useful to them?
   c. Are PRA processing fees for migrants standardised by MOLVT? If not, why? How is the process charged by PRAs?
   d. Is the processing fee similar for all PRAs?

6. What are the key challenges for MOLVT’s work with PRAs?

7. Inter-ministerial committees were established to meet the needs of MOLVT on migration.
   a. How is cooperation between ministries?
   b. Who is involved in this?
   c. What challenges are faced by the inter-ministerial committees?

C. Questions for the National Commission for Combating Trafficking

Roles and Coalition
1. What is the composition of this committee? What are the different roles of each ministry?

2. What are the national plans for combatting trafficking in 2014-2018? What is the priority? Please share the most recent statistical data on the prevalence and characteristics of trafficking in persons.

The guideline and its application
1. This guideline for trafficking verification is a very progressive step. How was this guideline created? Which organisation initiated it?
   a. Research on needs assessment

2. How has the guideline contributed to success in dealing with cases of trafficking? Does it have an oversight mechanism to ensure consistency in law enforcement?

3. How does the system work when incidents occur overseas? How many times since the issuance of the guideline has the MOI taken action, especially in Thailand?

4. How can you ensure the effectiveness of government agencies and/or civil society organisations in handling victim identification? Do you provide any training to new staff members? Do you evaluate the application of this guideline? Is there any grievance system that a victim could appeal to if they feel they are being treated insensitively?

5. What are the main challenges in applying this guideline? What can be done or should be done to improve the effectiveness of this guideline?

Prevention of trafficking
1. Does the NCCT conduct any activities to prevent trafficking in persons? If yes, please provide details. Are these activities supported in terms of finance and expertise by the royal Cambodian government or other organisations? If they are supported by international agencies or other NGOs, how can the national commission ensure the sustainability of such activities?

2. To what extent are such prevention activities successful? What are the main hindrances impeding the success of these activities? Why?

3. What could the commission do to prevent trafficking in persons? To achieve this, what resources are most needed?

4. Often, the root cause of trafficking is identified as unsafe migration. Does the commission have any programmes or activities to try to promote safe migration?

D. Questions for GVC Cambodia and LSCW

Overview on the MMN, 2016 Report

1. The MMN (2016) report showed migrants’ desire to see countries of origin play more proactive roles in protecting their rights. How do you think this can be achieved?
   • The importance of information dissemination and effective PDT
   • Clear mandates and coordination among responsible agencies
   • Genuine monitoring, enforcement and sanctions for rule violations
   • Provision of comprehensive overseas assistance

2. What is your perspective on existing mechanisms and governance for Cambodian workers migrating to Thailand?

3. How are MMN (2016) recommendations applied in real practices? Who should be involved in this process?

4. Who should be involved in ‘improving overseas assistance’? How it is helpful for migration, especially to Thailand?

5. The report’s long-term recommendation for Cambodia seems to be to focus on ‘safe migration.’ Has this had the effect of sending more migrants through the legal process? Do you think this is possible for Cambodia? Why should it be implemented?

6. How do these recommendations impact government policy and strategies?

MoU and Decree Revision by Thai Government

7. Does the MoU process ensure migrant workers’ safety in destination countries? Have migrants using this route experienced trafficking? Why?

8. According to the Cambodian embassy’s announcement in Thailand on 01 July 2017, the Thai government has revised the royal decree on the management of migrant workers. What do you think about this?
   • Is it helpful for workers to migrate through the legal process?
   • If so, how can this be enforced?
   • Please briefly describe the process of managing Cambodian workers in Thailand.

E. The Association of Cambodian Recruitment Agencies (ACRA)

Background:

1. How many members does ACRA have currently?

2. Who are ACRA’s partners? Please describe briefly the key roles of each partner.

3. What are the key challenges faced by ACRA?

Private Recruitment Agencies

1. What is the process for becoming a legal PRA?

2. What kind of cooperation exists between ACRA and ministries?

3. What process do PRAs follow to send Khmer workers to Thailand?
   a. Do all PRAs follow the MoU process?
   b. What are the challenges of the MoU process for ACRA?
   c. What is the pre-departure training provided to migrants by PRAs?
   d. Is this training useful for migrant workers?

