Migrant Agricultural Workers in Thailand

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The Mekong Migration Network (MMN), founded in 2003, is a subregional network of migrant support NGOs, migrant grassroots groups and research institutes. The central goal of MMN is to promote the welfare, well-being, dignity and human rights (especially labour, women's and family rights) of migrants in the Greater Mekong Subregion (GMS), and to build mutual support and solidarity among migrants and advocates within the GMS. To achieve this goal, MMN jointly carries out research, advocacy, capacity building and networking.

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ACKNOWLEDGEMENT

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The following project partners conducted surveys, focus group discussions, and interviews:

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Ms. Pranom Somwong and Dr. Che Singh Kochhar-George provided legal analysis for the "Legal Findings" chapter.
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Last, but by no means least, we would like to thank Solidar Suisse for their generous support in making this research possible. Special thanks to Mr. Sanjiv Pandita and Mr. Bernhard Herold for their valuable guidance and comments throughout the research process.

LIST OF ACRONYMS AND ABBREVIATIONS

AWO – Arakan Workers Organization
CEDAW – Convention on the Elimination of All Forms of Discrimination against Women
CEDAW Committee – Committee on the Elimination of Discrimination against Women
CESCR – Committee on Economic, Social and Cultural Rights
CI – Certificate of Identity
CMHI – The Compulsory Migrant Health Insurance, Thailand
CSO – Civil Society Organisation
CTUM – Confederation of Trade Unions of Myanmar
CWCC – Cambodian Women's Crisis Center
FED – Foundation for Education and Development, Thailand
FGD – Focus Group Discussion
FLC – Future Light Center, Myanmar
GMS – Greater Mekong Subregion
ICESCR – International Covenant on Economic, Social and Cultural Rights
III – In-depth Individual Interview
ILO – International Labour Organization
KII – Key Informant Interview
LPA – Labour Protection Act, Thailand
LRA – Labour Relations Act, Thailand
MAP – Migrant Assistance Programme, Thailand
MMN – Mekong Migration Network
MOPH – Ministry of Public Health, Thailand
MOU – Memorandum of Understanding
MSG – Monosodium Glutamate
NGO – Non-Governmental Organisation
NSSF – National Social Security Fund, Cambodia
NV – Nationality Verification
OHS – Occupational Health and Safety
OSHEA – Occupational Safety, Health and Environment Act, Thailand
PPE – Personal Protective Equipment
PRA – Private Recruitment Agency
SSB – Social Security Board, Myanmar
SSS – Social Security Scheme, Thailand
THB – Thai Baht
USD – United States Dollars
WCF – Workmen's Compensation Fund, Thailand

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EXECUTIVE SUMMARY

BACKGROUND

Thailand's agriculture sector has long relied on the labour of migrant workers from neighbouring countries in the Greater Mekong Sub-region (GMS). This reliance has increased in recent years as Thailand's rural population has moved to work in urban areas. Surprisingly, despite growing numbers of migrants travelling to work in Thailand's agricultural sector, existing research on this group of migrants remains limited. Further understanding of the conditions and needs of this oft-overlooked group is needed, as they risk being insufficiently protected from mistreatment, abuse, and other rights violations taking place within the sector.

From 2017 to 2019, Mekong Migration Network (MMN), a sub-regional network of Civil Society Organisations (CSOs), conducted a collaborative research project focusing on the living and working conditions of migrant workers from Cambodia and Myanmar employed in Thailand's agricultural sector. Focusing specifically on the experiences of workers on corn, cassava, palm oil, and rubber plantations, the research highlights their experiences and analyses gaps in existing protection mechanisms.

Using a collectively developed research design, MMN partners with extensive on-the-ground experience focused on two of the major underlying issues affecting migrant workers in agriculture: First, their historic exclusion from the protections afforded under Thai labour law, resulting in minimal workers' rights and a general lack of regulatory oversight; and second, their isolation in geographically remote locations, which fosters social exclusion and creates access barriers to healthcare, education, governmental services, and the support of Non-Governmental Organisations (NGO) and community groups. We hypothesised that these two issues likely combine to increase migrants' vulnerability to labour exploitation.

With these underlying issues in mind, we collectively formulated the following research questions to delve deeper into the issues:

1. What are migrants' lived experiences in working in Thailand's agriculture sector?
2. What policies and protection mechanisms are currently in place targeting migrant agricultural workers and how are they implemented?
3. What gaps exist in terms of policy and implementation?
4. What are the needs of migrant agricultural workers and their families regarding social inclusion, labour rights, documentation, access to social services, access to justice, and occupational health and safety?

METHODOLOGY

To answer the above research questions, a mixed-methods collaborative approach was adopted.

Extensive desk study was combined with primary research methods. The primary research methods included: surveys of migrant agricultural workers currently employed in Thailand, as well as migrant returnees in Cambodia and Myanmar who have previously worked in Thailand's agricultural sector; interviews with family members of migrants, employers, Private Recruitment Agencies (PRA), government officials, plantation owners, and CSOs; and Focus Group Discussions (FGDs) and In-depth Individual Interviews (III) with migrant agricultural workers.

Overall, MMN project partners conducted surveys in 10 locations across Thailand, Cambodia and Myanmar. A total of 328 survey questionnaires were collected between September 2017 and January 2019. Between January and July 2019, key informant interviews were conducted with nine migrant family members, nine government officials, eight representatives of CSOs, four PRAs and seven employers or landowners in Thailand. Further, a total of 12 FGDs and 33 IIIs were carried out with migrant agricultural workers and returnees between July and August 2019.

Throughout the project, regular consultation meetings were held where MMN project partners collectively developed a research design and questionnaires in four languages, and analysed research findings to formulate workable recommendations. In accordance with MMN's rights-based approach to field work, all of the project partners involved in primary data collection underwent specialised training on research ethics and techniques relevant to the study.

FINDINGS

The following are our key research findings:

Immigration Status

More than half of migrant agricultural workers surveyed said that they were currently undocumented. As to why relatively few held valid documents, there was a general consensus among respondents, including migrants, government officials, and employers that the fees and associated costs are prohibitively high, considering the sub-minimum wages paid to migrants in the agricultural sector. It was also found that migrant agricultural workers are saddled with a range of other associated expenses, particularly the added time and cost to reach government agencies from the remote agricultural plantations where they live and work.

Working conditions

Rubber plantation workers were found to work the longest hours, with 87% of respondents from rubber plantations working more than eight hours per day, and 40% working more than 12 hours a day. In contrast, almost none of the workers on corn, cassava, and palm oil plantations reported working more than 12 hours a day. Nearly one-third of respondents stated that they did not receive any paid days off. Migrants reported only taking rest when employers had no work for them, during which time they were not paid and must rely on their savings.

Seventy-five percent of respondents who work or have worked on rubber plantations said that their wages were calculated as a percentage of crop output. According to our survey, most rubber plantation workers stated they were paid between 40% and 50% of the latex weight of the rubber. While rubber plantation workers reported working the longest hours, they also reported receiving the highest wages. Sixty-six percent of rubber plantation workers surveyed said that they earned more than THB 9,000 (USD 298) a month, and around 30% said that they earned between THB 4,500-9,000 (USD 149-298) a month.

In contrast, 46% of migrant workers on corn plantations said that they earned less than THB 4,500 (USD 149) a month, and most corn, cassava, and palm oil workers earned between THB 4,500 and 9,000 a month (USD 149-298). Migrants surveyed by MMN felt that wage levels in the agriculture sector are low considering the risks and toil involved.

Our research found that migrant agricultural workers experienced a wide range of work-related problems, from unpaid wages to police raids and threats. Nearly 10% of those surveyed said that at some point they had not received wages owed to them, while around 8% reported having had their documents confiscated or being prohibited from leaving their workplace. Migrants also reported experiencing verbal abuse and discrimination by employers based on their sex and nationality.

Several CSOs interviewed in the course of this study stressed how few organisations are able to perform outreach work to assist migrant agricultural workers. Most highlighted problems of access created by migrant's geographical isolation on farms and plantations, as well as their limited days off when they can participate in community activities. As a result, employment disputes, when they arise, often go unmediated and are arbitrarily resolved by village headmen outside the formal justice system. Some migrants interviewed also expressed a reluctance to seek support or access formal justice systems due to a fear of possible repercussions.

Occupational Health & Safety

Given the hazardous nature of agricultural work, many migrant workers who took part in this study expressed concern regarding occupational accidents, ill health caused by exposure to chemicals and the lack of Personal Protective Equipment (PPE). Our survey results revealed the general absence of employer supplied PPE. While 78.8% of respondents had long rubber boots, less than half had (46.4%) a waterproof hat, and few (less than 30 %) reported using protective clothing, rubber gloves, masks, googles, or aprons. Eighty-two percent of migrant workers surveyed stated that they paid for PPE out of their own pocket. MMN partners all acknowledged that many agricultural migrant workers were using pesticides and fertilisers without proper safety training, and the PPE used by migrant workers was generally inadequate and insufficient to protect them.

In many cases, MMN found that migrants were aware of the importance of having sufficient and better-quality PPE to protect themselves from agricultural workplace hazards. However, financial constraints and a lack of access to necessary equipment were oft-cited reasons why migrants continue to work in the fields under-protected.

Housing Conditions, Isolation & Security Concerns

Most (83%) migrant agricultural workers surveyed reported living in accommodation provided by their employers. Some employers provided land for migrants to build their own homes, but these structures were often of very low quality. Our research generally found inadequate health and sanitation conditions in migrant housing. CSOs and migrants frequently raised concerns regarding unhygienic toilets being the cause of frequent cases of diarrhoea. Isolated workers were also concerned about becoming victims of robbery and physical abuse.

Access to Healthcare

Sixty-one percent of migrant agricultural workers surveyed stated that they were covered by Thailand's Compulsory Migrant Health Insurance (CMHI), while only 6% were covered by the Social Security System (SSS), and one in four (28%) were without any coverage including 47% of migrants stating that their children had no health coverage. Migrants also described how employers would commonly try to evade paying for migrants' healthcare and workers' compensation benefits.

Migrant Families

Seventy percent of migrant agricultural workers surveyed stated that they migrated to Thailand with family members. While most were referring to their spouse and children, 10% mentioned migrating with parents and/or parents-in-laws, and nearly 30% mentioned coming with their siblings or siblings-in-law.

Sixty-seven percent of respondents stated that they have children, and 81.6% of those stated that their children lived with them while they were working in Thailand. A little less than half of these children were attending school.

Return and Reintegration

Upon return, 89% of migrant returnees said that they were not able to enrol in the National Social Security Fund (NSSF) of Cambodia or the Social Security Board Schemes (SSB) of Myanmar. While only 37% of respondent returnees stated that they planned to re-migrate to work in Thailand or other countries, MMN research partners observed that many more migrants re-migrate as a result of limited livelihood opportunities in the countries of origin.

RECOMMENDATIONS

A list of detailed recommendations is set out in the final chapter of this report. These are addressed to the Royal Thai Government, employers, NGOs, and the Governments of Countries of Origin.

Recommendations addressed to the Royal Thai Government include: reforming migration policies and making registration systems more accessible; taking steps to improve working conditions of migrants in agriculture through more effective implementation of existing policies and filling gaps in coverage; promoting Occupational Health and Safety (OHS) through increased enforcement of standards and improved inspection, in addition to prohibition of harmful agrochemicals; monitoring of housing standards for agricultural workers; improving accessibility of healthcare for hard-to-reach migrants in agriculture; and a more supportive environment for dependents.

Recommendations addressed to employers include: supporting migrant workers in their efforts to obtain and maintain their immigration status, implementing OHS to the highest standards; educating migrant employees about workplace hazards, and providing them with adequate and proper PPE and training at no cost; providing housing to migrant worker employees that meets safety standards; and enrolling all migrant employees in the SSS or CMHI and be responsible for paying associated costs.

Recommendations addressed to Countries of Origin include: working constructively in coordination with the Royal Thai Government towards simplifying the migration processes and minimizing the costs involved; supporting labour attachés to reach out to their nationals employed in agriculture; and enhancing current efforts to expand the coverage of NSSF and SSB, making social security portable.

Recommendations to NGOs include: carrying out increased outreach to migrant agricultural workers in remote areas to raise awareness about OHS and promote the comprehensive use of PPE; and advocating to reduce/ban the use of harmful pesticides.

CHAPTER ONE:
INTRODUCTION

Thailand's agriculture sector has long relied on the labour of migrant workers from neighbouring countries in the Greater Mekong Sub-region (GMS). This reliance has increased in recent years as Thailand's rural population has moved to work in urban areas. Surprisingly, despite growing numbers of migrants travelling to work in Thailand's agricultural sector, existing research on this group of migrants remains limited, in part owing to difficulties gaining access to migrant agricultural workers in geographically remote locations. Further understanding of the conditions and needs of this oft-overlooked group is needed, as they risk being insufficiently protected from mistreatment, abuse, and other rights violations taking place within the sector.

This publication examines the experiences and working conditions of migrants in Thailand's agricultural sector. Focusing specifically on the experiences of workers on corn, cassava, palm oil, and rubber plantations, it highlights their experiences and analyses gaps in existing protection mechanisms. This introductory chapter provides brief details of how this research came about and describes the collaborative methodology followed. The subsequent "Background and Context" chapter provides a brief overview of the economic significance of Thailand's agriculture sector. It also explains Thailand's complex migration processes to provide context to the formal pathways through which migrants may or may not use to travel to Thailand and remain as agriculture workers. Mekong Migration Network's (MMN) main research findings from its surveys, focus groups, and interviews with migrants and other stakeholders are presented in the following chapter, which provides a textured account of migrants' working experiences and family life from their own perspectives. In the penultimate chapter, MMN provides detailed analysis of the international and domestic legal frameworks currently in place applicable to migrant agricultural workers. The publication concludes with MMN's recommendations to the Thai government and other stakeholders aimed at better safeguarding migrant agricultural workers' rights through a series of practicable actions.

1.1 About the Mekong Migration Network

MMN was formally launched in 2003 as an offshoot of the Hong Kong based Non-Governmental Organisation (NGO) the Asian Migrant Centre. MMN operates as a sub-regional network and currently has more than 40 members comprising migrant support organisations, grassroots movements, and research institutes from across the GMS. Together we work to promote and protect the rights of migrant workers and their families through strategic advocacy based on coordinated collaborative research. MMN is committed to realising humane, fair and just working conditions for migrants, free from all forms of discrimination. For further information about MMN and its work, please visit our website at www.mekongmigration.org.

A Burmese migrant works on a plantation (Photo: MMN/ John Hulme)

1.2 Rationale, Objectives & Research Questions

As part of our mandate, MMN regularly facilitates discussion amongst our member organisations and partners to identify issues of concern currently facing migrant workers and their families. In particular, we seek to focus on issues that for whatever reason may have been overlooked, under-researched or are otherwise in need of greater outreach and advocacy. The exploitation of migrants employed in Thailand's large agricultural sector is such an issue. While MMN's previous work has touched upon some of the problems faced by migrants in this sector, including low pay, lack of legal protection, and lax Occupational Health and Safety (OHS),[1] MMN members agreed that a more targeted investigation was necessary to better understand the needs of migrants and identify appropriate responses.

[1] These and other issues are discussed within MMN's previous publications including "From Our Eyes: Mekong Migrant Reflections, 2000-2012", August 2012; "Resource Book: Migration in the Greater Mekong Subregion", November 2005; "Permanently Temporary: Examining the Impact of Social Exclusion on Mekong Migrants", October 2016; "Legally Binding: A Summary of Labour Laws in the Greater Mekong Subregion", October 2011; and "Self-Care & Health Care: How Migrant Women in the Greater Mekong Subregion Take Care of their Health", April 2015. All of MMN's publications are available at http://www.mekongmigration.org/?page_id=1393.

Given the difficulties in gaining access to migrant agricultural workers in geographically remote locations, a relative dearth of research has been produced in this area. As such, the research presented in this publication aims to generate much needed knowledge regarding this hard-to-reach population. In so doing, it also seeks to give voice to migrant agricultural workers whose views and experiences are largely absent from the policy discourse. Lastly, the report seeks to contribute a set of workable recommendations that can fill existing policy gaps and contribute to better legal and social protection for migrant agricultural workers in Thailand.

With the support of Solidar Suisse, MMN planned a two year research project focusing on the living and working conditions of migrant workers from Cambodia and Myanmar employed in Thailand's agricultural sector. During the project's initial consultation meeting in September 2017, MMN partners and resource persons met to collectively identify relevant research gaps and develop a suitable research strategy. To lay the basis for the meeting, the MMN Secretariat presented findings from its preliminary desk research on the topic of migrants in agriculture. Based on the subsequent discussion, MMN partners who have extensive on-the-ground-experience, focused on two major underlying issues that negatively affect migrant workers in agriculture. First, that the sector has historically been excluded from Thai labour law, resulting in minimal workers' rights and a general lack of regulatory oversight. Second, that migrant agricultural workers and their families tend to be isolated in geographically remote locations, which fosters social exclusion and creates access barriers to healthcare, education, governmental services, and the support of NGOs and community groups. We hypothesised that these two issues likely combine to increase migrants' vulnerability to labour exploitation.

Having identified some of the underlying problems facing migrant workers in Thailand's agricultural sector, we collectively formulated the following research questions to delve deeper into the issues:

1. What are migrants' lived experiences in working in Thailand's agriculture sector?
2. What policies and protection mechanisms are currently in place targeting migrant agricultural workers and how are they implemented?
3. What gaps exist in terms of policy and implementation?
4. What are the needs of migrant agricultural workers and their families regarding social inclusion, labour rights, documentation, access to social services, access to justice, and OHS?

1.3 Methodology

Overview

To answer the above research questions, a mixed-methods collaborative approach was adopted. This combined extensive desk study with primary research methods. The desk study included both Thai and English language sources and focused on the following:

1. A review of existing law and policy relating to migrant agricultural workers in Thailand, as well as current international standards;
2. A literature review of existing research related to the socio-economic and working conditions of agricultural workers in the GMS;
3. A literature review of research related to global supply chains and how they impact the working conditions of migrant agricultural workers in Thailand;

4. A review of available statistical data on matters such as the number of migrant workers employed in Thailand's agricultural sector and their economic contribution.

At the project's initial consultation meeting, the MMN Secretariat and the members listed below agreed details as to how the collaborative fieldwork would be conducted:

- Migrant Assistance Programme (MAP) Foundation, Thailand;
- Foundation for Education and Development (FED), Thailand;
- Raks Thai Foundation, Thailand;
- Confederation of Trade Unions of Myanmar;
- Future Light Center (FLC), Myanmar;
- Cambodian Women's Crisis Center (CWCC), Cambodia.