4. If migrants follow the PRA process, do they face any
problems in Thailand?
   a. Whom can they ask for help? Where do they need to go?
   b. How can they ask for help?
   c. Does the PRA respond for the safety of migrants in destination countries?

Safe Migration Process

1. How does the MoU process ensure that migrant workers will be safe in destination countries?

2. Have any migrants following the MoU or PRA process experienced trafficking? Why? How were these cases reported?

3. According to the Cambodian embassy’s announcement in Thailand on 01 July 2017, the Thai government revised its royal decree on the management of migrant workers.
   a. Is it helpful for workers to migrate through the legal process?
   b. If so, how is this legal process enforced?
   c. With regard to this announcement, please describe briefly how Cambodian workers are managed in Thailand.

Processing fee of PRA

1. Who sets the processing fee for PRAs? Is this fee similar for all PRAs?

2. Are all PRA processing fees for migrants set by MOLVT? If not, why?
## ANNEXURE 4
### List of NGOs working on migrant and trafficking issues in Thailand

<table>
<thead>
<tr>
<th>Name</th>
<th>Address and contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour Rights Promotion Network Foundation (LPN)</td>
<td>25/17-18 Mahachai Mueng Thong Village, Sahakorn Road Samut Sakhon, Samut Sakhon 74000 Thailand Tel: 034 434 726</td>
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</tr>
<tr>
<td>Human Rights and Development Foundation (HRDF)</td>
<td>87 Sutthisan Winitchai Rd, Samsen Nok, Huai Khwang, Bangkok 10310 Tel: 02-2776882, 02-2776887 <a href="http://hrdfoundation.org/">http://hrdfoundation.org/</a></td>
</tr>
<tr>
<td>Foundation For AIDS Rights (FAR)</td>
<td>133/235 Ruenrudee Village 3, Hathairat Road Minburi, Bangkok 10510 Phone 02-171-5135-6 or Fax 02-1715124 <a href="http://www.aidsrightsthailand.com/index.php?lang=">http://www.aidsrightsthailand.com/index.php?lang=</a></td>
</tr>
<tr>
<td>สมาคมนักกฎหมายสิทธิมนุษยชน (Human Rights Lawyer Association-HRLA)</td>
<td>109 Soi Sitthichon Suthisarnwinichai Rd. Samsennok Huaykwang Bangkok Thailand 10310 Tel / Fax: 02-2753954 <a href="http://naksit.net/th/">http://naksit.net/th/</a></td>
</tr>
<tr>
<td>The Walk Free Foundation</td>
<td>PO Box 3155 Broadway Nedlands, Western Australia 6009 <a href="mailto:info@walkfreefoundation.org">info@walkfreefoundation.org</a></td>
</tr>
<tr>
<td>The Mirror Foundation—มูลนิธิกระจกเงา</td>
<td>191 Vibhavadi Rangsit Road 62 (4-7), Bangkhen, Laksi Bangkok 10210 Tel: 029732236-7</td>
</tr>
<tr>
<td>A21 Foundation (Thailand)</td>
<td><a href="http://www.a21.org/content/thailand/gnr43c">http://www.a21.org/content/thailand/gnr43c</a> Email: <a href="mailto:INFO.TH@A21.ORG">INFO.TH@A21.ORG</a> Tel: 02-1366174</td>
</tr>
<tr>
<td>Fight Against Child Exploitation (FACE)—มูลนิธิพัฒนาการคุ้มครองเด็ก</td>
<td>Address: P.O. Box 178, Klong Chan Post Office Bangkok 10240, Thailand. Tel: (66-2) 509 5782 <a href="mailto:facesudabkk@gmail.com">facesudabkk@gmail.com</a> <a href="http://facefoundation.blogspot.com/">http://facefoundation.blogspot.com/</a></td>
</tr>
<tr>
<td>Friends of Women (FOW)—มูลนิธิเพื่องค์หญิง</td>
<td>386 / 61-62 Sukhumvit 42 (Soi Chalerm happy), Ratchadaphisek Road, Chatuchak, Bangkok 10900. Phone: 0-2513-1001 <a href="http://www.fowomen.org/1st%20page.html">http://www.fowomen.org/1st%20page.html</a></td>
</tr>
<tr>
<td>Name</td>
<td>Address and contact</td>
</tr>
<tr>
<td>-----------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Alliance Anti Trafficking (AAT)—มูลนิธิพิทักษ์สตรี</td>
<td>PO Box 60 Post Office Minburi Bangkok 10510 Thailand</td>
</tr>
<tr>
<td></td>
<td>Phone: (66)2214 5167</td>
</tr>
<tr>
<td></td>
<td>Tel: 0944037037</td>
</tr>
<tr>
<td></td>
<td><a href="http://aatthai.org/">http://aatthai.org/</a></td>
</tr>
<tr>
<td></td>
<td><a href="https://www.facebook.com/AATSaveGirls/">https://www.facebook.com/AATSaveGirls/</a></td>
</tr>
<tr>
<td>Arom Foundation—มูลนิธิอารมณ์ พงศ์พงัน</td>
<td>109 51 Soi Ngamwalee Khlong Nung, Khlong Luang District, Pathum Thani 12120</td>
</tr>
<tr>
<td></td>
<td>Phone: 0-2516-1589, 02-516-1071</td>
</tr>
<tr>
<td></td>
<td><a href="https://aromfoundation.org/">https://aromfoundation.org/</a></td>
</tr>
<tr>
<td>World Vision Foundation of Thailand—มูลนิธิศุภมิตรแห่งประเทศไทย</td>
<td>809 Soi WVFT, Prachauthit Rd. Bangkok</td>
</tr>
<tr>
<td></td>
<td>โทรศัพท์: 02-022-9200 ถึง 2</td>
</tr>
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<td></td>
<td><a href="http://www.worldvision.or.th/index_th.html">http://www.worldvision.or.th/index_th.html</a></td>
</tr>
<tr>
<td>Rescue 1 Thailand Foundation</td>
<td>192/1 Moo 6 Ban Haeng, Tambon Qingyuan, Chaing Kham Phayao 56110</td>
</tr>
<tr>
<td></td>
<td>Tel: 087-8766469</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:Thailand.info@rescue1global.org">Thailand.info@rescue1global.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://rescue1global.org/rescue-1-thailand-foundation/">http://rescue1global.org/rescue-1-thailand-foundation/</a></td>
</tr>
<tr>
<td>icare Thailand Foundation</td>
<td>Level 30, Bhiraj Tower at EmQuartier, 689 Sukhumvit Road Soi 35, Klongton Nuea, Vadhana, Bangkok 10110</td>
</tr>
<tr>
<td></td>
<td>Telephone: 02 017 2902</td>
</tr>
<tr>
<td></td>
<td>Mobile: 085 155 5222</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:contact@icarethailand.com">contact@icarethailand.com</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://icarethailand.com/home/">http://icarethailand.com/home/</a></td>
</tr>
<tr>
<td>Global Alliance Against Traffic in Women (GAATW)—มูลนิธิความร่วมมือเพื่อต้านการค้าผู้หญิง</td>
<td>GAATW International Secretariat</td>
</tr>
<tr>
<td></td>
<td>191/41, 6th floor, Sivalai Condominium, Soi 33 Itsaraphap Road, Bangkok-Yai, Bangkok 10600</td>
</tr>
<tr>
<td></td>
<td>Tel: 02-8641427/8</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:gaatw@gaatw.org">gaatw@gaatw.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.gaatw.org">http://www.gaatw.org</a></td>
</tr>
<tr>
<td>Rahab Ministries Thailand</td>
<td>Rahab Ministries P.O. Box 57</td>
</tr>
<tr>
<td></td>
<td>Patpong P.O. Bangkok, 10506 Thailand</td>
</tr>
<tr>
<td></td>
<td>Tel: 02-2369270</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.rahabministriesthailand.com">http://www.rahabministriesthailand.com</a></td>
</tr>
<tr>
<td>ZOE International</td>
<td><a href="mailto:volunteer@gozoe.org">volunteer@gozoe.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://gozoe.org/about/">http://gozoe.org/about/</a></td>
</tr>
<tr>
<td>Foundation of Child Understanding (FOCUS) -มูลนิธิเพื่อความเข้าใจเด็ก</td>
<td>5th Floor, Executive Building Provincial Government Office Chang Phuak District, Muang District, Chiang Mai 50300</td>
</tr>
<tr>
<td></td>
<td>Tel: 053212754</td>
</tr>
<tr>
<td></td>
<td>Hotline: 08-7174-5797</td>
</tr>
<tr>
<td></td>
<td><a href="mailto:focus@focusthailand.org">focus@focusthailand.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.focusthailand.org">http://www.focusthailand.org</a></td>
</tr>
</tbody>
</table>
**ANNEXURE 5**  
List of NGOs working on migrant and trafficking issues in Cambodia