MMN is deeply indebted to these organisations for arranging research access and for carrying out the bulk of the primary data collection. Researching migrant agricultural workers in Thailand is a task both complex and time-consuming. As already mentioned, migrants in this sector typically live and work in out of the way locations and for various reasons, may not wish to draw attention to themselves by participating in a research project of this sort. Thailand's migrant agricultural workers are thus both "hard-to-reach" and "hidden" populations as far as conducting primary research is concerned.[2] However, the challenges of access were overcome thanks to the longstanding relationships of trust that the above MMN member organisations have established with migrant communities in the study areas.

The primary research component comprised mixed methods including both quantitative and qualitative tools to collect data, namely:

- *Surveys* using standardised questionnaires as an interview structure were used to identify trends and patterns among migrant agricultural workers;
- *Key Informant Interviews (KIIs)* with family members of migrants, employers, Private Recruitment Agencies (PRA), government officials, plantation owners, and Civil Society Organisations (CSOs) in order to gather a range of stakeholder perspectives on the migration and employment of migrant agricultural workers;
- *Focus Group Discussions (FGDs)* with migrant agricultural workers were used following an analysis of our survey findings in order to gather additional information, identify potential individuals for in-depth interviews, validate our research findings and discuss potential recommendations for advocacy.
- *In-depth Individual Interviews (IIIs)* with migrant agricultural workers were conducted to further elaborate upon migrants' experiences and to build specific case studies of workplace injuries and examples of exploitation.

[2] "Hard-to-reach" populations refer to "those sub-groups of the population that are difficult to reach or involve in research… due to their physical and geographical location…or their social and economic situation". The alternative term, "hidden population" refers to those who for whatever reason do not wish to be found or contacted for the purpose of research. Definitions cited in Abdolreza Shaghaghi, Raj Bhopal, and Aziz Sheikh, "Approaches to Recruiting 'Hard-To-Reach' Populations into Research: a review of the literature", *Health Promotion Perspectives*, 2011, available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3963617/.

Survey questionnaires and other relevant documents were all prepared in four languages (English, Thai, Burmese, Khmer) to facilitate our collaborative research. In accordance with MMN's rights-based approach to field work, all of the project partners involved in primary data collection underwent specialised training on research ethics and techniques relevant to the study. This included training on issues such as informed consent, confidentiality, how to introduce the project and its objectives to respondents, sampling and interviewing techniques and collating questionnaires. The advantage of relying on specially trained MMN partners to conduct fieldwork is that they are already known to the migrant communities under study and thus enjoy privileged access. This familiarity is also advantageous as it reduces the likelihood of masking, volunteer bias and a lack of candour when reporting experiences and perspectives.[3]

All respondents recruited to participate in the above research activities were briefed in clear understandable language as to the purpose of the study. Those who agreed to participate gave their informed consent in writing on the understanding that they were free to withdraw at any time and that their identities would be anonymised in the final report to preserve confidentiality. All research activities were conducted in the native languages of participants with transcripts translated into English for analysis.

Notwithstanding the careful collaborative research design and the safeguards put in place, the research methods employed come with their own set of limitations that must be acknowledged. First, given the relatively small number of respondents that took part, the research is not representative of the population as a whole. Indeed, it should be noted that it makes no wider claims regarding Thailand's large migrant agricultural worker population, nor does it seek to generalise the views and attitudes of those who participated in the study. Indeed it is important to stress that the findings presented here are primarily based upon the *experiences* and *perceptions* of the respondents. Rather, the purpose of the mixed methods approach adopted was to gain a textured understanding of what takes place on the ground and to use this insight to inform MMN's policy recommendations and advocacy strategy.

Second, the use of MMN partners to act as fieldwork researchers comes with certain drawbacks. For instance, it might be argued that MMN partners who are well-known to migrant communities may be overfamiliar with the subject and at risk of assuming their own perspective or leaving certain issues unexplained or unarticulated. However, MMN takes the view that these potential problems have been mitigated through the training conducted prior to the fieldwork and are outweighed by the privileged access and increased candour afforded by respondents under the collaborative research approach adopted. To avoid issues such as implicit bias and overfamiliarity, the specialised training emphasised these issues to partner researchers and made sure they were conscious of these potential pitfalls. Furthermore, it should be noted that the collaborative research process served an important capacity building function. As part of our mandate, MMN endeavours to enhance our collective research capability so that our members' efforts to promote migrants' rights are based on rigorously produced research.

With the above in mind, MMN project partners conducted surveys with migrant agricultural workers in 10 major locations. These locations were jointly identified during the initial project consultation meeting based on the number of migrant workers employed in agriculture and our partners' presence and network for outreach and support.

[3] *Ibid*.

Areas where fieldwork with migrants and migrant returnees took place (see Map 1)

Cambodia: Kampong Thom, Banteay Meanchey

Myanmar: Bago region, Southern Shan State, Kayin/Karen state, Mon state

Thailand: Phang Nga, Surat Thani, Rayong, Tak (Mae Sot)

Agricultural areas where migrants and returnees were working (see Map 2)

Thailand: Phang Nga, Chum Pon, Ranong, Surat Thani, Mae Sot (Tak), Kamphaeng Phet, Rayong, Chonburi, Chanthaburi, Nakhon Ratchasima, Sakaeo, Surin, Suphan Buri, Chachoengsao.

Surveys

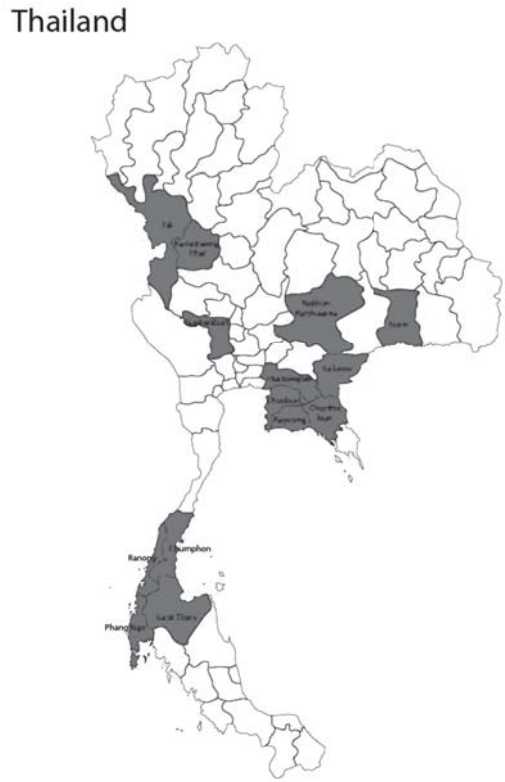
Given the general dearth of available primary research, the main purpose of the survey element of this study was to systematically collect some basic information about the living and working conditions of a small cross-section of Thailand's migrant agricultural worker population. To deepen our general understanding, the questionnaires used in the survey covered a wide range of topics, including: immigration status; wages (amount and method of payment); leave/ days off; OHS; workers' access to health care and recourse to justice, the availability of Personal Protective Equipment (PPE), problems in the workplace and the role of family members. Questions were also directed at migrant returnees, in order to gain insight and reflections from those who have recently worked in Thailand's agricultural sector.

In order to protect respondents while meeting the objectives of the study, MMN and its partners agreed to the following sampling criteria:

i) All respondents were required to be adults of at least 18 years of age and have full capacity to give informed consent.

ii) Migrants surveyed in Thailand were required to have at least six months of work experience in agriculture, plus at least three months working specifically

Map 1: Areas where fieldwork with migrants and migrant returnees took place



Map 2: Agricultural areas where migrants and returnees were working

Project partners at the Second Consultation Meeting in August 2018 (Photo: MMN)

on corn/cassava/rubber/palm oil plantations. In total, interviewees were required to have at least nine months experience working in agriculture. These timeframes were used in order to ensure that respondents were long-term agricultural workers, as opposed to seasonal workers.

iii) Migrants surveyed were required to be, or have been, hired as agricultural workers, as opposed to managers, contractors or other roles within the agricultural sector. As such, MMN and her partners, sought to ensure that all respondents were ordinary grassroots workers and were not in any way aligned to employers.

iv) The migrant returnees interviewed in their countries of origin (Cambodia, Myanmar) were required to have left Thailand no earlier than 1 January 2015. This cut-off date was introduced to ensure that migrant returnees had relatively recent experience of Thailand's agricultural sector.

The data was collected in two distinct phases. The first phase took place between September and December of 2017 and involved the collection of 101 questionnaires. In March 2018, a project consultation meeting was held to evaluate the results thus far and refine the questionnaires before commencing the second phase. Phase 2 was then conducted between October 2018 and January 2019, with 227 revised questionnaires collected. The goal of the second phase was to reach a greater number of migrant workers and increase the data pool.

In sum, a total of 328 questionnaires were collected. In the refined questionnaires collected during Phase 2, MMN both reframed certain questions from the first phase and included additional questions. Consequently, some of MMN's findings from its statistical analysis are drawn from the full set of surveys and others only from Phase 2 questionnaire results. Furthermore, it should be noted that

some respondents chose not to answer all the questions. Thus, where MMN presents a percentage in its analysis, the size of the data set it is drawn from is explicitly included in the footnotes as "n=XX," with further notes if it refers only to Phase 2 questionnaires or returnees.

Key Informant Interviews

During the second project consultation meeting held in March 2018, MMN and project partners agreed to conduct KIIs with migrant families, PRAs, government officials, plantation owners, employers, and CSOs. The KIIs were conducted between January and July 2019 and included:

- Nine migrant family members in the respective study areas. These interviews aimed to investigate some of the challenges faced by the dependents of migrant agricultural workers including problems accessing documents, their roles at home and work, and their perspectives on agricultural work.
- Nine government officials in Thailand and Cambodia. The government officials interviewed included representatives of the following public bodies:
  - The Provincial Department of Labour and Vocational Training in Kampong Thom and Banteay Meanchey provinces in Cambodia;
  - The Employment Office and Chamber of Commerce in Mae Sot district (Tak province) and Kura Buri district (Phang Nga province), Thailand; and the Department of Employment in Rayong and Wang Jan district offices in Rayong, Thailand.
  - MMN partners were unable to secure interviews with government officials in Myanmar.

  The purpose of these interviews was to better understand gaps in policy and practice, along with the resultant impact on the rights of agricultural migrant workers in Thailand.
- Eight representatives of CSOs serving migrant communities, including those specifically working on labour rights and health related issues. These interviewed were the Foundation for AIDs Rights based in Rayong; CENTRAL, based in Phnom Penh; Migrant Workers Rights Network based in Bangkok; Arakan Worker Organization (AWO) based in Mae Sot, Arakan National Labour Union based in Mae Sot, and Anada Myitta Welfare Association based in Phang Nga. The purpose of these interviews was to better understand the types of services and assistance available to migrant workers and to understand CSOs' challenges and strategies to protect the rights of migrant agricultural workers.
- Four PRAs in Cambodia and Myanmar. The aim of these interviews was twofold. First to better understand the practicalities of the existing formal migration channels that apply to migrants in the agricultural sector; and second to gauge the level of knowledge of PRAs on issues pertinent to migrant agricultural workers.
- Seven employers or land owners in Thailand. They were interviewed in order to understand their perspectives on employing migrant workers on their plantations and to gauge the power differentials between employers and employees.

In each of the KIIs, key informants were given an opportunity to offer their own views and recommendations as to how to better protect the rights of migrant workers in Thailand's agricultural sector.

Focus Group Discussions & In-depth Individual Interviews

In May 2019, after analysing the completed survey questionnaires, MMN and its project partners sought to focus in on topics where additional information and further discussion was required by way of IIIs and FGDs. These issues included: hazards in the workplace and OHS; cases of exploitation, and migrant children's access to education. In-depth questions on these specific issues were then formulated by MMN in consultation with its partners, who conducted FGDs and IIIs between July and August 2019.

The sampling criteria used to select survey respondents was slightly modified for use when selecting participants for our FGDs. The participants were at least 18 years of age and if based in their country of origin must have returned from Thailand after 1 January 2015. Additionally, those who participated in FGD were required to have been migrant agricultural workers in Thailand for a total of at least two years. Those selected worked for a cross-section of employers and on different crop plantations and included at least one migrant worker who has children. Each FGD comprised three to six participants in Myanmar and Cambodia, and six to nine in Thailand. FGDs with men and women were conducted separately.

Candidates were selected for follow-up III based on their responses during FGDs. In particular, those selected for interview had wider illustrative experiences, such as migrants who had suffered workplace injury, abuse or injustice over the past five years. Our research partners also endeavoured to interview at least one migrant who had attempted to use official channels to seek redress and another who had used some form of community based alternative dispute resolution.

Those selected to participate in FGD and III were not necessarily the same people who responded to the study's survey questionnaire.

A total of 12 FGDs and 33 III were carried out with migrant agricultural workers and returnees.

Project partners at the Third Consultation Meeting in July 2019 (Photo: MMN)

CHAPTER TWO:

BACKGROUND & CONTEXT

2.1 The Agricultural Economy of Thailand

Thailand is one of the world's top exporters of commodity crops, though the contribution of agriculture towards GDP has declined in recent years.[4] Agriculture, nevertheless, remains an important sector of the Thai economy; employing 35% of the country's workforce,[5] and contributing 8.65 % of the country's GDP in 2017.[6] The United Nations notes that in order to sustain productivity in the agricultural sector, Thai employers have increasingly relied on migrant workers from neighbouring countries to plug labour shortages.[7] In the KII conducted for the purpose of this study, land and plantation owners reported problems recruiting locals for agricultural work, lamenting that many rural Thais have moved away to work in urban areas.[8] Land owners also stated that migrant workers have helped increase production,[9] and that they now prefer to hire migrants as they consider them to be more diligent employees.[10]

During the first project consultation meeting in 2017, MMN project partners agreed that the study should focus on migrants involved in the production of the following crops: corn (maize), cassava, palm oil and rubber. This choice was taken as these crops are grown on industrial scales in Thailand and rely heavily on migrant labour. Taken together, corn, cassava, palm oil and rubber comprise 30% of Thailand's total harvested agricultural area.[11]

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4 Food and Agriculture Organization of the United Nations, "Thailand, Country Fact Sheet on Food and Agriculture Policy Trends", February 2018, available at: http://www.fao.org/3/i8683en/I8683EN.pdf.

5 *Ibid.*

6 Statista (World Bank Source), "Thailand: Share of Economic Sectors in the Gross Domestic Product (GDP) from 2007 to 2017", 2019, available at: https://www.statista.com/statistics/331893/share-of-economic-sectors-in-the-gdp-in-thailand/.

7 United Nations Thematic Working Group on Migration in Thailand, "Thailand Migration Report 2019," 2019, p. 59, available at: https://thailand.iom.int/thailand-migration-report-2019-0.

8 Interview with employer/plantation owner (rubber), Rayong, Thailand, 25 January 2019.

9 Interview with employer (corn), Tak, Thailand, 16 May 2019.

10 Interview with employer/plantation owner (corn), Tak, Thailand, 15 May 2019; Interview with Mr. Phpha Palahchum, plantation owner (rubber), Phang Nga, Thailand, 18 July 2019.

11 Figures taken from the Food and Agriculture Organisation of the United Nations (FAOSTAT) database for 2016. The database is available to search at: http://www.fao.org/faostat/en/#home.

Cassava

While cassava is not a traditional part of the Thai diet, since the 1950s it has become an increasingly important agricultural export crop.[12] A report published by the Thailand Board of Investment in 2017 states that cassava from Thailand now accounts for approximately 67% of produce on the global market, with an annual production of 33 million tons in 2016.[13]

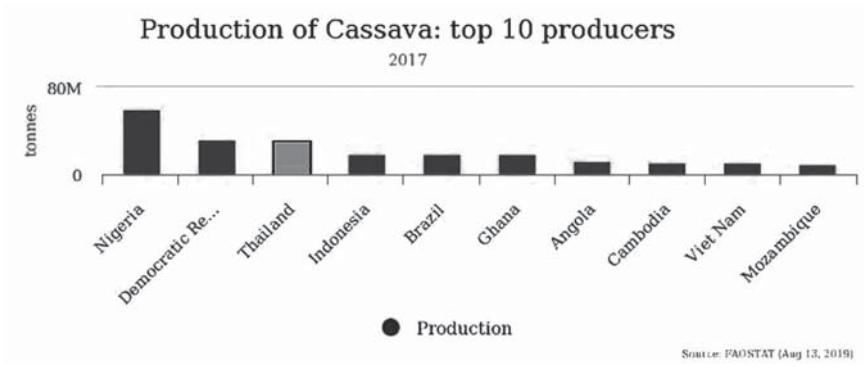

Figure 1: Production of Cassava: Top 10 Producers

Production in Thailand remains strong due to demand for high value-added starch products derived from cassava, such as sweeteners, monosodium glutamate (MSG), modified starch and acid-based products. In 2016, Thailand exported more than 4.26 million tons of starch and starch derivative products, generating revenues of USD 1.86 billion.[14] Approximately 44% of the cassava starch produced in Thailand is used in the production of sweeteners used by global beverage companies such as PepsiCo, Red Bull and Carabao, who all have production bases in Thailand.[15] In 2016, the global market for food sweeteners was valued at USD 33 billion and is expected to grow year-on-year by 5.5% to USD 45 billion by 2022.[16] Furthermore, the market for the cassava based flavour enhancer MSG remains strong. In 2016, the MSG market in Thailand was valued at USD 210 million, with the two leading manufacturers, Ajinomoto and Knorr, continuing to use Thailand as a production base.[17] Cassava is also the main raw material for ethanol production and the Thai Ministry of Energy hope to increase ethanol production to replace gasoline as a domestic renewable energy resource.[18] The Thai government aims to increase the rate of cassava production by around 6% per year, reaching 59.5 million tons per year by 2026. Sapthip, TPK Ethanol, and Ubon Bio Ethanol are currently the leading agro energy corporations in Thailand.[19]

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12 Jeffrey Hays, "Crops in Thailand: Sugar Cane, Tapioca, Rubber, Exports, Fruits and Vegetables," last updated May 2014, available at: http://factsanddetails.com/southeast-asia/Thailand/sub5_8h/entry-3320.html.

13 Thailand Board of Investment, "Thailand Investment Review," September 2017, available at: http://www.boi.go.th/upload/content/TIR-SEP2017_81650.pdf.