<table>
<thead>
<tr>
<th>Name</th>
<th>Address and contact</th>
</tr>
</thead>
</table>
| Legal Support for Children and Women (LSCW) | #132E-F, Street 135, Phasar Doeum Thkov, Chamkarmorn, Phnom Penh, Cambodia  
Tel/Fax: +855 23 220 626  
Email: info@lscw.org  
Website: http://www.lscw.org/ |
| Civil Volunteer Group (GVC) Cambodia | Francesco Baracca 3, 40133 Bologna (Headquarters), Italy  
Tel: +39 051585604:  
Email: gvc@gvc-italia.org  
Branch office in Seam Reap |
| Agape International Missions | 151 N.Sunrise Ave, #1006 Roseville, CA 95661  
Tel: 916.784.2800  
Email: info@agapewebsite.org  
https://agapewebsite.org/ |
| Ratanak International | Box 81038, Burnaby, BC, Canada, V5H 4K1  
Tel: +1 (604) 325-9300  
Email: info@ratanak.org  
http://ratanak.org/ |
| Chab Dai | P.O. Box 1185, Phnom Penh, Cambodia  
Tel: +855 (12) 481-597  
http://chabdai.org/ |
| Winrock International | 2121 Crystal Drive, Suite 500, Arlington, Virginia 22202. WASHINGTON, D.C.  
Tel: +1 703 302 6500  
Email: dave.anderson@winrock.org, communications@winrock.org  
https://www.winrock.org/ |
| Khmer Youth Association | Nº. 262, St. 138, Sangkat Toek La-ak II, Khan Toul Kork, Phnom Penh, CAMBODIA  
Tel/Fax: 855 23 884 306  
Email: admin@kya-cambodia.org  
| Mith Samlanh Office in Cambodia | P.O. Box 588, #215 Street 13, Sangkat Chey Chumneas Khan Daun Penh, Phnom Penh, Cambodia.  
Tel: +855 23 220 596  
Email: info@mithsamlanh.org  
www.mithsamlanh.org |
| Cambodia Women’s Crisis Center | #13C, Str. 331, Boeung Kok II, Toul Kok, Phnom Penh, Cambodia.  
Postal Address: PO Box 2421  
Tel: (855-23) 997967  
Email: HOadmin@cwcc.org.kh  
Website: www.cwcc.org.kh |
<table>
<thead>
<tr>
<th>Name</th>
<th>Address and contact</th>
</tr>
</thead>
</table>
| Freedom Stones                                                      | PO Box 3263, Kirkland, WA 98083  
Email: freedomstones@notabandoned.org  
https://freedomstones.org/                                                                 |
| World Vision                                                        | #20, Street 71, Tonle Bassac, Chamkar Morn, Phnom Penh  
P.O. Box 479, Central Post Office, Phnom Penh, 12000, Cambodia  
Tel: +855 (0)23 216 052; Fax: +855 (0)23 216 220  
Email: contact_cambodia@wvi.org  
http://www.wvi.org/cambodia                                                                 |
| Coordination of Action Research on AIDS and Mobility (CARAM Cambodia) | #193 AE0, Street 63, Sangkat Boeung Keng Kang 1, Khan Chomcar Mon  
Phnom Penh, Cambodia 2625  
Tel: +855-23-218065; Fax: +855-23-218065  
Email: caram.cam@online.com.kh                                                                 |
| International Justice Mission                                       | PO Box 58147 Washington, DC 20037  
https://www.ijm.org/                                                                                                                                       |
| Cambodia Center for the Protection of Children's Rights (CCPCR)     | # 31, St. 281, Boeung Kok I, Khan Toul Kok, Phnom Penh City, Cambodia.  
P.O.Box 2487 Phnom Penh 3, Cambodia  
Tel: +855 (0)99 444 134, +855 (0)99 444 124, (0) 99 444 127  
http://www.ccpcr.org.kh/                                                                                                                                    |
| Open Institute                                                      | House 8 Street 352, Sangkat Boeng Keng Kang 1, Khan Chomkarmorn, Phnom Penh. Tel: 023 224 821                                                                 |
| Cambodian Human Rights and Development Association (ADHOC)         | No. 3, Street 158 (Oukghna Troeung Kang), Sangkat Boeung Raing, Khan Daun Penh, Phnom Penh.  
P.O. Box: 1024, Cambodia  
Tel: (855-23) 218-653 / 990-544  
E-mail: adhoc@forum.org.kh                                                                                                                                     |
| Cambodian League For the Promotion and Defense of Human Rights (LICHADO) | #16, St. 99, Boeung Trabek, Phnom Penh, Cambodia. P.O. Box 499, Phnom Penh.  
Tel: (855) 23 727 102 or (855) 23 216 602  
E-mail: contact@licadho-cambodia.org                                                                                                                            |
| Hagar International                                                 | #29, Street 488, Psar Derm Tkov, Phnom Penh, Cambodia  
P.O. Box 1521, Phnom Penh, Cambodia  
Tel: +855 23 211 961                                                                                                                                            |
| Community Legal Education Center                                   | #237 Group 16, Plov Lom, Phum Thmey, Sangkat/Khan Dangkor, Phnom Penh.  
P.O. Box: 1120 Phnom Penh  
Tel: (855) 23 215 590  
Email: admin@clec.org.kh                                                                                                                                          |
<table>
<thead>
<tr>
<th>Name</th>
<th>Address and contact</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caritas</td>
<td>#47, St.198, Sangkat Boeung Pralith, Khan 7 Makara, P.O.box: 123, Phnom Penh.</td>
</tr>
<tr>
<td></td>
<td>Tel: (855) 23 210 757, 213 529</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:caritas@caritascambodia.org">caritas@caritascambodia.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="http://www.caritascambodia.org/">http://www.caritascambodia.org/</a></td>
</tr>
<tr>
<td>The Asia Foundation</td>
<td>465 California St., 9th Floor, San Francisco, CA 94104-1804</td>
</tr>
<tr>
<td></td>
<td>Tel: 415-982-4640</td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:info.sf@asiafoundation.org">info.sf@asiafoundation.org</a></td>
</tr>
<tr>
<td></td>
<td><a href="https://asiafoundation.org/">https://asiafoundation.org/</a></td>
</tr>
<tr>
<td>Australia-Asia Program to Combat Trafficking in Persons</td>
<td>Phnom Penh Center (Building H, Room 292), Corner of Sothearas (St.3) &amp; Sihanouk (St.274) Blvd., Tonle Basak, Chamkarmon, 12301, Phnom Penh, Cambodia</td>
</tr>
<tr>
<td>(AAPTIP)</td>
<td>Tel: +855 (0) 23 966 474; Mob: +855 (0) 89 666 762</td>
</tr>
<tr>
<td></td>
<td><a href="http://www.aaptip.org/index.php">http://www.aaptip.org/index.php</a></td>
</tr>
<tr>
<td></td>
<td>Email: <a href="mailto:info@aaptip.org">info@aaptip.org</a></td>
</tr>
</tbody>
</table>
**ANNEXURE 6**