14 *Ibid.*

15 *Ibid.*

16 *Ibid.*

17 *Ibid.*

18 *Ibid.*

19 *Ibid.*

Corn/Maize

Figure 2: Maize Supply Chain

While Thailand was one of the world's top corn exporters in the 1990s, by 2014 its rank had fallen to 19th place.[20] In 2016, 602,593 tons of corn was exported from Thailand, with a value of USD 191.03 million and from a planted area of approximately 1.04 million hectares.[21] Corn is also an important agricultural crop for domestic consumption and is used, among other things, as feed for livestock. Thailand's livestock sector is growing and the demand for corn to use as animal feed has increased from 5.72 million tons in 2015 to 5.85 million tons in 2016, with the country forced to import corn from neighbouring countries to meet demand. For Thailand's seed industry, corn seeds have the highest export value and account for 42% of total seed exports.[22] To boost corn production, the Thai government has set a price floor for purchasing domestically produced corn (at THB 8 per kilogram) and made available low interest rate loans to farmers (at 1%). These initiatives are expected to shift production from cassava to corn in Thailand's northern and north-eastern regions.[23]

Rubber

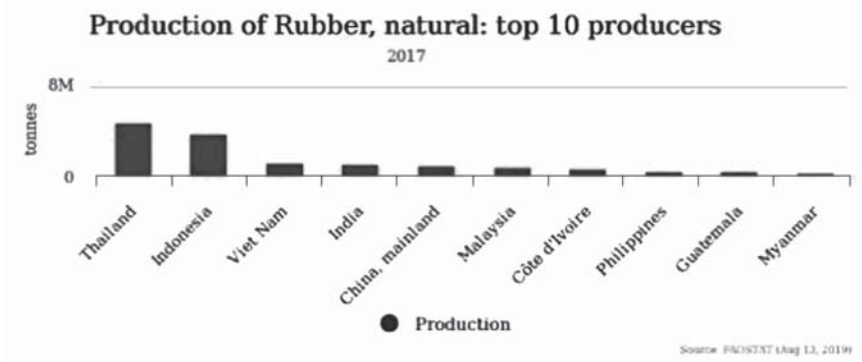

Figure 3: Production of Rubber, Natural: Top 10 Producers

In recent years, Thailand has been one of the world's largest exporters of natural rubber.[24] In 2017 alone, over 4.56 million tons of natural rubber was produced, accounting for almost 36% of the

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20 *See* FAOSTAT at n 11 above.

21 Center of Applied Economic Research, "Economic Role of Maize in Thailand," 8 December 2017, available at: http://ap.fftc.agnet.org/ap_db.php?id=824.

22 *Ibid.*

23 USDA Foreign Agricultural Service. "Thailand Grain and Feed Annual." 14 March 2019. Available at: https://gain.fas.usda.gov/Recent%20GAIN%20Publications/Grain%20and%20Feed%20Annual_Bangkok_Thailand_3-14-2019.pdf.

24 For comparisons *see* data from International Trade Centre, available at: http://www.trademap.org/Country_SelProduct_TS.aspx.

world's total natural rubber production.[25] Rubber is an important crop in southern Thailand where the landscape is dominated by rubber plantations and rice paddies.[26]

Thai rubber is exported in a number of basic forms, including ribbed smoked sheets, technically specified rubber, concentrated latex, and compound rubber. Only around 15% of the processed rubber produced in Thailand is used domestically, with about 60% of that going to tyre manufacturing, 19% to elastics and rubber band production, and 14% to latex glove production.[27] Thailand supplies natural rubber to many countries around the world with China currently the largest market. The companies Thai Rubber Latex (Thaitex) and Von Bundit are respectively the largest producers of natural latex and natural rubber manufacturers and exporters in Thailand.[28] While demand for rubber from the tyre industry has slowed and use of synthetic rubber has also reduced the need for natural rubber, there continues to be strong demand for concentrated latex, a critical input to the manufacture of latex gloves and condoms.

Palm Oil

Oil palms are a popular crop in Thailand as they yield six to ten times more oil than other oil-bearing plants such as those that give coconuts, olives, cotton, peanuts, soy, sunflower, and grapeseed.[29] In response to the slide in the price of rubber, the Thai government has, in recent years, been encouraging farmers to switch from rubber to palm oil cultivation.[30] The area cultivated for palm oil production has increased continually since the 1980s with over 90% of cultivated land concentrated on palm oil in the country's southern provinces.[31] Thailand currently ranks third behind Malaysia and Indonesia in terms of palm oil production, though it should be noted that it produces just 3% of global production. More than 95% of Thai production is consumed domestically: of this, 32% of crude palm oil is for direct consumption in Thai households and restaurants; 20% is used as an ingredient in other consumer goods such as snacks and instant noodles, soap, condensed milk and coffee creamer, cosmetics, lubricants and plastics; and 48% is used in biodiesel production.[32] In 2017, Thailand's oil palm exports were worth USD 115 million.[33]

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25 Thailand Board of Investment, "Thailand: World's Top Supplier of Natural Rubber," Sept 2018, available at: https://www.boi.go.th/upload/content/Rubber_Industry2018_5bb33471b8292.pdf.

26 *See* FAOSTAT at n 11 above.

27 *See* Thailand Board of Investment at n 25 above.

28 Thailand Board of Investment, "Thailand's Rubber Industry," available at: https://www.boi.go.th/upload/content/Rubber_5a3b80bcc4882.pdf.

29 Krungsri Research, "Oil Palm Industry," June 2017, available at: https://www.krungsri.com/bank/getmedia/ac87c171-db74-442b-ae29-5b69572896ca/IO_Oil_Palm_2017_EN.aspx.

30 Hueleng Tan, "Thailand Encourages Rubber Farmers to Switch Crops" in *The Wall Street Journal,* 12 August 2014, available at: http://www.wsj.com/articles/thailand-encourages-rubber-farmers-to-switch-crops-1407839494.

31 Jonas Dallinger, "Oil Palm Development in Thailand: economic, social and environmental considerations," 2011, available at: http://www.forestpeoples.org/sites/fpp/files/publication/2011/11/chapter-1-oil-palm-development-thailand-economic-social-and-environmental-considerations.pdf.

32 *See* Krungsri Research at n 29 above.

33 Observatory of Economic Complexity, "Where does Thailand export Palm Oil to (2017)?" available at: https://oec.world/en/visualize/tree_map/hs92/export/tha/show/1511/2017/.

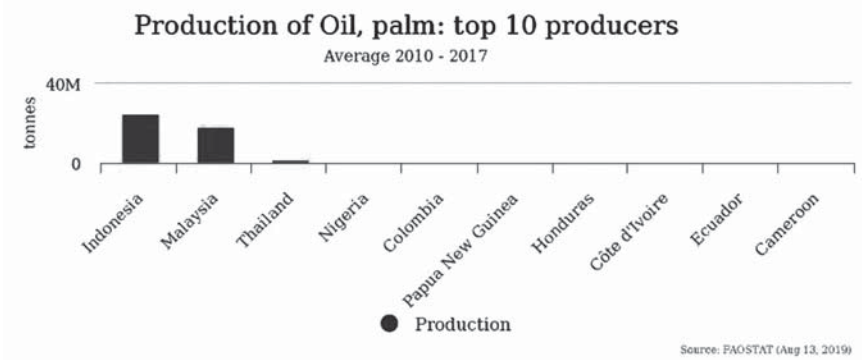

Figure 4: Production of Oil, Palm: Top 10 Producers

Geographical Location of the Crops

Climatic conditions dictate that cassava is grown in the central plains, north and north-east of Thailand,[34] with production concentrated in the provinces of Nakhon Ratchasima, Sakaeo, Kamphaeng Phet, Chaiyaphum, Kanchanaburi and Ubon Ratchathani.[35] Similarly, corn is grown in the north, north-east, and central plains of Thailand,[36] with the bulk of production concentrated in northern provinces, notably Phetchabun.[37]

Unlike corn and cassava, rubber plantations are mostly concentrated in the southern provinces of Thailand, namely in Surat Thani, Chumphon, Phang Nga, Songkla, and Nakhon Sri Thammarat.[38] For palm oil, Surat Thani, Krabi, and Chumphon remain popular cultivation areas, while palm oil plantations are expanding in the east and north-eastern provinces, mainly in Chonburi and Trat.[39] (See Map 3).

Map 3: Geographical Regions of Thailand

[34] Tom Arthey, Orawan Srisompun & Yelto Zimmer, "Cassava Production and Processing in Thailand," February 2018, available at: http://www.agribenchmark.org/fileadmin/Dateiablage/B-Cash-Crop/Reports/CassavaReportFinal-181030.pdf.

[35] Krungsri Research, "Cassava Industry", August 2018, available at: https://www.krungsri.com/bank/getmedia/57ef4f9d-2dcc-4b12-b3a2-3d0ae268471c/IO_Cassava_180807_EN_EX.aspx

[36] Oracho Napasintuwong, "Maize Seed Industry in Thailand: development, current situation, and prospect," Worker paper No. 2558/1 of Department of Agriculture and Resource Economics Faculty of Economics, Kasetasart University, February 2015, available at: https://www.ifpri.org/publication/maize-seed-industry-thailand-development-current-situation-and-prospects.

[37] United National Development Programmes, "Thailand: Sustainable Maize", 4 May 2015, available at: http://www.asia-pacific.undp.org/content/rbap/en/home/ourwork/development-impact/innovation/projects/thailand-maize.html.

[38] *See* map in Agricultural Organization of the United Nations, "National Agro-Economic Zoning for Major Crops in Thailand (NAEZ)," 2017, p. 12, available at: http://www.fao.org/3/a-i7077e.pdf.

[39] Jonas Dallinger, "Oil Palm Expansion in South East Asia: trends and implications for local communities and indigenous people", FPP & SawitWatch, 2011, available at: https://www.forestpeoples.org/sites/fpp/files/publication/2011/11/chapter-1-oil-palm-development-thailand-economic-social-and-environmental-considerations.pdf.

2.2 Migration Processes

Migrant workers, such as those who participated in this study, have contributed significantly to Thailand's economic development,[40] particularly in the success of the country's agricultural sector. Given Thailand's long porous land borders, a significant proportion of migrants continue to rely on irregular channels to enter the country and work without formal documentation. Over the years, and especially since the military coup of 2014, the Thai authorities have sought to restrict what they refer to as "illegal working",[41] and move towards a more managed approach to migration governance. In so doing, a variety of measures have been adopted aimed at formalising the migration process, while partially regularising the status of those undocumented migrants already in Thailand. These measures include migrant worker registration windows subject to Nationality Verification (NV), so called MOU procedures, and the Section 64 border pass scheme. As of 2018, some 436,188 migrant agricultural workers from Cambodia, Myanmar and Lao PDR had used these mechanisms to regularise their status,[42] though it should be kept in mind that a substantial number remain undocumented. To understand the scope of these labour migration mechanisms, the paragraphs below briefly describes each in turn.

Migrant Worker Registration

Since the 1990s, the Thai government, by way of a series of Cabinet Resolutions, has permitted undocumented migrants to semi-regularise their status during periodic migrant worker registration windows.[43] These large scale exercises, held every couple of years, grant undocumented migrants permission to live and work in Thailand for one or two years without having to return to their country of origin. It should be noted, however, that those who register are not granted full amnesty. Indeed, they remain in a precarious position, as they technically continue to be subject to immigration control on account of their "illegal entry".[44] Furthermore, temporary registration leaves them no closer to finding a long-term solution to regularise their stay.

Thailand's most recent round of migrant worker registration began in July 2017 and closed on 30 June 2018, following two deadline extensions.[45] In order to register, undocumented migrants from Cambodia, Lao PDR and Myanmar were required to present themselves at one of the 80 designated points located across Thailand, known as One Stop Service Centres. At these centres, subject to: (1) NV carried out by officials from migrants' countries of origin; (2) proof of employment;

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40 For an overview, *see* Supang Chantavanich and Ratchada Jayagupta, "Immigration to Thailand: The Case of Migrant Workers from Myanmar, Laos and Cambodia" in Uma Segal, Doreen Elliott, and Nazneen Mayadas (eds), *Immigration Worldwide: Policies, Practices, and Trends* (Oxford: Oxford University Press, 2010), p. 303.

41 *See* the criminal offences targeting illegal workers and employers enacted within the Royal Ordinance on the Management of Foreign Workers implemented in 2017 and 2018, which were promulgated alongside an immigration crackdown known as "Operation X-Ray Outlaw Foreigner".

42 Figures from the Thai Ministry of Labour, 2018, cited in United Nations Thematic Working Group on Migration in Thailand, "Thailand Migration Report 2019", p. 60, at n 7 above.

43 For a historic overview see generally AMC & MMN, "Migration Needs, Issues and Responses in the Greater Mekong Subregion: A Resource Book", 2002.

44 Alessandra Bravi, Katharina Schaur, Alexander Trupp, Teeranong Sakulsri, Reena Tadee, Kanya Apipornchaisakul and Sureeporn Punpuing, "Migrants in Countries in Crisis (MICIC) Thailand Case Study: Migration and Natural Disasters – The Impact on Migrants of the 2011 Floods in Thailand", 2017, p. 11, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/Thailand_CS_FINAL.pdf.

45 See "Cops Crack Down on Illegal Migrants", *Bangkok Post*, 2 July 2018, available at: https://www.bangkokpost.com/thailand/general/1495782/cops-crack-down-on-illegal-migrants.

Migrants cross the border from Cambodia to Thailand (Photo: MMN/ John Hulme)

(3) a medical; and (4) fee, migrants could obtain identification documents, work permits, health insurance and temporary permission to remain. Official fees totalling THB 6,180 (USD 203.60) were payable by migrants to complete the registration process,[46] This sum does not, however, include costs payable to the authorities of countries of origin for NV or the services of brokers, which can be considerable. Official statistics show that as of November 2018 a total of 2,214,298 work permits had been issued to GMS migrants who have completed the registration process.[47]

MOU Procedures

In an attempt to curb irregular migration and avoid the need for further rounds of registration, the Thai government has vigorously promoted the use of formal migration channels under the terms of existing bilateral Memorandum of Understanding (MOU) with Myanmar, Cambodia, and Lao PDR.[48] Since the early 2000s, Thailand has used these MOUs to cooperate on a range of labour migration

[46] Cited in "Service Centres for Migrants to Re-open", *Bangkok Post*, 20 April 2018, available at: https://www.bangkokpost.com/thailand/general/1448874/service-centres-for-migrants-to-re-open.

[47] This includes migrants registered during the round ending on 30 June 2018 (1,187,803), fisheries workers granted permission to remain until 30 June 2019 (6,082) and those who had previously completed NV (1,020,413). *See* Thai government statistics reported in UN Thematic Working Group on Migration in Thailand, "Thailand Migration Report 2019," p. 12, at n 7 above.

[48] For example *see*, Ministry of Foreign Affairs of the Kingdom of Thailand, "Press Release: Thailand uses MOU system to recruit migrant workers to fill jobs in marine fisheries sector", 11 October 2018, available at http://www.mfa.go.th/main/en/news3/6886/95148-Thailand-uses-MOU-system-to-recruit-migrant-worker.html.

matters,[49] including provisions to establish formal labour migration channels. In essence, these MOU procedures allow Thai employers to recruit migrant workers from countries of origin for employment in a range of manual occupations, including in the agriculture sector. However, there are significant procedural differences depending on the country of origin involved. [50] These typically relate to the volume of paperwork that "MOU migrants" are required to complete, which invariably impact the cost, duration and complexity of the process. As explained in the following chapter, the number of migrant agricultural workers who enter Thailand via MOU procedures remains low, with only 6,239 from Myanmar and 9,079 from Cambodia using this method as of May 2018.[51]

Section 64 Border Pass

Finally, we turn to the so called *Section 64 Border Pass*, named after the provision within the 2017 Royal Ordinance on the Management of Foreign Workers.[52] The border pass scheme permits nationals of countries that share a land border with Thailand to enter the Kingdom on a temporary basis or for seasonal work at a specified location. The application procedure and conditions of stay applicable to border pass holders are subject to specific by-laws and orders issued under now repealed legislation.[53] These typically require applicants to obtain approval from the provincial authorities in their country of origin, pass a medical, pay a fee and obtain a Thai work permit.[54] The various border passes available differ in duration (daily, weekly or monthly) and by the issuing authority in question. For example, the agreement between Myanmar and Thailand relating to the Myawaddy-Mae Sot border crossing, requires border pass holders to be residents of Myawaddy, and permits them to remain and work in specified areas within Tak Province for a period of 30 days. It is not uncommon for border pass application procedures to vary at short notice. For example, the application procedures at the Cambodian-Thai border have recently been tightened to "prevent Cambodians who are not native to or do not live in the [Cambodian border] province [of Banteay Meanchey] illegally applying for a pass and crossing into Thailand".[55]

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[49] *See* MOU between the Royal Thai Government and the Government of Lao PDR on Employment Cooperation, 18 Oct 2002; MOU between Cambodia and Thailand on Cooperation in the Employment of Workers, 31 May 2003; MOU between Thailand and Myanmar on Cooperation in the Employment of Workers, 21 June 2003. In 2015 and 2016, these MOU were revised and updated to broaden cooperation.

[50] For an outline of these differences and for a full appreciation of the complexity of the MOU process, *see* the respective flow charts as applicable to migrant workers from Myanmar, Cambodia and Laos in ILO, "Review of the Effectiveness of the MOUs in Managing Labour Migration between Thailand and Neighbouring Countries", 2015, p. 12 and pp. 36-37, available at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_356542.pdf.

[51] See Ministry of Labour figures as of May 2018 cited in UN Thematic Working Group on Migration in Thailand, "Thailand Migration Report 2019," p. 61 at n 7 above.

[52] See, s. 64 of the Royal Ordinance on the Management of Foreign Workers' Employment, B.E. 2560 (2017). The Royal Ordinance derives from an Emergency Decree that was approved without amendment by the military-appointed legislature. English translation available at: https://www.doe.go.th/prd/assets/upload/files/bkk_th/3c35c06309c7e8942a8f6ea363b8b916.pdf.

[53] Such as orders issued in accordance with the now repealed the Foreigners' Working Act, B.E. 2551 (2008).

[54] *See* for example the detailed procedures explained in IOM, "Migrant Information Note", December 2016, pp. 4-6, available at https://thailand.iom.int/sites/default/files/document/publications/MIN%20No.30_ENG_FINAL.pdf.

[55] *See* "Tough Rules in Place for Border Passes", *Bangkok Post*, 3 January 2018, quoting Sa Kaeo immigration chief Pol Col Benjapol Rodsawat, available at: https://www.bangkokpost.com/thailand/general/1389318/tough-rules-in-place-for-border-passes.

CHAPTER THREE:
RESEARCH FINDINGS

This chapter presents findings and analysis of the surveys, interviews and FGDs collected in the course of our research.

3.1 Characteristics of Respondents

Nationality and Ethnicity

Of the 328 agricultural migrant workers surveyed in the course of this study, 236 were nationals of Myanmar (72%), while 92 were from Cambodia (28 %). This ratio of 2.5 Myanmar migrants to every Cambodian migrant (2.5:1) closely approximates the 2.20:1 ratio that exists between migrants from these countries within Thailand as a whole.[56] Of the survey respondents from Myanmar, over 70% identified as Burmese or Mon (or both), while all of the respondents from Cambodia identified as Khmer. These ethnicities are the likely result of the specific demographics at the sites under study and thus cannot be extrapolated to be representative of the ethnic breakdown of migrant agricultural workers more generally.