Summary of laws on migration and anti-trafficking in Thailand and Cambodia

<table>
<thead>
<tr>
<th>THAILAND</th>
<th>Organisations</th>
<th>Mandated activities</th>
<th>Relevant laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>Procedures</td>
<td>Documentation procedure</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1. Migration through the MoU process in Thailand</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>1.1 Recruiting</strong></td>
<td>1. Recruitment agencies in Thailand</td>
<td>1. Coordinate with the DoE to communicate requirements for migrant workers</td>
<td>1. Royal Ordinance on Migrant Worker Management 2017 2. Rule of Dept. of Employment on the Criteria to Allocate the Number of Migrant Workers (2nd rule), 24 May 2016 3. Ministerial announcement of the Ministry of Labour on Criteria, Methods and Conditions to Apply and Grant Permission to Work in Compliance with Royal Ordinance of Migrant Worker Management 2017. 6 July 2017.</td>
</tr>
<tr>
<td></td>
<td>2. Employer</td>
<td>1. Express intention to employ migrant workers in their business</td>
<td></td>
</tr>
<tr>
<td><strong>1.2 Coordinating with other countries</strong></td>
<td>1. Department of Employment (DoE)</td>
<td>1. Coordinate with the Thai embassy in country of origin for visas (Non-immigrant L-A visa). 2. Ensure the prospective migrant undergoes a medical check-up in the country of origin</td>
<td>1. Memorandum of Understanding (MoU) between Royal Thai Government and Royal Cambodian Government on labour cooperation, 2015</td>
</tr>
<tr>
<td><strong>1.3 Preparing the migrant for working in Thailand</strong></td>
<td>1. Centres in 3 provinces: Tak, Srakaew and Nong Khai</td>
<td>1. Provide preparatory training to migrants on work and on Thai culture 2. Facilitate pick-up of migrants by employers</td>
<td>1. The cabinet Resolution dated 26 July 2017 to establish the initial acceptance centre</td>
</tr>
<tr>
<td><strong>1.4 Documentation process</strong></td>
<td>2. The provincial employment office (under the Ministry of Labour)</td>
<td>1. Submit documents so that the work permit can be processed</td>
<td>1. Ministerial announcement of the Ministry of Labour on Criteria, Methods and Conditions to Apply and Grant Permission to Work in Compliance with Royal Ordinance of Migrant Worker Management 2017. 6 July 2017.</td>
</tr>
<tr>
<td><strong>2. Migrate without documents and undergo Nationality Verification procedures under the new laws</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2.1 Registering</strong></td>
<td>1. Employers or persons authorised by the employers</td>
<td>1. Submit forms to DoE on intent to employ migrant workers. The submission is forwarded to the centre for accepting migrant workers or processed online.</td>
<td>1. Royal Ordinance on Migrant Worker Management 2017 2. Announcement of the Ministry of Labour, 17 October 2017</td>
</tr>
<tr>
<td></td>
<td>2. Registration Centre</td>
<td>1. Conduct an interview to prove the relationship between employee and employer. Those approved will be permitted to apply for passport/certificate of identity which are required to apply for work permit</td>
<td>1. Royal Ordinance on Migrant Worker Management 2017 2. Announcement of the Ministry of Labour, 17 October 2017</td>
</tr>
</tbody>
</table>
| 2.2 Applying for passport or certificate of identity | 1. Cambodian migrant workers could conduct NV in Rayong, Songkhla and Bangkok | 1. Conduct Nationality Verification procedure  
2. Conduct interview for proof of employment relationship and NV for both Cambodian and Burmese migrants at the OSS (one-stop service centres)⁴ | 1. Negotiations between governments |
<table>
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</thead>
<tbody>
<tr>
<td>2.4 Applying for work permits</td>
<td>1. Assigned hospitals</td>
<td>1. Conduct medical check-up and enrol into Health Insurance scheme</td>
<td></td>
</tr>
</tbody>
</table>
| 3. Working in Thailand (Provision of consultation and grievance mechanism and prevention of trafficking) | 3.1 Working in Thailand | 1. Check work permit or documents of migrants  
2. Search a building where illegal migrants might be employed | 1. The Immigration Act 1979  
2. Royal Ordinance on Migrant Worker Management 2017  
| | 3.2 Grievance mechanisms | 1. Provide the following services to migrants:  
· advice on compensation, changing employers, renewal of work permit  
· help in changing employers  
· help in changing workplace  
· consultation on compensation  
· advice on receiving unpaid employment  
· help in replacing lost work permit  
· assistance with dispute resolution  
· help in revising personal information in the database  
· help in repatriation by coordinating with the immigration bureau | 1. The cabinet order dated 26 July 2017 |
| | 2. Fishermen life enhancement centre (FLEC) or drop-in centres | 1. Give advice related to health and legal issues and contracts | |
| | 3. The labour protection and welfare offices | 1. Resolve labour-related matters  
2. Negotiate between employers and employees on issues such as changing employers and salaries | |