Table 1: Total Number of Respondents by Country

Country	Myanmar	Cambodia	Total
	236	92	328

Other General Characteristics

The following are some other general characteristic of our survey respondents:

- 164 respondents (50%) were women and 164 (50%) men;
- 210 respondents (64%) were migrant agricultural workers in Thailand at the time of the survey, whereas 118 (36%) were migrant agricultural worker returnees interviewed in Myanmar or Cambodia;
- Respondents were aged between 18 and 65, with two-thirds between 26 and 45 years of age; and
- 84.1% of respondents said they were married.[57]

[56] The Thai Ministry of Labour reported that as of 30 June 2018, 1,187,803 migrant workers had registered at One Stop Service Centres. Of these 350,840 were from Cambodia, 59,746 from Lao PDR, and 777,217 from Myanmar. *See* Ministry of Labour of Thailand, "Report on the Implementation of Management of Employment of Migrant Workers in Thailand under the Cabinet Resolution approved on 16 January 2018 and 27 March 2018," 17 July 2018, available (in Thai) at: http://www.cabinet.soc.go.th/doc_image/2561/9932921712.pdf.

[57] n=327, missing data=1.

Table 2: Total Number of Respondents by Gender

Gender	Frequency	Percentage (%)
Female	164	50
Male	164	50
Total	328	100

Table 3: Type of Respondents

Country	Migrants in Thailand	Migrant Returnees	Total
	210 (64%)	118 (36%)	328

Among the 328 migrants and migrant returnees surveyed, a breakdown of those working on the selected crop plantations in different areas and at each phase of the study are set out in the tables below:

Table 4: Number of Respondents by Crop Type

Crop Type	Frequency (N = 326)	Percentage (%)
Corn	92	28.2
Cassava	52	16.0
Rubber	148	45.4
Palm oil	34	10.4

Table 5: Number of Respondents by Area

Area of Thailand	Phase I	Phase II
Tak (Mae Sot)	20 (10 corn, 10 cassava)	60 (38 corn, 22 cassava)
Rayong	10 (10 rubber)	30 (28 rubber, 2 palm oil)
Surat Thani	10 (10 rubber)	30 (28 rubber, 2 missing)
Phang Nga	20 (10 rubber, 10 palm oil)	30 (15 rubber, 15 palm oil)
Total	60	150

Table 6: Number of Respondents by Phase of Study

Country of Origin	Phase I	Phase II
Myanmar	20 (9 corn, 11 rubber)	45 (15 corn, 30 rubber)
Cambodia	21 (5 corn, 13 cassava, 1 rubber, 2 palm oil)	31 (4 corn, 18 cassava, 8 rubber, 1 palm oil)
Total	41	76

In addition to their mother tongue, 31% of respondents stated that they could also speak Thai. Of the respondents from Myanmar, 18% said they spoke Thai, while among those from Cambodia the figure was significantly higher at 60%.

Of the migrant agricultural workers surveyed, 55.7% stated that they had worked on the same plantation for three or more years.[58] Nearly 48% of respondents based in Thailand at the time of the survey said that they had been working in Thailand's agricultural sector for more than five years.[59]

Immigration Status

When asked about their immigration status, over 50 % of respondents said that they were currently undocumented,[60] having either never been documented in the first place, or having had their status lapse. Of the remainder, MMN was unable to verify exactly how many respondents actually held a valid form of immigration status. In all, MMN encountered 26 different types and combinations of documents, including Pink Cards, Temporary Passports, Certificates of Identity (CI), Full Passports, Work Permits and other travel documents. Amongst this plethora of official documentation, however, it is worth noting that very few of the migrant agricultural workers surveyed claimed to have entered Thailand under MOU procedures or with a valid border pass.[61]

Migrants cross the border from Cambodia to Thailand (Photo: MMN/ John Hulme)

3.2 Documentation Issues

The above results regarding the immigration status of migrant agricultural workers are significant in that they reflect the impact that Thailand's complex labour migration system has on those required to use it. This section highlights the challenges faced by migrant agricultural workers to stay documented through the insight provided by them and other stakeholders during our follow-up interviews and FGDs.

As to why relatively few migrant agricultural workers surveyed held valid documents, there was a general consensus among respondents, including migrants, government officials, and employers that the fees and associated costs are prohibitively high. For example, in Mae Sot, we found that the typical daily wage of a migrant agricultural worker was just THB 120 - 150 (USD 3.95 - 4.95) and that work was available only intermittently.[62] On this sub-minimum wage income it is extremely difficult, if not impossible, for migrant agricultural workers to afford the many thousands of baht levied under the three formal migration pathways costed in the box article below.

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58 n=316, missing data=12

59 n=149. Sampling criteria required respondents to have at least 9 months' work experience in total.

60 n=212 (Phase 2)

61 n= 212 (Phase 2), Border Passes = 16. From our data we are not aware of anyone who migrated using MOU procedures, however given the wide range of documents and passports presented by respondents we cannot rule out absolutely the possibility that some respondents used this channel.

62 KII with representative from AWO, conducted on 25 January 2019.

Box Article 1: Fees to Regularise Migration Status

Migrant Worker Registration

Migrant workers who complete NV and obtain a CI or temporary passport issued by their country of origin are required to pay the following fees: Profile records/updates – THB 80; Thai visa – THB 500; Work permit – THB 1,900; Health insurance (for two years) – THB 3,200 and health examination – THB 500, in total THB 6,180.[63] These fees do not include charges issued by migrants' countries of origins during the NV process and other related costs such as transportation, meals and personal expenses, not to mention loss of earnings due to time spent processing the above requirements.

MOU Procedures

The Thai government charges THB 2,900 in fees for a two-year visa and work permit, however, the fees charged by migrants' country of origins vary. In recent MMN research, migrants from Cambodia reported paying THB 20,000 to migrate to Thailand via MOU procedures, while those from Myanmar said they paid up to THB 16,116.[64] Employers also have to pay a THB 1,000 deposit per migrant worker, up to a maximum of THB 100,000.

Section 64 Border Pass

A border pass under Section 64 costs migrant workers in total approximately THB 1,325. This includes a THB 100 work permit application fee, a fee of THB 225 for a three-month work permit charged by the Department of Employment, a health examination fee of THB 500 and a three-month health insurance fee of THB 500 charged by the Ministry of Public Health.[65] However if a migrant renews four times through the course of the year, the official cost will be THB 3,800 in fees. This does not include any charges migrants pay to officials in their country of origin.

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63 Fees cited in "Service Centres for Migrants to Re-open", *Bangkok Post*, at n 46 above.

64 *See* MMN, "Social Protection Across Borders: Roles of Mekong Countries of Origin in Protecting Migrants' Rights", September 2019, available at http://www.mekongmigration.org/?p=7578.

65 Tak Immigration and Tak Provincial Employment Office, "Guidelines for the Implementation of the Agreement between the Government of the Kingdom of Thailand and the Government of the Republic of the Union of Myanmar on Border Crossing Between the Two Countries", 2019 (in Thai), available at: http://www.takimmigration.go.th/attach/m14.pdf.

In addition to these official fees, migrant agricultural workers bear other associated costs that fall more heavily on them than migrants in other sectors. Most palpably, the increased time and expense to reach government agencies from the remote agricultural plantations where they live and work. A 39-year-old migrant agricultural worker interviewed, stated that he no longer regularised his status because he felt that it was simply "not worthwhile losing the days' work".[66] Instead of travelling by motorcycle for hours and paying the fees and other associated costs to get official documentation, he pays an informal fee of THB 300 (USD 9.90) per month to the local village headman. In return he receives an unofficial "headman card" that affords him a degree of protection from the police. Taking a pragmatic view, he says paying for the village headman card is the "least complicated way to have documents".[67]

At an FGD, other migrant agricultural workers said that their employers refused them permission to partake in the government's latest registration window. Instead their employer told them to pay the local village headman and not leave the area. They emphasised that not having documents left them fearful of being arrested by the police.[68] Other migrant workers who participated in our FGDs also blamed their employers for "not taking responsibility". They said that instead of paying for official documents they were pressured by their employers to buy a village headman card at a cost of THB 420 (USD 13.85) per month. As they had no legal documents, they also had to pay THB 250 (USD 8.25) per month to the police to look the other way.[69]

Some migrant agricultural workers interviewed were of the opinion that, in practice, it mattered little whether or not they had valid immigration papers, since they felt that the police targeted them as migrants regardless. They said that the police often acted with impunity towards migrants in the isolated rural areas where they live and work. For example during our FGDs in Surat Thani, migrant agricultural workers remarked that they were constantly anxious, even though their immigration papers were in order. A female rubber plantation worker put it this way:

> **"If I meet the police and they check my documents, even though my card and passport are still valid, they might accuse me of having expired documents and take advantage of me not knowing the Thai language. We are not fluent in Thai, so when the police ask us anything, we get scared".[70]**

Another rubber plantation worker who also took part in the FGDs in Surat Thani added:

> **"I have no choice but to pay police 'fines'. The plantation where I work is far from any town. There is no way to argue back. If anything happens to me there is nothing I can do".[71]**

This kind of fear and distrust was not, however, felt universally among respondents. Other migrant workers interviewed in the study, said that they felt safe and comfortable in the rural communities where they live and work. For example, a 63-year-old former rubber plantation worker from Myanmar

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66 Interview with male migrant head of family from Myanmar, conducted on 15 May 2019.

67 *Ibid*.

68 FGD with female migrant agricultural workers from Myanmar, conducted on 14 August 2019.

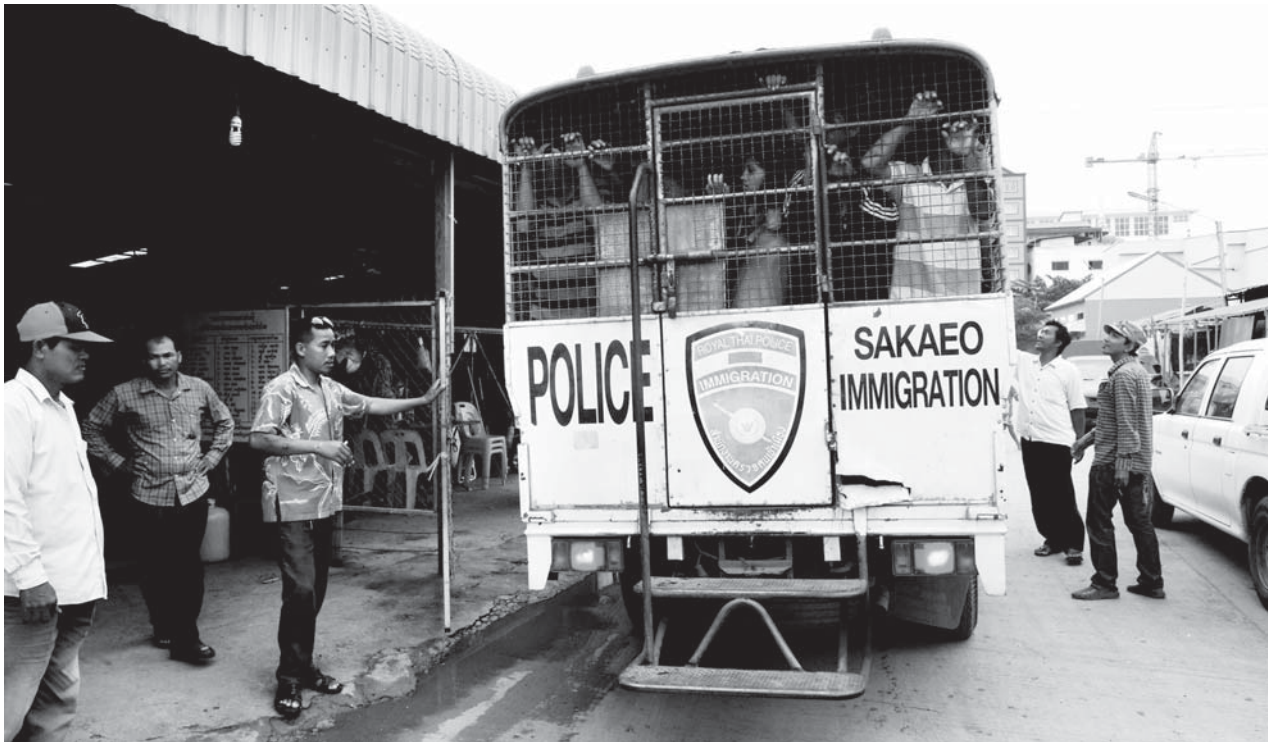
69 FGD with male migrant agricultural workers from Myanmar, conducted on 14 August 2019.

70 FGD with female migrant agricultural workers from Myanmar, conducted in Surat Thani, Thailand on 31 July 2019.

71 FGD with male migrant agricultural workers, from Myanmar, conducted in Surat Thani, Thailand on 31 July 2019.

explained that she never has any problems with the police, even though all her documents have long since expired. This, she said, was because "in the community where I live the village headman treats everyone equally".[72]

Of those migrant agricultural workers interviewed who had regularised their status, many felt unhappy with their treatment within Thailand's labour migration system. A number complained that the authorities do not adequately take their circumstances, as agricultural workers, into consideration. A migrant married couple, interviewed in Phang Nga, said that due to the long distances and delays in the registration process, they had no choice but to use a broker to speed up and complete the process. To obtain the documents required for the NV process, they initially had to return to Dawei in Myanmar. They then paid THB 17,000 (USD 560.50) to a broker, in addition to the cost of travel, accommodation and lost earnings. Having gone to such lengths, they were unhappy that their status will soon expire (in early 2020), and that they will have to go through the same expensive, time consuming process once again.[73]



Cambodian migrants deported to the Thai-Cambodian border (Photo: MMN/ John Hulme)

The study found that the impact of high brokerage fees has profound implications for migrant agricultural workers' finances, including driving them into debt. As these female migrant returnees in Myanmar explained when interviewed about their own experiences of using brokers:

> **"Brokers charge a lot. Although the official rate is around THB 1,200 (USD 39.50), the brokers request more than THB 10,000 (USD 329.70). Our salary for a whole year's work barely covers the cost of documents for both me and my husband".[74]**

[72] Interview with recently retired female migrant agricultural worker from Myanmar, conducted in Surat Thani, Thailand on 31 July 2019.

[73] Interview with migrant husband and wife from Myanmar, conducted in Phang Nga, Thailand on 31 March 2019.

[74] Interview with female migrant returnee from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

> **"Some stay with bad employers because they do not have enough money to change employers. Myanmar workers have to pay anywhere between THB 15,000-18,000 (USD 494.15-592.95) to brokers in order to change employers. We cannot save money because of these costs, and the price of goods is rising as well. Some of us are in debt and have taken out loans with high interest rates".[75]**

Given the high brokerage fees and low wages prevalent in the agricultural sector, just 6.8% of migrants surveyed in this study stated that they used a broker to migrate.[76] Most relied on family, friends or migrant returnees to assist them as best they could, with 86.3% stating that they knew someone from the plantation before they moved there to work.[77]

Irrespective of brokerage fees, the high costs incurred by migrant agricultural workers attempting to regularise their status was widely acknowledged by key informants interviewed in this study. A representative from the Thai Department of Employment in Mae Sot, explained that the reason why costs fell more heavily on migrant agricultural workers was because the profit margins are lower in the agricultural sector. This he said had a knock-on-effect in terms of reducing wages and thus making it difficult for migrant agricultural workers to afford the fees.[78] These views were corroborated by a farmer who employs migrant workers in Tak Province. He complained that: "It is a burden to pay for worker's documentation, as I do not produce enough crops [to cover the expense]".[79]

When asked why relatively few migrant agricultural workers use formal migration channels, the representative from the Department of Employment in Mae Sot suggested that employers were reluctant to lose their workforce for any extended period of time, so as to not jeopardise the success of their crops. In his view, formal migration channels, particularly the MOU procedures, were simply not designed with migrant agricultural workers in mind. "The MOU is mainly for factory workers [and] is not appropriate for the agriculture [sector] as workers are more mobile".[80]

Migrants and key informants suggested various ways to improve policy and practice to encourage more migrant agricultural workers to regularise their status. For instance, a migrant rubber plantation worker in Surat Thani suggested that government agencies responsible for the registration process expand their services to make them available at the sub-district level. This she said would make it more convenient for migrants in rural areas and thus make it more likely that they will take part in any future registration exercise. In an interview with CSOs in Mae Sot, a representative from AWO said that: "the migrant registration system needs to be clear and easy, while the cost needs to come down… Costs need to be in line with migrants' income. There is also the need for greater outreach work so that migrants in agriculture understand the process".[81]

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75 FGD with female migrant returnees from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

76 n=322

77 n=322

78 KII with representative from the Thai Department of Employment of Mae Sot District, conducted on 25 January 2019.

79 KII with farmer who employs migrant workers in Tak Province, conducted on 25 January 2019.

80 KII with representative from the Thai Department of Employment at n 78 above.

81 KII with representative from AANLU, conducted on 25 January 2019.

3.3 Working Conditions

In the study, MMN's selection criteria required that survey respondents had worked in agriculture for at least nine months. This was intended to ensure the study captured issues that affect the working conditions of long-term agricultural workers as opposed to seasonal workers. Consequently, 55.7% of respondents,[82] stated that they had worked on the same plantation for three or more years. Of the respondents interviewed who were in Thailand at the time of interview, approximately 48% stated that they had been working in the agricultural sector in Thailand for more than five years.[83]

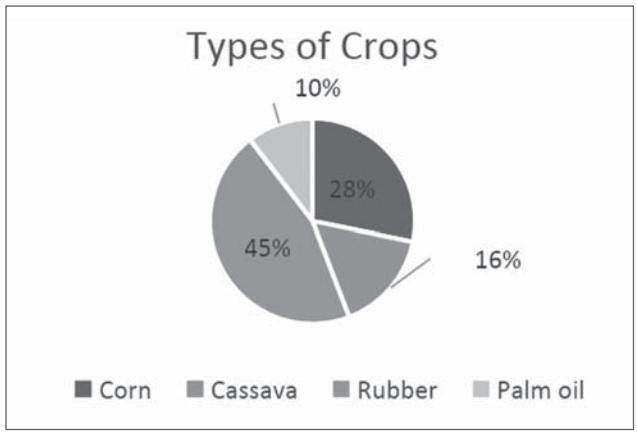

Figure 5: Types of Plantations Respondents Worked On

Sixty-five percent of respondents who said they mainly worked on corn plantations, also said that they worked on plantations of other kinds, such as cassava, rubber, sugar cane, fruits, flowers, rice, bean, onion, garlic, potato, tea, coffee, and on livestock farms of various types. This is in contrast to workers who mainly worked on cassava, rubber, and palm oil plantations, who did not report working on other crops in significant numbers. MMN partner FED noted in Phang Nga an emerging trend whereby plantation owners produce both rubber and palm oil, with their agricultural workers required to work a night shift to produce rubber and a day shift to produce palm oil. A participant from one of our FGDs in Myanmar confirmed this, stating:

> **"The owner made us work on palm oil plantation after we worked on rubber plantation the whole night. It was extremely tiring and unfair, but I did not have a choice. I had to work because the owner said so. I did not have time to take a rest after rubber tapping."[84]**

The migrant agricultural workers interviewed stated that they worked on plantations ranging from a single employee to 150. Fifty-seven percent of respondents worked on plantations with five to 20 workers, and 33% on very small farms of four or less workers. Only five workers reported working on plantations with over 65 workers (2%). Of those surveyed, the average number of employees was around 12 and the median eight. The table below provides a breakdown of the size of plantations by employees for the various crops.

[82] n=316.

[83] n=149.

[84] FGD with female migrant returnees from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

Table 7: Size of Plantation by Employees

	Types of Plantation (N =318)				Total
	1 - 4 Workers	5 - 20 Workers	21 - 65 Workers	Over 65 Workers	
Corn	13	68	8	3	92
Cassava	3	42	6	0	51
Rubber	77	49	13	2	141
Palm Oil	11	23	0	0	34
Total	**104**	**182**	**27**	**5**	**318**

*Note: data is unavailable for 10 respondents

In one KII, a PRA from Cambodia noted that a major concern for agricultural migrant workers is the irregularity of work caused by intemperate weather, as during periods of heavy rain when they cannot harvest or engage in other activities in the field, they do not earn wages.[85]

Duties at Work

Workers on rubber, cassava, corn, and rubber plantations described having engaged in a number of activities common to agriculture work, among them, cultivating the land, applying fertilisers, watering plants, spraying herbicides and/or pesticides, weeding, and harvesting yield. Male and female workers generally carry out the same duties, though on some plantations, only male workers are tasked with preparing and applying fertilisers, spraying chemicals, or operating tractors. Despite minimal differences in the nature of work, the wage differential between men and women in agriculture was a matter of concern to some migrants who took part in the study. One worker suggested during a FGD that "...the wages are different, and women get paid less. The employer justifies this by saying men are stronger and work better than women".[86]

Latex extraction on a rubber plantation in Mae Sot, Thailand (Photo: CTUM)

[85] Interview with Private Recruitment Agency in Cambodia, conducted on 19 April 2019.

[86] FGD with mixed group of migrant agricultural workers, conducted in Mae Sot, Thailand in July 2019.

The duties required of employees on rubber plantations usually require migrants to work long and irregular hours (see the next subsection for more details). Workers begin rubber tapping – the process of extracting latex from rubber trees – beginning from the evening until the early hours of the day. To congeal the collected latex, formic acid is added to the sap and it is sun-dried. On some plantations, workers described having smoked the mixture before flattening it to make rubber sheets.[87]

Working Hours & Days Off

Table 8: Average Number of Working Hours

	Average (N = 319)	Minimum	Maximum
Number of Hours	10	5	19

Table 9: Working Hours by Crop

	Types of Crops (N =315)				Total
	Corn	Cassava	Rubber	Palm Oil	
8 hours or less	53	30	19	11	113
9-12 hours	34	21	67	22	144
13 hours or more	0	0	57	1	58
Total	**87**	**51**	**143**	**34**	**315**

* Note: data is unavailable for 13 respondents for this question

Our study found that rubber plantation workers work the longest hours, with 87% of respondents from rubber plantations working more than eight hours per day, and 40% working more than 12 hours a day. In contrast, almost none of the workers on corn, cassava, and palm oil plantations reported working more than 12 hours a day. Eighty percent of the rubber plantation workers begin working in the evening or night-time, whereas the vast majority of workers in corn, cassava, and palm oil begin work in the morning. This may partially be explained by the fact that rubber plantation workers are often incentivised to work longer hours. This is discussed further in the next subsection.

The UN considers working more than 12 hours per day excessive overtime, and notes that such long hours involving intense manual labour can cause sleep disturbance and fatigue, as well as cardiovascular, gastro-intestinal, and mental health disorders. Heightened fatigue can also lead to an increased likelihood of accidents and injuries.[88]

[87] Survey form and FGD with male migrant returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[88] See UN, "Thailand Migration Report 2019," p. 68 at n 7 above, see also ILO, "Safety And Health at the Heart of the Future of Work: Building on 100 years of experience", 2019, p. 49, "Excessive working hours are associated with chronic effects of fatigue which can lead to health problems such as cardiovascular disease and gastrointestinal disorders, as well as poorer mental health status, including higher rates of anxiety, depression and sleeping disorders". This is available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_686645.pdf.

Nearly one-third of respondents (30.3%) stated that they did not receive any paid days off.[89] MMN partners noted that even though the way days off are allotted differ by crops, agricultural migrant workers generally enjoyed minimal free time and hence had limited opportunities to rest or renew their documents. Our survey results are in line with responses given during FGDs conducted by MMN, which indicate that many workers had no holidays or paid days off. Migrants reported only taking rest when employers had no work for them, during which time they were not paid and must rely on their savings. While many noted that asking for unpaid days off or unpaid sick leave was not difficult, others stated that during periods when demand for labour was high, employers often insisted that they worked. Workers generally only took rests at their employers' discretion. One migrant reflected on her experiences of being denied rest and having days off.

> **"Thai workers can take a rest but us migrant workers are scolded and pressured to work without a break. Previously, we would have two 15-minute breaks, one in the morning and one in the afternoon. But this system was ended by employers years ago. Even when we are not feeling well, employers still force us to work. When we ask for leave, employers will often scold us and not grant it. If we take any sick leave or days off, we do not receive any wages".**[90]

On rubber plantations, workers explained that their work was highly dependent on the weather. This made for an unreliable working schedule and wages that fluctuated depending on the season. One rubber plantation worker remarked:

> **"We don't have a base salary. We cannot do anything during the rainy season. When it is really hot, the owner does not allow us to tap the trees every day because he is scared they will be damaged. Those who work in factories are paid THB 300 per day. They can take a rest on their days off. But on rubber plantations, we don't have any designated days off. We have to work hard on sunny days and take days off on rainy ones. We do not get paid when we take a rest".**[91]

Payment of Wages

Seventy-five percent of respondents who work or have worked on rubber plantations said that their wages were calculated as a percentage of crop output. According to our survey, most rubber plantation workers stated they were paid between 40% and 50% of the latex weight of the rubber. As illustrated in the table on the next page, for other crop types, payment was most often calculated by kilogram, or as a daily or monthly salary.

[89] n=221, Phase 2 respondents.

[90] FGD with female migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand on 14 August 2019.

[91] FGD with male migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

Table 10: Wage Calculation

Wage Calculation	Types of Crops (N =321)				Total
	Corn	Cassava	Rubber	Palm Oil	
Per kilogram	4	13	11	7	**35**
Per day	68	25	20	12	**125**
Per month	15	12	3	13	**43**
Percentage per crop output	2	0	109	1	**112**
One per 47 days	0	0	1	0	**1**
Per bag/basket	0	1	0	0	**1**
Per lump sum	0	1	0	0	**1**
Per week	1	0	0	0	**1**
Per two weeks	1	0	0	0	**1**
Per crop cycle	1	0	0	0	**1**
Total	**92**	**52**	**144**	**33**	**321**

*Note: data is unavailable for 7 respondents for this question

As of 2018, the Thai minimum wage ranged from THB 308 to 330 per day (USD 10.20-10.92) depending on province. This amounts to a monthly wage of approximately THB 8,580 (USD 284) with one rest day per week. While rubber plantation workers reported working the longest hours, they also reported receiving the highest wages. Sixty-six percent of rubber plantation workers surveyed said that they earned more than THB 9,000 (USD 298) a month, and around 30% said that they earned between THB 4,500-9,000 (USD 149-298) a month. Only two rubber plantation workers said that they earned less than THB 4,500 (USD 149).

Table 11: Monthly Income by Crops

Monthly Income	Types of Crops (N =321)				Total
	Corn	Cassava	Rubber	Palm Oil	
<4,500 baht	41 (45.6%)	2 (3.8%)	7 (4.8%)	2 (5.9%)	52 (16.2%)
4,500-9,000 baht	44 (48.9%)	45 (86.5%)	42 (29.0%)	23 (67.6%)	154 (48.0%)
>9000 baht	5 (5.6%)	5 (9.6%)	96 (66.2%)	9 (26.5%)	115 (35.8%)
Total	**90**	**52**	**145**	**34**	**321**

*Note data is unavailable for 7 respondents for this question

In contrast, 46% of workers on corn plantations said that they earned less than THB 4,500 (USD 149) a month, and most corn, cassava, and palm oil workers earned between THB 4,500 and 9,000 a month (USD 149-298). Migrants surveyed by MMN stated that wage levels in the agriculture sector are low considering the risks and toil involved. One migrant lamented: "We are not satisfied with our work because the wages are lower than that in other types of employment, and it is very tiring. We have to work in all kinds of weather. It is dangerous for our health".[92]

[92] FGD with female migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 15 August 2019.

In spite of perceived low wages and long working hours, our survey found a reluctance among migrant agricultural workers to negotiate for higher pay. As one female migrant worker on a rubber plantation told MMN:

> **"I think we are abused when it comes to working hours. I wanted to ask my employers to let us work regular hours or pay us for working overtime. [They should also] pay us according to the real market price of rubber. However, we could not say anything when they paid us at a lower rate even though the market price was high, because we are migrant workers who want to work in their country. We just had to sit still [accept it]".**[93]

Instances whereby migrants were paid less than Thai workers for carrying out the same work were also recorded during FGDs conducted by MMN. In one example, a migrant returnee complained about working longer hours than her Thai colleagues, while being paid less:

> **"They paid Myanmar workers THB 300, but to Thai workers they gave THB 500. When Thais arrived late, it went unnoticed, but when Myanmar migrants arrived late, the employer would get angry. Migrants started working at around 6 or 7 am, but Thai workers started at around 9 am. Thai people took breaks and then worked. Myanmar workers had to work non-stop. Because Thai people arrived to work late, they did not produce as much as Myanmar workers".**[94]

The issue of wage differentials between men and women on different plantations were also raised by migrants at FGDs. In Mae Sot, agricultural migrant workers who mainly worked on corn plantations reported earning between THB 150 and 180 per day. Women generally earned at the lower end of the scale because some employers reportedly believe that women are less capable of hard work. Similarly, migrant returnees reported that women earned less than men on palm oil plantations, but on rubber plantations, payment depended on the amount produced.[95] For land clearing, men earned THB 400, but women only received THB 200, and for the job of picking palm tree fruits, men earned THB 300 and women only THB 200, even though the tasks were the same.[96]

Migrant workers load palm oil fruits onto a truck in Phang Nga, Thailand (Photo: FED)

[93] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[94] FGD with female returnees conducted in Mawlamyine, *ibid*.

[95] FGD with male migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[96] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

Approximately 60% of the 325 respondents surveyed identified themselves as the main source of income for their household, with around 30% of those being women. In general, MMN partners noted that families often work side-by-side, and if earnings are by piece or crop output, it is difficult to separate earnings based on gender where a couple is working together.

Problems in the Workplace

Table 12: Common Problems in the Workplace

Common Problems in the Workplace	Types of Crops (N =312)				Total
	Corn	Cassava	Rubber	Palm Oil	
1. No Payment of wages	8	11	9	3	**31**
2. Wage deduction for recruitment fees and documentation	9	15	15	8	**47**
3. Wage deduction without any explanation	4	1	0	1	**6**
4. Long working hours (over 10 hours per day on average)	8	9	75	3	**95**
5. Accidents and injuries at work	37	18	37	13	**105**
6. Confiscation of passport or other documents	4	2	11	7	**24**
7. Abandoned by employer/dismissed without compensation	5	1	4	1	**11**
8. Police raid	26	15	32	9	**82**
8. Not allowed to leave workplace	13	9	2	2	**26**
10. Others: a threat from police, got arrested	2	0	1	0	**3**
Total	**92**	**52**	**136**	**32**	**312**

As table 12 illustrates, migrant agricultural workers surveyed stated that they had experienced a wide range of work-related problems, from unpaid wages to police raids and threats.

Nearly 10% of those interviewed said that at some point they had not received wages owed to them, while around 8% reported having had their documents confiscated or being prohibited from leaving their workplace.[97] These numbers suggest that there may be some prevalence of forced labour in the industry. The FGDs and IIIs conducted by MMN recorded a number of cases in which migrants faced varying degrees of restrictions to their freedom of movement:

> **"We cannot go outside of the community when we stay with the employer. We have to work even when we do not want to".[98]**

> **"The owner [of the rubber and palm oil plantations] did not allow us to leave and we would only work on his plantation. He did not even let us speak with people from outside [the plantation], as he was afraid we would leave if we spoke to outsiders".[99]**

[97] n=314.

[98] FGD with male migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 14 August 2019.

[99] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

> **"We wanted to request the employer to register us for legal documents and we want to keep the documents ourselves. Instead, our employers kept it for us. They did not want us to keep it".[100]**

> **"Employers confiscated all our documents and did not return them to us. They only gave us the documents when our families faced serious problems. The employers were afraid we would leave the plantation, and there were cases where workers could not leave because the owner did not return their documents".[101]**

Alarmingly, incidents of employers threatening migrants were recounted by a number of sources. A CSO explained that employers often do not pay their workers after they have completed their work, and when they owe multiple workers over THB 100,000 in wages, they often avoid payment by contacting the village headman, police, or other local authority to threaten workers to withdraw their wage requests.[102] At a FGD, migrants also told MMN that when they requested wages owed to them, their employers threatened them by saying, "Are you going to take the gun or money?"[103] Similarly, one migrant returnee in Myanmar described:

> **"We were afraid of the owners. We did not dare say much because they had guns. Those who did the tapping [rubber tapping] with us always carried guns. As a woman, I was scared and tried to stay away from them. They carried guns everywhere".[104]**

In another example, one migrant returnee highlighted difficulties changing employers, especially when he was in debt.

> **"Sometimes I could not change employers. When you are in debt, they [plantation owners] will harm you if you try and leave. Some would report you to the police and have the police arrest you. Some showed a gun and made threats".[105]**

Aside from wage differentials between Thai and migrant workers described in the subsection above, migrants reported experiencing verbal abuse and discrimination based on their sex and nationality. One migrant in Mae Sot said that "employers [should] have respect for migrant workers. In the past, they scolded us and were very rude, calling us bad names, like 'buffalos', and saying we have no brain".[106] Some migrant women remarked that employers "teased Myanmar female workers in a sexual manner".[107] A number of migrants also suggested that discrimination based on nationality could be the source of pervasive exploitation and abuse in the sector:

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[100] FGD with male migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 14 August 2019.

[101] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[102] Interview with CSO representative in Thailand, conducted on 29 April 2019.

[103] FGD with female migrant agricultural workers from Myanmar, conducted on 15 August 2019.

[104] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[105] FGD with male migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[106] FGD with mixed male and female group of migrant agricultural workers, conducted in Mae Sot, Thailand, in July 2019.

[107] FGD with female migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 15 August 2019.

A community of migrant agricultural workers in Mae Sot, Thailand (Photo: MAP Foundation)

"It is not so different from being a slave when employers are bad. I cannot say anything because I am a foreigner in their country. The managers are not good, they want to exploit us and discriminate against us because we are from Myanmar. We just have to accept that".[108]

"We can get more income and better work here [in Thailand], but for other aspects, Myanmar is better than Thailand. In Myanmar, we are the same nationality, so we treat each other as brothers and sisters. In Thailand, we are oppressed by the employers and treated differently".[109]

[108] FGD with female migrant agricultural worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[109] FGD with female migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 15 August 2019.

Means of Redress

Several CSOs interviewed in the course of this study stressed how few organisations are able to perform outreach work to assist migrant agricultural workers. Most highlighted problems of access created by migrant's geographical isolation on farms and plantations, as well as their limited days off when they can participate in community activities.[110] As a result, employment disputes when they arise often go unmediated and are arbitrarily resolved by a village headman outside the formal justice system.[111] Some migrants interviewed also expressed a reluctance to seek support or access formal justice systems due to a fear of possible repercussions. In one III, a migrant worker in Surat Thani explained that his employer did not pay his salary for three months and he was forced to work whilst injured. He said he did not seek any help because he did not know his rights and was afraid for his family since his two children were undocumented. He was also fearful that he would be dismissed and become homeless.[112]

The ILO has noted that the labour inspectorate in Thailand has been "ineffective in identifying and responding to the specific vulnerabilities faced by migrant workers",[113] particularly migrants who are employed in forms of work that are difficult to inspect such as agriculture. MMN was also told of incidents in which employers requested workers to mislead labour inspectors during their visits. They explained that: "When the authorities came to check [the workplace], employers told us to say to them that we received THB 300 [USD 9.90] per day in wages, but in reality, we only received THB 170 [USD 5.60] per day".[114]

When asked what current policies and regulations should be improved to meet the needs of migrant workers, a representative from the Department of Employment in Rayong, responded that there are no shortcomings, and, that "migrant workers should be happy with the way things are. Compared to their home countries, Thailand is like heaven. If they were not happy, they would not stay".[115] He emphasised that his only concern regarding agricultural migrant workers was on behalf of employers, given the falling price of rubber. The same official also advocated reinstating previous laws that restrict migrants' freedom of movement.[116]

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[110] *See* interview with the Director of AWO, in Mae Sot, Thailand, conducted on 16 May 2019; and interview with Migrant Field Officer, Foundation for AIDS Rights, Rayong Thailand, conducted on 24 January 2019.

[111] Interview with CSO, Thailand on 16 May 2019.

[112] Interview with male migrant worker in Surat Thani, Thailand conducted on 31 July 2019.

[113] ILO, "Review of the Effectiveness of the MOUs in Managing Labour Migration between Thailand and Neighbouring Countries," 2015, p. 21, available at: http://un-act.org/publication/view/review-of-the-effectiveness-of-the-mous-in-managing-labour-migration-between-thailand-and-neighbouring-countries/.

[114] FGD with male migrant agricultural workers from Myanmar, conducted in Mae Sot, Thailand, on 14 August 2019.

[115] Interview with representative of the Thai Department of Employment, conducted in Rayong, Thailand on 25 January 2019.

[116] Interview with representative of the Thai Department of Employment, *ibid*.

Occupational Health & Safety

Given the hazardous nature of agricultural work, many migrant workers who took part in this study expressed concern regarding occupational accidents, ill health caused by exposure to chemicals and the availability of PPE. As the table below illustrates, our survey results revealed the general absence of employer supplied PPE. While almost eighty percent (78.8%[117]) of respondents had long rubber boots, less than half had (46.4%) a waterproof hat, and few (less than 30 %) reported using protective clothing, rubber gloves, masks, googles, or aprons. Eighty-two percent of migrant workers surveyed stated that they paid out of their own pocket for whatever protective equipment they used.

A migrant worker cuts palm oil fruits without wearing PPE in Phang Nga, Thailand (Photo: FED)

[117] Phase 2, n=222.