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1. To recruit or employ migrant workers, it is not mandatory to avail the services of a recruitment agency. Employers can coordinate with DoE themselves.
2. The deadline for registering undocumented migrants was 31 December 2017.
3. As of January 2018, there are 100 centres nationwide. Please see [https://www.doe.go.th/prd/assets/upload/files/krb_th/d178b7d43414a7b6a57b62d2346344.pdf](https://www.doe.go.th/prd/assets/upload/files/krb_th/d178b7d43414a7b6a57b62d2346344.pdf)
4. See [https://www.doe.go.th/prd/main/custom/param/site/L/cat/40/sub/0/pull/detail/view/detail/object_id/526](https://www.doe.go.th/prd/main/custom/param/site/L/cat/40/sub/0/pull/detail/view/detail/object_id/526)
5. Migrant worker assistance is provided through provincial employment offices in collaboration with civil society. The Ministry of Labour established Migrant Assistance centres in 10 provinces with large migrant populations, i.e. Samut Sakhon, Surat Thani, Songkhla, Samut Prakran, Chonburi, Ranong, Chiang Mai, Nakhon Ratchasima, Khon Kaen and Tak.
<table>
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<tbody>
<tr>
<td>4.1 Accepting the report</td>
<td>1. Royal Thai Police in areas where incidents occur 2. Anti-Trafficking Division under Royal Thai Police (ATDP) 3. Immigration bureau 4. Division of Investigation (DSI) under Ministry of Justice 5. Department under Ministry of Social Development and Human Security such as 1300, OSCC 6. NGOs working on this issue 7. CCCIF (if the incidents took place on a fishing vessel)</td>
<td>1. Conduct preliminary interview to identify if an individual matches the criteria of victim (following checklist). The procedure is conducted by the police, DSI or ATDP in collaboration with social workers of MSDHS and NGOs.</td>
<td>1. Human Trafficking Suppression and Prevention Act 2008 2. Child Protection Act 24 September 2546 (2003)</td>
</tr>
</tbody>
</table>

| 4. NGOs such as LPN, MAP Foundation, HRDC | 1. Grievance services 2. Consultation service | | |
2. The MSDHS

1. Provide interpreters for the case. If the victim is a child, interrogation is to be conducted by an interdisciplinary team
2. Provide shelters to the victims

1. Human Trafficking Suppression and Prevention Act 2008

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### Cambodia

<table>
<thead>
<tr>
<th>Procedures</th>
<th>Organisations</th>
<th>Mandated activities</th>
<th>Relevant laws</th>
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<tbody>
<tr>
<td>1. Migration through MoU process</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| **1.1 Recruiting** | 1. Private recruitment agencies (PRA) | 1. Recruit candidates from Cambodia
2. Disseminate information on Thai job availability in Cambodia
3. Prepare documentation for candidates
4. Provide pre-departure training to candidates | 1. Sub-decree 190 of 2011 on managing the sending of Cambodian workers abroad through PRAs
2. Prakas 46/13 on the recruitment process and pre-departure orientation training
3. Prakas 47/13 on PRAs |
| | | | |
| 2. Candidate | | 1. Apply for the job announced by the PRA | |
| 2. MOLVT | | 1. Oversee PRAs to ensure that they meet established standards
2. Inspect PRA operations
3. Collaborate | 1. Sub-decree 52 on The Organisation and Functioning of the Ministry of Labour and Vocational Training, 10 February 2005
2. Prakas 250/13 on inspection of PRAs
3. Prakas 251/13 on penalty and reward to PRAs
4. Prakas 253/13 on Promulgation of minimum standards of Job Placement Services Abroad Contract |
| 3. Association of recruitment agencies | | 1. Work closely with the MOLVT to oversee the PRA
2. Provide assistance to PRAs that are unable to provide training to candidates | |
| **1.2 Prevention of trafficking** | 1. NCCT | 1. Main ministry in charge of prevention\(^6\) | 1. Royal Decree No. NS/RKT/0614/808 on Establishment of National Committee for Counter Trafficking, 25 June 2014
2. Royal Decree No. NS/RKM/0208/005 on Suppression of Human Trafficking and Sexual Exploitation 2008 |
| | | | |
| 2. Help in Thailand | | | |
| 2. Migrants face trouble | 1. PRA | 1. Work as a grievance-redressal mechanism
2. Support migrants to change their employer | 1. Prakas 249/13 on complaint receiving mechanism for migrant workers
2. Prakas 252/13 on on-site service of PRAs and repatriation |
| | 2. Cambodian Embassy | 1. Coordinate with PRAs when migrants are in trouble. Under such circumstances, PRAs are required to report to the embassy | 1. Prakas 252/13 on on-site service of PRAs and repatriation |