Table 13: Types of PPE

Types of PPE	Frequency (N = 222)	Percentage of Cases
1. Waterproof hat	103	46.4%
2. Protective Clothing	63	28.4%
3. Long Rubber Boots	175	78.8%
4. Rubber gloves	44	19.8%
5. Respirator mask	9	4.1%
6. Cloth mask	62	27.9%
7. Goggles	17	7.7%
8. Chemical Resistant Apron	5	2.3%
9. Others: plastic bag, normal gloves, normal mask, socks	4	1.8%

Table 14: Provider of PPE

PPE Provider	Frequency (N = 222)	Percentage (%)
Employer	34	15.3
Employer, but I have to pay for it	11	5.0
Myself	170	76.6
NGOs	6	2.7

MMN partners all acknowledged that many agricultural migrant workers were using pesticides and fertilisers without proper safety training, and the PPE used by migrant workers was generally inadequate and insufficient to protect them. For instance, migrants wore hats that were not waterproof and did not use gloves and masks when necessary. During the course of the fieldwork, MAP Foundation witnessed migrants using pesticides and then not washing their hands. Some even ate lunch without cleaning away the toxic chemicals. Furthermore, unless they received the assistance of an NGO to purchase equipment, migrant workers were expected by employers to purchase PPE and learn how to use it on their own. A former rubber plantation owner explained in an interview that he never provided his workers equipment of any kind, believing it was essentially the workers' responsibility to find the means to do the work and complete given tasks safely.[118]

Consistent with the above findings, FGDs and IIIs conducted by MMN revealed an alarming trend across different plantations of workers insufficiently supplied with PPE.

> **"I don't use a mask against dust particles because I don't have one. I use a scarf or a t-shirt instead".[119]**

> **"Because employers do not provide any PPE, we try to use things we already have, such as long sleeves shirt, boots, gloves, cloth to cover our mouths and noses".[120]**

[118] Interview with rubber plantation owner, conducted in Rayong, Thailand on 25 January 2019.

[119] Interview with male migrant worker from Myanmar, conducted in Mae Sot, Thailand in July 2019.

[120] Mixed gender FGD conducted in Mae Sot, Thailand in July 2019.

"One thing I don't normally use is safety goggles. Because I don't use goggles, sometimes when I clear the grass, I am injured by flying pebbles".[121]

As the quotes below illustrate, MMN came across numerous cases where migrants acknowledged the importance of having sufficient and better-quality PPE to protect themselves from agricultural workplace hazards. However, financial constraints and a lack of access to necessary equipment were oft-cited reasons why migrants continue to work in the fields under-protected

Migrant agricultural workers eat lunch without washing their hands after spraying pesticides (Photo: MAP Foundation)

"I know I need boots and other protective equipment to protect myself from sharp objects and poisonous animals, but I don't have any. The employer doesn't buy them so I use flip flops".[122]

[121] Interview with male migrant returnee from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

[122] Interview with male migrant worker from Myanmar, conducted in Mae Sot, Thailand in July 2019.

"I know that working in the agriculture sector requires protective equipment, but I don't use it because I don't have it, and it is not easy to buy it. I know I need to use masks, socks and gloves. I only used boots because I was scared of snakes and other poisonous animals. I had to pay for everything myself. My employer did not pay for anything".[123]

"When clearing grass, I knew we had to use safety goggles, but I did not have them. So I just did it without them. The only thing I had was boots".[124]

"I knew what protection equipment I should use when spraying crops, but I ended up not buying any. I knew that I needed masks, socks, gloves, goggles, and boots when cutting grass. The plantation owner did not buy anything for us. I did not know where to buy it even though I had to buy my own".[125]

"The protective equipment we have is insufficient. Even though we wear gloves, after spraying for several hours, it [the pesticide] seeps into our hands. I think long gloves offer better protection. We also need long-sleeved clothes and rain coats to protect our body. There is a kind of mask that looks similar to a plastic cup, and it has openings for breathing. The employers need to pay for [the equipment] and provide it to us workers"[126]

"Our equipment is inadequate, because the masks we use only work for a short time and the cloth (used as a mask) is too thin, so we still inhale the smell of pesticides. We need a thicker mask made of plastic".[127]

Insufficient and inadequate PPE exposes migrants to workplace hazards and increases their risk of accident and injury. MMN's survey found that around one-third of workers interviewed reported suffering from an injury or accident on the job.[128] The UN's 2019 Migration Report cites multiple studies that show migrant agricultural workers frequently suffer from musculoskeletal disorders. In pesticide exposure tests conducted among agricultural workers in Thailand between 2012 and 2014, one third of tested workers presented with unsafe levels of pesticide exposure.[129]

The chart below draws from the transcripts of MMN's FGDs and IIIs in detailing different types of workplace hazards across plantations, their impact on migrants' health, and examples of injuries and accidents.

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[123] Interview with male migrant returnee from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

[124] Interview with male migrant returnee from Myanmar, *ibid.*

[125] Interview with male migrant returnee from Myanmar, *ibid.*

[126] Interview with female migrant worker from Myanmar, conducted in Mae Sot, Thailand on 14 August 2019.

[127] Interview with male migrant worker from Myanmar, conducted in Mae Sot, Thailand in July 2019.

[128] n=105.

[129] *See* UN, "Thailand Migration Report 2019," p. 71 at n 7 above, *citing* Thetkathuek, et al, "2017 Pesticide Exposure and Cholinesterase Levels in Migrant Farm Workers in Thailand, *Journal of Agromedicine*, 22(2): 118–130.

A migrant worker sprays pesticides on a plantation (Photo: MMN/ John Hulme)

Table 15: Examples of Workplace Hazards

Workplace Hazard	Impact on Health	Migrants' Description of Injuries and Accidents
Chemicals – include pesticides/weed killers, herbicides, fertilisers and, acids used to bleach rubber. Lack of training on how to mix or handle chemicals	Contact to skin - chemical burns, rashes, blisters, lesions Inhalation – trouble breathing, coughing, dizziness, nausea, vomiting, chest pains, headaches, muscle pains & body aches, fever, loss of appetite, nose bleeding, sneezing, high heart beat rate, low blood pressure	"Recently, after mixing the pesticide with another chemical and water, a very strong odour was produced. It burnt my eyes and nose, I felt dizzy and vomited. After a while my chest hurt. I felt dizzy and I had no strength. At the end of the day, I was still tired and dizzy and my chest still hurts."[130] "In April 2019, after using herbicide, I washed my hands with unclean water. The employer does not provide clean drinking water. At night I had a belly ache."[131] "I sprayed weed killer without any protective equipment. It was windy and chemicals got into my eyes. My eyes turned red and I had to go to the hospital. It also happened to my friends. Some even had nose bleeds. The clinic could not wash my eyes properly. But at the hospital, the nurse washed my eyes and applied eye drops. My eyes would have been badly injured if I did not get proper treatment."[132]

[130] Interview with male migrant worker from Myanmar, conducted in Mae Sot, Thailand in July 2019.

[131] Interview with male migrant worker from Myanmar, *ibid*.

[132] Interview with male migrant returnee from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

Workplace Hazard	Impact on Health	Migrants' Description of Injuries and Accidents
Lack of training as to handwashing practice, or forced to wash hands in unclean water (employer does not supply clean water). Ingestions – stomach aches, vomiting, diarrhoea.	Eyes – burning eyes, blurry vision, blinded Fatigue/Exhaustion	"I felt dizzy when I used weed killer. It happened to me several times, but my eyes were affected only once. After the incident, I used goggles and masks, and it did not happen that often anymore. But I felt dizzy quite often, because of the effects of chemicals."[133] "Once I was spraying weed killer from a backpack and it had a hole and burnt my skin. I went to a traditional medicine clinic. It cost me around THB 400. The employer paid for the treatment. I was out of work for 20 days and did not receive any compensation."[134] "I burned my skin while mixing chemicals. The employer took me to the clinic and paid the medical expenses; it was not much. I was out of work for a week and did not receive any compensation."[135] "I sprayed pesticide in the past. One time my eye turned blue and I fell unconscious. My employer took me to hospital but I do not remember anything during the car ride. When I regained my consciousness, I was at the hospital. I took five days rest afterwards".[136] "Once, after I used herbicide my skin started peeling due to an allergic reaction. I had to take one month off on sick leave.[137]
Machinery: Rubber and Corn grinding machines Grass cutters Tractors Trucks	The noise made by the machinery is very loud. It can injure hands and the particles produced can be inhaled. Grass, pebbles and particles flying into eyes.	

[133] Interview with male migrant returnee from Myanmar, *ibid*.

[134] Interview with male migrant returnee from Myanmar, conducted in Bago, Myanmar on 3 August, 2019.

[135] Interview with male migrant returnee from Myanmar, *ibid*.

[136] Interview with female migrant worker, conducted in Mae Sot, Thailand on 14 August, 2019.

[137] Interview with male migrant worker, conducted in Surat Thani, Thailand on 31 July, 2019.

Workplace Hazard	Impact on Health	Migrants' Description of Injuries and Accidents
	Crushed feet due to reversing tractors Migrant workers often fell off the truck while loading and injured their legs or arms.	
Tools: Handling Sharp Instruments– electric saws, palm oil fruit cutter, machetes, rubber tapping knife, hoe, sickle	Cuts, Wounds, Gashes	"My hand was cut by the electric saw when I was cutting trees. I lost the joint on one of my fingers and the other fingers were also injured. My employer saw it happen but he was not concerned and said it was a small matter which would heal with a bit of medicine. But because there was a lot of bleeding, my colleagues brought me to Mae Sot Hospital. The hospital treatment cost THB 21,500. The employer was asked to pay but he did not come and never came to visit me in hospital. I was connected to MAP foundation, who helped me get discharged from the hospital and file a claim for workmen's compensation at the social security office. During a negotiation with the employer, he agreed to pay the hospital costs and a compensation of THB 10, 000 and THB 6,000 in lost wages. In reality I should get more than this. The injury healed quickly but I lost my finger, which is a permanent disability and I can't work as well as before."[138] "There were many accidents with the blade of the palm oil fruit cutter, once a worker's stomach was cut open and their intestines came out."[139] "I badly cut my fingers while I was cutting the cassava".[140] "I accidentally cut my foot with a big knife while I am working."[141]

[138] Interview with male migrant worker conducted in Mae Sot, Thailand on July 2019.

[139] Interview with female migrant returnee from Myanmar, conducted in Mawlamyine, Myanmar on 18 July 2019.

[140] Interview with female migrant returnee from Cambodia, conducted in Kampong Thom, Cambodia on 17 Aug 2019.

[141] Interview with female migrant returnee from Cambodia, *ibid*.

Workplace Hazard	Impact on Health	Migrants' Description of Injuries and Accidents
		"While cutting cassava, my leg and hands have been injured about two or three times. When I work on the farm, I once accidentally stepped on the cassava stems which caused scarring. Accidents also happen when cutting the grass or bushes. When injured, I usually seek treatment from local medics. The employers did not pay compensation".[142] "There are risks when cutting branches of palm oil as it is easy to be pricked by thorns."[143] "Three months ago, I was injured when I carried the palm oil onto a truck; I was stabbed by a sharp iron tool. I did not go to the hospital or clinic and I had to buy medicine with my own money. I suffered and had to rest for about three days. I did not receive any compensation from the insurance and my wages had been cut due to having to take time off." [144] "I work as a palm cutter and was injured on the job. My foot was stabbed with a palm shovel because I wasn't wearing boots. My tendon ruptured so I needed to receive treatment at the hospital. I was treated in hospital for three days and had to recuperate for 20 days at home. The treatment cost THB 5,000, and I paid for it myself."[145]
Prolonged periods outdoors under sunshine, heat and rain. Unclean water supply	Dehydration, dizziness, headaches, pneumonia, other illness/virus working in the rain, had stomach aches and problems from unclean drinking water,	

[142] Interview with female migrant worker from Myanmar conducted in Mae Sot, Thailand on 15 August 2019.

[143] Interview with male migrant worker conduced in Phang Nga, Thailand on 20 August 2019.

[144] Interview with male migrant worker conduced in Phang Nga, Thailand, *ibid*.

[145] Interview with male migrant worker conduced in Surat Thani, Thailand on 31 July, 2019.

Workplace Hazard	Impact on Health	Migrants' Description of Injuries and Accidents
Hard physical labour	Backaches, muscle and joint pains	"I had a spinal cord injury from carrying heavy sacks, some bags are as heavy as 60 kilograms. The pain is worse in rainy season".[146] "When I work hard, my body is in pain. I used to get sick, especially when holding the branches of palm oil. When I carry the palm oil branches onto the truck, I suffer from pain and sometimes got fever."[147]
Dangerous ground	No or inadequate foot protection, step on nails, glass, blisters from direct contact with mud or poor boots, Falling branches, and thorns Bites by dangerous and poisonous animals – snakes, centipedes, etc. Mosquitoes - Dengue haemorrhagic fever, Chikungunya, Malaria	"In mid July 2019, I stepped on a nail and it went through my foot. I used herbs to treat the wound, ginger and tamarind grinded together and then applied a bandage. I stayed home from work for three days".[148] "When I lift palm fruit, some thorns can stab me. I was injured by a thorn on my leg. I did not work for three days after I was injured, and I did not receive any wages".[149] "When holding bunches of palm oil fruit, I have difficulty breathing. Once I got sick and it took about 10 days to recover. While cutting down palm oil fruits, I was also stabbed by thorns and was in pain for three to four days and could not work".[150] "I was bitten by a big centipede and could not work for a month and a half. Often, other migrant workers are also bitten by snakes or centipedes and are seriously hurt. I did not receive compensation but my employer helped with a share of my medical expense[s]".[151]

[146] Interview with male migrant returnee conducted in Bago, Myanmar on 3 August 2019.

[147] Interview with male migrant worker conducted in Phang Nga, Thailand on 20 August 2019.

[148] Interview with female migrant worker conducted in Mae Sot, Thailand on 14 August 2019.

[149] Interview with female migrant worker conducted in Phang Nga, Thailand on 20 August 2019.

[150] Interview with male migrant worker conducted in Phang Nga, Thailand on 20 August 2019.

[151] Interview with female migrant returnee from Cambodia, conducted in Kampong Thom, Cambodia on 17 Aug 2019.

Housing Conditions, Isolation & Security Concerns

Eighty-three percent of respondents lived in accommodation provided by their employers free of charge. However, migrants during FGDs and all of MMN project partners as well as other CSOs explained that migrant workers must pay for their use of electricity and water, which costs up to THB 600 (USD 19.90) a month. Several project partners observed that while some employers provided land for migrants to build their own homes on, these structures were of very low quality. A CSO noted that the houses were not sturdy, and the bathrooms were insecure and unsafe for women and children.[152] CSOs generally expressed concern over the health and sanitation conditions in migrant housing and the sources of water used, noting that the poor toilet system and hygiene caused frequent cases of diarrhoea.[153]

A house built by migrant workers in Mae Sot, Thailand (Photo: FED)

Furthermore, migrant workers are often both living and working in extremely remote areas, which creates risks to their physical security and affects access to health, daily necessities, and NGO services (as noted in other sections). MAP Foundation noted that migrant workers who lived in very inaccessible locations in Tak province could not go to town to purchase food and must grow their own vegetables

[152] Interview with representative from AWO conducted on 16 May 2019 in Mae Sot, Thailand.

[153] *Ibid.*

in order to eat. Another CSO explained that migrants who performed dangerous work far from clinics and hospitals worried for their lives,[154] and also risked getting deported should they need to seek help.

Isolated workers were also concerned about becoming victims of robbery and physical abuse.[155] In 2016, MMN partner, FED assisted Myanmar agricultural migrant workers who were attacked at night by unknown assailants while working on a rubber plantation in Hat Yai district. The woman was allegedly raped and husband tortured.[156] Raks Thai noted that rubber plantation workers who worked through the night in remote areas and who were far away from friends and assistance used their phones to teleconference and monitor each other. One CSO noted that in some farms or plantations, even though migrants witnessed threats, killings, and rapes in the workplace, they were afraid to report it as they did not feel comfortable approaching their employer to address these issues.[157] During interviews, migrants explained that travelling outside of a very limited living and working area could be risky, especially for undocumented migrants. Just to go to the local market often involved paying bribes to various people, whether it be local authorities or mafia youth.[158]

During FGDs and IIIs, migrant women, in particular, highlighted their vulnerabilities to dangers living in isolated communities:

> **"Our lives are not safe. It is worse for women. There are rape cases that happen even when husbands or family members are around. We have to take care of our own safety. We just lock ourselves in our rooms and stay quiet when men are not [at home]".[159]**

> **"There are gangs of Thai youth in the community who like to gather at night, which makes migrant women scared to go out".[160]**

Problems with the Local Authorities

While instances of migrants encountering problems with the local authorities are not specific to workers in the agriculture sector, migrants in different plantations related experiences of being penalised even though they possessed the necessary documents required to work in Thailand. One migrant in Surat Thani claimed that the police accused her of being in possession of an expired identification card and passport, even when the documents were still valid. She claimed that police officers took advantage of the fact that she cannot speak Thai.[161] Similarly, another migrant expressed the following during a FGD:

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154 Interview with representative from Migrant Workers Rights Network, conducted in Yangon, Myanmar on 22 May 2019.

155 Interview with Field Migrant Officer of Foundation for AIDS Rights, conducted in Rayong, Thailand on 24 January 2019.

156 See Foundation for Education & Development, "Myanmar migrant workers tortured and raped by unknown assailants at Thai rubber plantation," 2016, available at: http://ghre.org/en/2016/11/03/myanmar-migrant-workers-tortured-and-raped-by-unknown-assailants-in-thai-rubber-plantation/.

157 Interviews with representatives from Ananda Myitta Welfare, conducted in Phang Nga, Thailand on 22 March 2019.

158 Interview with male migrant head of family, Mae Sot, Thailand, conducted on 15 May 2019; Interview with representatives of Ananda Myitta Welfare, *ibid*.

159 FGD with migrant women returnees conducted in Mawlamyine, Myanmar on 18 July 2019.

160 Interview with female migrant worker in Mae Sot, Thailand on 14 August 2019.

161 FGD with female migrant workers, conducted on 31 July 2019 in Surat Thani, Thailand.

"I feel worried about living in Thailand and I am afraid the police will catch me. Even though I have legal documents, they [police officers] take advantage of us [migrants] not knowing the Thai language. If they say my document has expired and ask me to pay a fine, I will have to surrender and pay."[162]

Access to Healthcare

Currently there are two official health insurance schemes under which migrants can access health services: (1) The Compulsory Migrant Health Insurance (CMHI), is managed by the Ministry of Public Health (MOPH), which migrants are required to purchase during the registration processes in Thailand.[163] During previous migrant registration windows (since 2014) migrant workers were obliged to purchase a health insurance card for THB 3,200 (USD 106) for two-year's coverage and then would pay an additional co-payment of THB 30 (USD 1) per visit to a facility for services.[164] (2) The Social Security Scheme (SSS), which is open for migrants, is limited to those who have regularised their status through completing the NV process or who have migrated as "MOU workers," but is not available to migrant workers holding Section 64 Border Passes. The SSS is technically mandatory for all persons designated as private employees defined and fully covered by the Labour Protection Act (LPA),[165] but as explained in the Legal Analysis chapter that follows, does not include agricultural migrant workers who do not work for the "whole year". The Scheme includes health-care insurance benefits in cases of injury or disease,[166] as well as other benefits for maternity leave, old-age pensions, etc. As of March 2019, agricultural workers who work for employers should be eligible to receive compensation from the Workmen's Compensation (WCF) for injuries or diseases from the workplace, however, for healthcare coverage for treatment or rehabilitation, the employer is meant to front the costs and seek reimbursement from the government-administered fund to which they contribute. For further details see discussion in the legal analysis chapter below.