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\(^6\) Even though the MoEYS leads thematic working groups aimed at prevention, such activities are quite fragmented and actually conducted by different agencies, affiliated to the government and to civil society.
ANNEXURE 7
Thailand’s position on international laws relating to the rights of migrant workers

On 18 December 2001, Thailand signed the Palermo protocol, which aims to prevent and combat trafficking in persons, especially women and children. Thailand ratified the Protocol in 2013, but Article 15 on Settlement of Disputes was placed on reservation. Article 15 states:

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

In the reservation, the Thai government made a statement that:

‘[I]n accordance with paragraph 3 of Article 15 of the Protocol, the Kingdom of Thailand does not consider itself bound by paragraph 2 of the same Article.’

The ratification meant that Thailand had to amend its domestic laws in accordance with the standards established by the protocol and make efforts to address trafficking between countries. Thailand has ratified the Forced Labour Convention 1930 (No. 29), Equal Remuneration Convention 1951 (No. 100) and Abolition of Forced Labour Convention 1957 (No. 105).

Unfortunately, the Thai Government has not ratified the ILO Convention on Freedom of Association and Protection of the Right to Organise 1955 (No. 87), Migration Employment Convention 1949 (No. 97) and Migrant Workers Convention 1975 (No. 143), which mandate that signatory states work towards preventing the surreptitious and ungoverned movement of migrants that could subsequently become a cause of trafficking (Harkins and Ahlberg, 2017).
The occupations that migrant workers can access is limited. According to the 4th Amendment to the Royal Decree on Occupations Prohibited to Migrants 1979, which passed in 2005, migrant workers cannot perform the following jobs:

1. Labour work
2. Agriculture, animal husbandry, forestry or fishery, except work requiring expertise, specialized work, or farm supervision work
3. Bricklaying, carpentry or other construction work
4. Wood carving
5. Driving motor vehicles, driving a non-mechanically propelled carrier or driving mechanically propelled carrier, except piloting international aircraft
6. Stop/outlet attendance
7. Auction
8. Supervising, auditing or provide services in accounting, except internal auditing on occasion
9. Cutting or polishing diamond or precious stones
10. Haircutting, hairdressing or beauty treatment
11. Cloth Weaving by hand
12. Mat Weaving or utensil making from reed, rattan, hemp, straw or bamboo pellicle
13. Mulberry paper making by hand
14. Lacquerware making
15. Making Thai musical instruments
16. Nielloware making
17. Gold ornaments, silverware or pink gold making
18. Bronze ware making
19. Thai doll making
20. Mattress and quilt blanket making
21. Alms bowl making
22. Hand making silk product
23. Buddha statute making
24. Knife making
25. Paper or cloth umbrella making
26. Shoemaking
27. Hat making
28. Brokerage or agency work, except broker or agency work in international trade
29. Civil engineering work including design and calculation, organization, research, project planning, testing, construction supervision or advising, excluding works requiring special expertise
30. Architectural work including designing, drawing of plans, estimating cost, directing or advising on construction
31. Dressmaking
32. Pottery or ceramic ware making
33. Cigarette rolling by hand
34. Tour guide or sightseeing tour operation
35. Street vending
36. Typesetting of Thai Character
37. Silk reeling and twisting by hand
38. Clerical and secretarial work
39. Legal service or lawsuit work

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