Sixty-one percent of respondents in the MMN study stated they were covered by CMHI while only 6% were covered by the SSS, and one in four (28%) were without any coverage.[167] Forty-seven percent of migrant respondents stated that their children were not covered by any health insurance in Thailand.

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[162] FGD with male migrant agricultural workers from Myanmar, conducted in Surat Thani, Thailand on 31 July 2019.

[163] "These registered migrants were, in principle, obliged to buy the yearly health insurance, 'Health Insurance Card Scheme' (HICS), of the MOPH." Quoting from Nareerut Pudpong et al, "Assessment of a Voluntary Non-Profit Health Insurance Scheme for Migrants along the Thai–Myanmar Border: A Case Study of the Migrant Fund in Thailand," International Journal of Environmental Research and Public Health, 19 July 2019, p. 6.

[164] *Ibid.*

[165] Labour Protection Act B.E. 2541 (2008)

[166] If establish three months of contribution within last 15 months, medical care is free of charge at registered hospitals (there are approximately 242 registered hospitals in Thailand) and includes prescribed medicines. Cash benefits can include 50% of wages, 90 days each time, with maximum of 180 days per year and maximum of 365 days for chronic cases.

[167] n=323.

Table 16: Healthcare/ Social Security Coverage of Respondents

Health Care/Social Security Coverage	Respondent (N = 323)		Spouse (N = 253)		Children (N = 149)		Parents (N =38)		Siblings (N= 37)	
	N	%	N	%	N	%	N	%	N	%
Migrant workers health insurance (CMHI)	199	61	169	67	59	39.6	20	52.6	22	59.5
Social Security Scheme (SSS)	19	6	17	7	9	6	17	44.7	14	37.8
Not covered by any insurance	90	28	56	22	70	47	1	2.6	1	2.7
CMHI & SSS	12	4	10	4	5	3.4	0	0	0	0
Other: employer covers, 10 years card	3	1	1	0.4	6	4	0	0	0	0

The most frequented health care facilities that respondents chose to attend when sick were: pharmacy stores (42.4%), clinics (42.1%), and public hospitals (41.2%). Of respondents who stated they were injured while working in Thailand, almost 40% said they simply sought treatment at a pharmacy, and 26.5% used self-treatment through herbal medicine.

Table 17: Healthcare Facilities Migrants Chose to Attend

Health care facilities	Frequency (N = 328)	Percentage of Cases
1. Self-treatment through herbal medicine	35	10.7%
2. Pharmacy store	139	42.4%
3. Clinic	138	42.1%
4. Traditional healer	7	2.1%
5. Public hospital	135	41.2%
6. Private hospital	17	5.2%

MMN partners and CSOs explained that migrant workers are reluctant to go to a hospital because it is far from the workplace, and arranging travel is difficult and can be expensive. They also fear being arrested on the way, and the waiting time at public hospitals is very long.[168] Other CSOs interviewed also pointed out that migrant workers' dependence on employers to assist them in accessing health care and the language barrier at hospitals also served as a deterrent from seeking treatment.[169] Moreover, there was a general sentiment that migrants feel a pressure to prioritise their income over ensuring their own health and well-being. These problems are consistent with MMN's finding in its 2015 report on Self-Care and Health Care regarding migrant women in the GMS, which found that the major barriers to access a formal health care provider were documentation (fear of arrest, detention and deportation), isolation, language barriers, bureaucracy, time, cost, discrimination, and workplace policies.[170]

[168] Interview with representative of AWO conducted in Mae Sot, Thailand on 16 May 2019; Interview with representative of Youth Initiative Human Rights YIHR Program, conducted in Yangon, Myanmar on 21 January 2019.

[169] Interview with representative of the All Arakan National Labor Union, conducted in Mae Sot, Thailand on 29 April 2019.

[170] MMN, "Self-Care & Health Care: How Migrant Women in the Greater Mekong Subregion Take Care of their Health" 2015, available at http://www.mekongmigration.org/?page_id=3324.

As the quotes below illustrate, migrants who participated in MMN's FGDs often described how their employers would try to evade their responsibilities for paying for their healthcare and supporting access to other forms of social protection:

> **"Our employers did not pay for any health services for us workers. When they brought workers to a hospital or a clinic, they told migrant workers not to say they had an employer, so that the hospital would charge less. And for any sick leave or days-off we took, we did not receive any payment from employers".[171]**

> **"Our employers in the agricultural sector don't register migrant workers, and therefore we cannot buy the migrant health insurance. If workers get sick or hurt at work, they have to take care of themselves. If they have money, they can buy medicine. But if they don't have money, they use herbal medicines or wait for [sicknesses/injuries] to heal on their own".[172]**

> **"When I got pregnant, the employer did not provide anything for me. He said it was too much trouble for us to give birth in Thailand and that he wanted us to go back home (to Myanmar). When we went to the hospital (in Thailand), we had to get his signature. We could not do anything when he didn't give us his signature. I am not very fluent in Thai as well so it was hard for me to communicate."[173]**

Migrant Families

Seventy percent of respondents stated that they migrated to Thailand with their family members.[174] While most responded that their family members included their spouse and children, 10% also mentioned migrating with parents and/or parents-in-laws, and nearly 30% mentioned coming with their or their spouses' brothers or sisters. A CSO explained that some migrants specifically choose agricultural work because of the ease in which they can bring and stay with their family in Thailand.[175] An MMN partner also noted that with low incomes, migrants may not earn enough to send meaningful remittances home and thus it is preferable to have family migrate together and to take care of them in Thailand.

Table 18: Family Members of Respondents

Family Members	Frequency (N = 208)	Percentage of Cases
1. Spouse	141	67.8%
2. Children/grandchildren	82	39.4%
3. Parents/parents in law	20	9.6%
4. Brother-sisters/brother sisters in law	59	28.4%
5. Uncle/aunties	4	1.9%
6. Cousins/nieces/nephew	7	3.4%
7. Relatives/friends	3	1.4%

[171] FGD with female migrant workers conducted in Mae Sot, Thailand on 15 August 2019.

[172] FGD with mixed group of migrant agricultural workers, conducted in Mae Sot, Thailand in July 2019.

[173] FGD with female migrant worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[174] n=323.

[175] Interview with representative of AWO conducted in Mae Sot, Thailand on 16 May 2019.

In one FGD, female migrant workers in Mae Sot explained that it is difficult to earn a living to support one's family and children's access to education in Myanmar. Struggling families often migrated to Thailand to seek better job opportunities, and many found it easiest to find jobs in agriculture, since they already have prior experience. However, even after spending many years in Thailand, their family's financial situation remained insecure, and returning to Myanmar was not often possible due to a lack of job opportunities.

Duties at Home

Migrant workers who lived with their families told MMN that women were predominantly responsible for household duties. Among some of the common household tasks are cleaning, taking care of children, shopping for ingredients, cooking, and washing clothes. While men were sometimes available to help, their involvement in household duties was generally limited. As one migrant worker remarked, "Women instinctively take care of the house. Men will sometimes help for a short period of time, maybe for a couple of hours, but women do most of it [household tasks] and it is never finished".[176]

A number of migrant women indicated to MMN that their involvement in household duties meant that their actual working hours spanned beyond the time they spent on plantations. Performing household tasks is a form of work that goes unrecognized and is uncompensated.

> **"We have to do most of the household work and it takes a long time to complete. We have to get up at around 4 am to perform household work. After we come back from work, we have to go on doing household work until 8 pm to 9 pm. We have to take care of our family members in terms of food and clothing. We spend around four hours per day doing household work".[177]**

> **"The husband and the wife usually go to work together. When they come home, the husband usually does not do anything, goes to an alcohol shop, and does not help with the housework. Only women do housework. In a few households, the men may help. If he helps, it may be for about two hours a day. For the wife, she will work about three to four hours per day".[178]**

[176] FGD with mixed group of migrant agricultural workers, conducted in Mae Sot, Thailand in July 2019.

[177] FGD with female migrant workers conducted in Mae Sot, Thailand on 15 August 2019.

[178] FGD with mixed group of migrant agricultural workers, conducted in Mae Sot, Thailand in July 2019.

Living space of a migrant worker on a rubber plantation in Surat Thani, Thailand (Photo: Raks Thai Foundation)

Migrant Children

Sixty-seven percent of respondents stated that they have children,[179] and 81.6% of those stated that their children lived with them while they were working in Thailand. When asked, a little less than half of these children were attending school (however, this was self-reported, and unclear what age range the migrants used when referring to "children"). Of those migrant children attending school, 55.6% of them were attending a public school, 35.2% a migrant learning centre, and 9.3% a private school. MMN partners noted that some children remained at home when parents worked, while others helped their parents in the fields, depending on their age, and very few of them were enrolled in Thai schools.

A 2014 report by World Education Report notes that it is generally difficult for migrant children to attend school in Thailand due to language barriers, family economics, the cost of education, and security concerns for undocumented students.[180] Representatives from a CSO interviewed in the course of the study explained that agricultural migrant workers do not always know the rights of their children and it is hard to do the necessary outreach to educate them.[181]

[179] n=227.

[180] World Education, "Pathways to a Better Future: a review of education for migrant children in Thailand," 2014, available at http://thailand.worlded.org/wp-content/uploads/2016/04/MESR-Policy-Brief.pdf.

[181] Interview with representatives of Ananda Myitta Welfare, conducted in Phang Nga, Thailand on 22 March 2019.

In Mae Sot, migrants revealed that children under the age of 12 are usually attending school. Between the ages of 12 and 15, some children begin to leave school to help their family on plantations. By the time they reach 15-17 years of age, most children have left school to work, take care of younger siblings while parents worked, or help with housework. Only migrant parents who were financially stable could afford to send their children to school at this age.[182]

In Surat Thani, migrant workers informed MMN that only a minority of children are sent to school, mainly because of the long distances between migrant communities and schools, and a lack of transportation to take students to school. Some parents who did not apply for documents (such as birth certificates from the District Office) for their children were also afraid of their children's safety or that schools would not accept undocumented children.[183] Situations where children do not go to school because of bad road networks were also brought up by migrant returnees in Myanmar. Instead, children work alongside their parents on plantations or in shops, but never separately from their parents. Many migrants were concerned that their children would encounter sexual harassment and abuse if left alone in the workplace.[184]

A migrant community on a palm oil plantation in Phang Nga, Thailand (Photo, FED)

Return and Reintegration

Sixty percent of respondents stated that the reason for returning to the country of origin was a desire to return to family and community.[185] Only 4% of respondents stated they received support upon return, which they described as either from employers or family members who accompanied them to the border or an NGO's assistance with vocational training and health-check-ups and/or referrals.

[182] FGDs conducted with both men and women migrants in Mae Sot, Thailand on 14 and 15 August 2019.

[183] FGDs conducted with both men and women migrants in Surat Thani, Thailand on 31 July 2019

[184] FGD with female migrant worker returnees, conducted in Mawlamyine, Myanmar on 18 July 2019.

[185] n=95 returnees

A CSO in Myanmar said that they provide short and long-term training in agricultural techniques and on making organic fertiliser.[186]

Upon return, 89% of respondent returnees[187] said that they were not able to enrol in the National Social Security Fund (NSSF) of Cambodia or Social Security Board Schemes (SSB) of Myanmar. Just over 3% had never heard of the schemes and only 7% stated they were enrolled in the schemes. Nine percent of respondent returnees from Myanmar had enrolled in SSB and 6% of respondent returnees from Cambodia had enrolled in NSSF.

Only 37% of respondent returnees have plans to re-migrate to work in Thailand or other countries,[188] and of these, 53% said they would re-migrate within a year or less. Among those who stated they plan to re-migrate, 53% plan to re-migrate to work in the agricultural sector, followed by construction sector (19%) and manufacturing/factory (17%). MMN partners in Myanmar note that while many migrants often stated they do not plan to re-migrate, they later learned that they had ended up returning to Thailand. MMN partners attribute this discrepancy between intention and reality to a fear to state intentions to re-migrate publicly if they plan to do so outside formal channels.

MMN partners also noted that many departing migrants have relevant experience working in agriculture before migrating to Thailand. For example, interviewed workers in Mon state stated they had been working on rubber plantations just across the border prior to migration. Some of these workers learned new skills and techniques in Thailand for tapping rubber, which they were then are able to transfer to Myanmar upon return.

Just over 17% of respondents described themselves as small-scale business owners upon return.[189] Around 19% reported working on rubber plantations in their country of origin and 34% identified as farmers. Eight percent said they were unemployed and the remaining stated they were performing other forms of daily-wage work. A CSO in Myanmar explained that returnees have mixed experiences, with some able to own their own plantations, while others return to work for an employer again. [190]

After their experience working in Thailand, the wages of 42% of respondent returnees from Cambodia were below the Cambodian minimum wage (approximately USD 182 per month in 2018),[191] while 34% of respondent returnees from Myanmar earned below the Myanmar minimum wage (approximately USD 83 per month in 2018).[192]

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[186] Interview with representative from Migrant Workers Rights Network, conducted in Yangon, Myanmar on 22 May 2019.

[187] n=94 returnees.

[188] n= 97 returnees.

[189] n=93 returnees.

[190] Interview with representative of Youth Initiative Human Rights YIHR Program, conducted in Yangon Myanmar on 21 January 2019.

[191] n=38 Cambodian returnees.

[192] n=38 Myanmar returnees.

CHAPTER FOUR:

LEGAL ANALYSIS

4.1 International Legal Standards

Thailand's record of ratifying key UN and ILO treaties provides an important indicator as to the government's willingness to protect the fundamental rights of migrant agricultural workers. As well as sending a strong signal to the international community, the ratification of relevant treaties creates a legitimate expectation that the Thai government will implement these international legal standards in the domestic sphere. The paragraphs below identify Thailand's international legal obligations as they apply to the situation of migrant agricultural workers and highlight the extent to which they are currently being respected through the comments of respective UN and ILO treaty bodies. They also highlight protection gaps by drawing attention to relevant treaties that Thailand is yet to ratify.

UN Human Rights Treaties

Thailand is party to seven of the nine major international human rights treaties.[193] Regrettably, this does not include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. As a consequence, the International Covenant on Economic, Social and Cultural Rights (ICESCR),[194] one of the two core UN conventions on international human rights, takes on added significance. While the subject matter of the ICESCR is wide ranging, it provides several protections pertinent to the situation of migrant agricultural workers. Notably, it safeguards the fundamental right to work under Article 6, and the "right of everyone to the enjoyment of just and favourable conditions of work" under Article 7.[195] The collective dimension to these rights' is also expounded in Article 8, which provides the right for everyone to form and join a trade union of their choosing and for trade unions to function freely.[196]

In reference to these rights, the UN Committee on Economic, Social and Cultural Rights (CESCR), the body that monitors the treaty's implementation, has held that "agricultural work must be properly regulated by national legislation so that... agricultural workers enjoy the same level of protection as other workers".[197] Moreover, that the Article 7 right to just and favourable working conditions applies

[193] Of the nine core UN human rights treaties, Thailand has signed but not acceded to the International Convention for the Protection of All Persons from Enforced Disappearances, and, more pertinently for the purpose of the current discussion, has neither signed nor acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. *See* UN Treaty Body Database, "Reporting Status for Thailand" available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=THA&Lang=EN.

[194] Thailand acceded to the ICESCR on 5 September 1999, *ibid*.

[195] ICESCR, art 7.

[196] ICESCR, art 8.

[197] *See* CESCR, "General Comment No. 18 on Right to Work", para 10, 6 February 2006, E/C.12/GC/18, available at: https://www.refworld.org/docid/4415453b4.html.

to "all workers in all settings", including "migrant workers…, agricultural workers, refugee workers and unpaid workers".[198] In the CESCR's Concluding Observations on Thailand's most recent periodic report,[199] the committee highlighted a number of areas where the Thai government has fallen short of meeting the international standards set by the ICESCR. In particular, it criticised the country's sizeable informal economy,[200] the inadequate minimum wage, the gender wage differential,[201] the prohibition on non-Thai nationals forming trade unions, and the large number of individuals who continue to work without legal and social protection.[202] Referring expressly to the treatment of migrant workers, the CESCR expressed concern at the consistent reports of abuse and exploitation, particularly of those in irregular situations. In so doing, it recommended "additional measures to ensure that all migrant workers, regardless of legal status are entitled to labour and social protection and can access justice for violations of their rights". Moreover, it encouraged the Thai government to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.[203]

Given the large number of migrant women employed in Thailand's agricultural sector,[204] and the gender wage differential identified in our study, it is also worth examining the various protections afforded within the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Thailand acceded to on 9 August 1985.[205] Article 2 of CEDAW sets out the general duty of states parties to pursue by all appropriate means a policy of eliminating discrimination against women. Article 11 provides that: "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment".[206] This *inter alia* includes: The right to equal remuneration;[207] the right to equality in the provision of social security;[208] and the "right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction".[209] Article 14 requires states parties to address the specific problems faced by rural women,[210] while Article 15 provides that states parties "shall accord to women equality with men

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198 *See* CESCR, "General Comment No. 23 on the Right to Just and Favourable Conditions of Work, para 5, 27 April 2016, available at: https://www.refworld.org/docid/5550a0b14.html.

199 *See* CESCR, "Concluding Observations on the Combined Initial and Second Periodic Reports of Thailand, 19 June 2015, E/C.12/THA/CO/1-2, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/THA/CO/1-2&Lang=En.

200 *Ibid*., para 19.

201 *Ibid*., para 22.

202 *Ibid*., para 19.

203 *Ibid*., para 21.

204 Figures from the Thai Ministry of Labour show that there were 186,148 migrant women formally employed in the agricultural sector as of 2018. *See* UN, "Thailand Migration Report 2019", p 61 at n 7 above. While this data does not reveal a pattern of female dominance in the sector, it does not take into account the fact that undocumented women migrants represent a significant number of workers on plantations, nor the fact that in Thailand women account for more than 50% of the total migrant population. *See* ASEAN, "Women Migrant Workers in the ASEAN Community", 2017, p 20, available at: https://asean.org/storage/2012/05/AEC-Women-migration-study.pdf.

205 CEDAW was adopted by the UN General Assembly on 18 December 1979 and came into force on 3 September 1981. *See*, UN Treaty Body Database, "Reporting Status for Thailand", at n 193 above.

206 CEDAW, art 11.

207 CEDAW, art 11(d).

208 CEDAW, art 11(e).

209 CEDAW, art 11(f).

210 CEDAW, art 14.

before the law".[211] The Committee on the Elimination of Discrimination against Women (CEDAW Committee) have affirmed that these and the other rights apply equally to migrant women. In so doing, the CEDAW Committee has promulgated a set of General Recommendation to contribute to the fulfilment of the obligations of states parties to respect, protect and fulfil the human rights of women migrant workers.[212] These recommendations are particularly relevant to women migrant agricultural workers in Thailand and are set out in abridged form on the next page.[213]

The CEDAW Committee's Concluding Observations on Thailand's most recent periodic report,[214] admonished the Thai government for various reasons pertinent to the situation of migrant women in agriculture. These include: "The high concentration of women in the informal sector… who continue to be excluded from labour and social security protections, such as minimum wage protection, overtime compensation and maternity leave",[215] and the "situation of women migrant workers who are vulnerable to abuse and exploitation, in particular those who are undocumented".[216] The CEDAW Committee, *inter alia*, recommended that Thailand: "Ensure that the rights of women in the informal employment sector are effectively protected, including by ensuring adequate coverage of labour and social security protections;[217] Strengthen efforts to protect migrant women workers from abusive and exploitative conditions, including by prosecuting and punishing those responsible, ensuring access to health-care and essential services without fear of arrest or deportation, and providing effective channels for seeking protection and redress for violations of their rights",[218] and consider ratifying the two core ILO conventions that it is yet to ratify, namely the Convention on the Freedom of Association and Protection of the Right to Organise 1948 (No. 87), and the Convention on the Right to Organise and Collective Bargaining 1949 (No. 98).[219]

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211 CEDAW, art 15.

212 Committee on the Elimination of Discrimination against Women, "General Recommendation No. 26 on Women Migrant Workers", para 2, 5 December 2008, available at: https://www2.ohchr.org/english/bodies/cedaw/docs/GR_26_on_women_migrant_workers_en.pdf.

213 Box article text abridged from "General Recommendation No. 26 on Women Migrant Workers", para 26, *ibid*.

214 Committee on the Elimination of Discrimination against Women, "Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Thailand", 24 July 2017, available at: https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/THA/CO/6-7&Lang=En.

215 *Ibid*., para 36(a).

216 *Ibid*., para 36(d).

217 *Ibid*., para 37(b).

218 *Ibid*., para 37(e).

219 *Ibid*., para 37(f).

Box Article 2: Recommendations of the CEDAW Committee on Women Migrant Workers

States parties in countries where migrant women work should take all appropriate measures to ensure non-discrimination and the equal rights of women migrant workers. Measures required may include:

(a) Lifting of discriminatory bans or restrictions on immigration;
(b) Legal protection for the rights of women migrant workers;
(c) Access to remedies: States parties should ensure that women migrant workers have the ability to access remedies when their rights are violated;
(d) Legal protection for the freedom of movement: States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to women migrants;
(e) Non-discriminatory family reunification schemes: States parties should ensure that family reunification schemes for migrant workers are not directly or indirectly discriminatory on the basis of sex;
(f) Non-discriminatory residency regulations: when residency permits of women migrant workers are premised on the sponsorship of an employer or spouse, States parties should enact provisions relating to independent residency status;
(g) Training and awareness-raising: States parties should provide mandatory awareness-raising programmes concerning the rights of migrant women workers and gender sensitivity training for relevant public and private recruitment agencies and employers and relevant State employees;
(h) Monitoring systems: States parties should adopt regulations and design monitoring systems to ensure that recruiting agents and employers respect the rights of all women migrant workers. States parties should closely monitor recruiting agencies and prosecute them for acts of violence, coercion, deception or exploitation;
(i) Access to services: States parties should ensure that linguistically and culturally appropriate gender-sensitive services for women migrant workers are available;
(j) The rights of women migrant workers in detention, whether they are documented or undocumented: States parties should ensure that women migrant workers who are in detention do not suffer discrimination or gender-based violence, and that pregnant and breastfeeding mothers as well as women in ill health have access to appropriate services;
(k) Social inclusion of women migrant workers: States parties should adopt policies and programmes with the aim of enabling women migrant workers to integrate into the new society;
(l) Protection of undocumented women migrant workers: the situation of undocumented women needs specific attention. Regardless of the lack of immigration status of undocumented women migrant workers, States parties have an obligation to protect their basic human rights. Undocumented women migrant workers must have access to legal remedies and justice in cases of risk to life and of cruel and degrading treatment, or if they are coerced into forced labour, face deprivation of fulfilment of basic needs, including in times of health emergencies or pregnancy and maternity, or if they are abused physically or sexually by employers or others. If they are arrested or detained, the States parties must ensure that undocumented women migrant workers receive humane treatment and have access to due process of the law, including through free legal aid. If deportation cannot be avoided, States parties need to treat each case individually, with due consideration to the gender-related circumstances and risks of human rights violations in the country of origin.

Relevant ILO Conventions

As alluded to above, Thailand is yet to ratify two of the ILO's eight fundamental conventions.[220] Thailand has actively ratified the Forced Labour Convention, 1930 (No. 29); the Abolition of Forced Labour Convention, 1957 (No. 105); the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111); the Minimum Age Convention, 1973 (No. 138); and the Worst Forms of Child Labour Convention, 1999 (No. 182).[221] However, it has yet to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The Governing Body of the ILO regards the eight core conventions "as fundamental to the rights of human beings at work, irrespective of the level of development of individual member States".[222] This is reflected in the ILO Declaration on Fundamental Principles and Rights at Work, adopted in 1998, which applies to *all* states belonging to the ILO. Notwithstanding this declaration, Thailand is only subject to ILO reporting procedures regarding the conventions that it has ratified.[223] Furthermore, it should be noted for the purpose of this discussion that treaty protections apply to *all* persons, thus migrant agricultural workers, regardless of their immigration status, are entitled to the same fundamental labour standards as other workers.[224]

Outside the core conventions, Thailand has ratified one of the ILO's four governance conventions, namely the Employment Policy Convention 1964 (No. 122), and 12 of the 178 technical conventions. These include: the Weekly Rest (Industry) Convention, 1921 (No. 14);[225] the Maximum Weight Convention, 1967 (No. 127); and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); and the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19).[226]

In 2017, the supervisory body for the Equality of Treatment (Accident Compensation) Convention, issued a repetition, reminding the Thai government that undocumented migrant workers, including seasonal workers and workers in agriculture and fisheries are entitled to equal treatment with national workers with regards to benefits from the SSS in the event of employment accidents.[227]

Of the ILO's wide-ranging technical conventions that Thailand has yet to ratify, several relate specifically to agricultural workers, notably the Safety and Health in Agriculture Convention, 2001 (No.184) and its accompanying Recommendation (No. 192); the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and the Plantations Convention, 1958 (No. 110). These instruments provide agricultural workers, irrespective of whether they are permanent, temporary or seasonal

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220 *See* ILO webpage, "Ratifications for Thailand", available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102843.

221 *Ibid*.

222 *See* ILO, "The International Labour Organization's Fundamental Conventions", 2003, p. 7, available at: https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_095895.pdf.

223 *See* ILO Convention, Art 22.

224 For discussion, *see* Vincent Chetail, "International Migration Law", Oxford University Press: 2019, p. 215.

225 Given the scale of Thailand's agro-industry, the Weekly Rest (Industry) Convention, 1921 (No. 14) may apply given that under art 1 it is for each member state to define the line of division which separates industry from commerce and agriculture.

226 For a full list *see* ILO webpage, "Ratifications for Thailand", at n 220 above.

227 ILO, Observation (CEACR) - adopted 2016, published 106th ILC session 2017, available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3293373:NO.

workers, the same rights and protections afforded to workers in other sectors of employment. Moreover, the Plantations Convention provides a series of protections regarding the engagement and recruitment of migrant workers;[228] contracts of employment and abolition of penal sanctions;[229] wages;[230] annual holidays with pay;[231] weekly rest;[232] maternity protection;[233] workmen's compensation;[234] right to organise and collective bargaining;[235] freedom of association;[236] labour inspection;[237] housing;[238] and medical care[239]. These are all matters of concern for the migrant plantation workers that featured in this study.

As the above overview illustrates, Thailand has not ratified key UN human rights treaties and ILO conventions relevant to the protection of migrant agricultural workers. Moreover, of the international instruments that it has ratified, the relevant treaty bodies have been critical of the Thai government in terms of how it safeguards migrant agricultural workers from abuse and exploitation, and their lack of access to labour and social protections. For a better understanding of these issues, the following section examines the way Thailand's international treaty obligations have been incorporated into domestic law, and assesses the extent to which Thai labour legislation currently protects migrant agricultural workers.

4.2 Labour Protection Act

In order to understand some of the above criticism it is necessary to delve into Thai domestic law governing the treatment of migrant agricultural workers. Agricultural workers in Thailand, both migrants and Thai nationals, are only partially protected under domestic Thai labour law. This has come about in two main ways. First, because the LPA[240] allows the Ministry of Labour to prescribe different labour regulations to agricultural workers; and second, because Thai courts often interpret the definition of "employee" within the LPA narrowly, allowing agricultural workers to be treated as either self-employed, viewed as "contract labour," or classified as some other form of nonstandard worker, such as an independent contractor, piece worker, or informal worker.

[228] *See* ILO Plantations Convention, 1958 (No. 110), arts 5-19.

[229] *Ibid*., arts 20-23.

[230] *Ibid*., arts 24-35.

[231] *Ibid*., arts 36-42.

[232] *Ibid*., arts 43-45.

[233] *Ibid*., arts 46-50.

[234] *Ibid*., arts 51-53.

[235] *Ibid*., arts 54-61.

[236] *Ibid*., arts 62-70.

[237] *Ibid*., arts 71-84.

[238] *Ibid*., arts 85-88.

[239] *Ibid*., arts 89-91.

[240] The Labour Protection Act B.E. 2541 (1998).

The first method of exclusion is pursuant to a specific carve out built into the LPA, when it was enacted in 1998. Section 22 states that *"Agriculture*, sea fishing, loading or unloading marine cargoes, home work and other work as provided in the Royal Decree may be prescribed in the Ministerial Regulations for the protection of labour different from the protection under this Act".[241] In 1998, according to Ministerial Regulation No. 9, the LPA did not apply to employees who perform agricultural work and they were wholly excluded from any protection or regulation. However, in 2004, the Ministerial Regulation Concerning Labour Protection of Employees in Agricultural Work B.E. 2547 repealed the earlier regulation and afforded the first set of benefits to agricultural workers. This regulation was subsequently amended in 2014, and now the Ministerial Regulation Concerning Labour Protection of Employee in Agriculture Work, B.E. 2557 governs the labour rights of agricultural workers in Thailand.

According to the regulation, agricultural workers who are employed for the whole year receive the full protection of the LPA.[242] The 2014 regulations define **"**agricultural work" as "works related to plantation, animal husbandry, forestry, salt-field, and fishing other than sea fishing".[243] Employees engaged in agricultural work, who are not employed for the whole year only have select rights protection under the LPA, as set out in the table below.[244]

Table 19: Labour Protections for Agricultural Workers Not Employed for the Whole Year and Unregulated Matters

Labour Protections for Agricultural Workers Not Employed for the Whole Year	**Unregulated Matters**
• Prohibition on employing child labour (below 15 years old) and protections for young workers; • Prohibition on Unlawful Deductions; • Employer must reimburse employment-related expenses; • Up to 15 days paid sick leave;[245] • After 180 days continuous employment, employee is entitled to three days of paid leave;[246] • Entitlement to job-protected maternity leave; • Pregnancy-based termination is illegal; • Entitled to light-duty accommodations for pregnancy; • Conditional "gender equality" as it exists under LPA for other workers; and • Sexual abuse and harassment prohibited.	• Working hours (no daily/weekly maximums); • No minimum wage guarantees; • No entitlement to overtime wages (on hourly basis); • No paid leave for public holidays, or any earned leave for worker with <180 days of employment; • No severance pay; and • No anti-retaliation provisions.

[241] *Ibid*., s 22, emphasis added.

[242] Ministerial Regulation Concerning Labour Protection of Employee in Agriculture Work, B.E. 2557 (2014), cl 3.

[243] *Ibid*., cl 2.

[244] *Ibid*., cl 4.

[245] Sick leave, is for "actual sickness" If more than three consecutive days, employer may require medical certificate. Sick leave is paid at regular rate.

[246] Dates must be agreed upon advance by mutual agreement between employer and employee. If employer required employees to work on a paid holiday, employer has to pay a day wage in addition.

As the above table illustrates, agricultural migrant workers who are not employed for the whole year do not enjoy key rights protections guaranteeing wages and leave, have no entitlement to minimum wage, to overtime, to paid leave for public holidays or time off unrelated to sickness and no severance pay. These comprise some of the most important base-level aspects of labour protection.

Clause 4 of the 2014 regulations refers to: "An employer in agricultural work who does not employ an employee for the whole year and does not require an employee to perform continuing industrial agriculture-related works shall comply with [relevant sections of LPA and other legislation]".[247] On its face, it appears that the regulation is intended to ensure that the time an agricultural worker is continuing to do work for an employer outside of harvest, still counts towards continuous employment. Sections 19 and 20 of the LPA which are applicable to agricultural workers under the regulations, are meant to ensure that when calculating the period of employment, any guaranteed holidays and leave are included and if an employer tries to intentionally deprive rights by forcing leave to interrupt the period, the time will be combined and added together.

A migrant worker arranges rubber sheets in a plantation in Surat Thani, Thailand (Photo: Raks Thai Foundation)

[247] Ministerial Regulation Concerning Labour Protection of Employee in Agriculture Work, B.E. 2557 (2014), cl 4.

In addition to select rights from the LPA, Clause 8 of the 2014 regulations states that, "an employer shall provide adequate hygienic drinking water, to an employee in case an employee lives with an employer, and an employer shall provide a clean hygienic and safe accommodation to an employee".[248] However, it is unclear how a worker would seek to enforce this provision, and whether a complaint could be made to the Department of Labour Protection and Social Welfare, Ministry of Labour, also known as Labour Protection Office (LPO).

Significantly, the 2014 amendment to the regulation ensures that agricultural workers are protected by Section 12 of LPA which allows joint-employer liability, meaning primary contractors are jointly liable for violations of the LPA along with subcontractors,[249] and a worker can hold either or both liable in actions for legal recourse. This is important tool for workers when there is a very long and complicated supply chain.

The second form of exclusion applies to those nonstandard workers who do not meet the definition of an "employee" under the LPA. The definition is seemingly broad, defining an "employee" as a person who agrees to work for an employer in return for wages regardless of name. However Thai law often relies on a distinction between "employment" and "contract labour" as defined under Sections 575 and 587 of the Civil and Commercial Code (No. 18), B.E. 2551 (2008):

> "Section 575. Employee
>
> A hire of services is a contract whereby a person, called the employee, agrees to render services to another person, called the employer, who agrees to pay remuneration for the duration of the services…
>
> Section 587. Contract Labor
>
> The hire of work is a contract whereby a person, called contractor, agrees to accomplish a definite work for another person, called employer, who agrees to pay him a remuneration of the result of the work".

Several Labour Court decisions prescribe a test for employment based on the following factors: 1) Does the employer have control over the worker; 2) Are there set hours of work; 3) Are there regular payments set; and (4) If the employee takes leave, does he/she need permission from the employer?[250]

There may be agricultural workers, who could be classified as "contract labour" as defined by the Civil and Commercial Code and fail to meet the definition of an employee and thus are not entitled to rights under the LPA. However, this requires factual analysis and depends on the working arrangements on the planation. Traditionally, small-scale farmers, tending to their own land, were considered part of the informal sector and many were neither employed nor had employees and are

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[248] *Ibid*., cl 8.

[249] The LPA, s 12, states that: "Where an employer is a subcontractor, all superior subcontractors, if any, and the primary contractor shall be jointly liable with the subcontractor who is the employer for the purposes of payment of basic pay, overtime pay, holiday pay, holiday overtime pay, severance pay, special severance pay, employee and employer contributions, or additional payments. The primary contractor or the subcontractors referred to in the previous paragraph shall have a right of recourse against the subcontractor who is the actual employer for the purposes of refund of payments already made pursuant to the previous paragraph."

[250] *See* Labour Court cases: 812/2548, 2548/2548, 2970/2548, 5345/2549, 8750/2550, หนังสือ รวมคำบรรยาย ภาคหนึ่ง สมัยที่ 64 ปีการศึกษา 2554 เล่มที่ 1 จัดพิมพ์โดย สำนักอบรมศึกษากฎหมายแห่งเนติบัณฑิตยสภา.

thus outside of the LPA coverage. However agricultural migrant workers, who are prohibited from owning land in Thailand, necessarily would be working on behalf of a Thai landowner who either would be employer him/herself or contract to another manager to be responsible for workers. These persons or businesses generally hire migrant workers and retain control over them, pay them regularly, and require them to ask permission to take time off, which should meet definition of employment. Consequently it is unlikely that migrant workers would fail to meet the definition of an employee and be outside the scope of the LPA.

Based on MMN's research, it seems the greater challenge would be for migrant agricultural workers to demonstrate they are employed "for the whole year" to be eligible for full protection under the LPA, and instead would only have the select rights as prescribed by the Ministerial Regulation, or other workers may not meet the threshold for continuous 180 days of employment to entitle them to three days of paid leave. It should be noted there is no clear policy rationale for temporal limitation requiring one full year of employment, and it violates international standards.

The Thai Ministry of Labour defines informal employment as individuals who do not hold the status of employee under the LPA.[251] Thus it is very important to note, that the agricultural workers, both who work continuously for one year and have full protection of the LPA, and those who work for less than one year but have select rights from the LPA as prescribed under the 2014 regulations are *not* "informal workers," because they are "employees" even though they perform agricultural work. Several resources incorrectly note that all agricultural workers are informal workers under current Thai law; an assertion that is incorrect. Unfortunately, agricultural workers may be subject to other exclusions in other key laws concerning health and safety and social security as discussed further in this section.

Informal employment generally refers to employment without legal and social protection, while the informal sector refers to the production and employment that takes place within unincorporated small or unregistered enterprises. Informal employment can thus exist both inside and outside the informal sector.[252] While agricultural workers in Thailand have historically been excluded from legal and social protection, they should enjoy partial to full coverage under the LPA, even though they continue to be excluded from other laws designed to protect them such as Social Security coverage.

4.3 Occupational Health and Safety Standards

In July 2011, the Occupational Safety, Health and Environment Act (OSHEA) B.E. 2554 (2011) was enacted under the framework of the LPA. This establishes a separate agency, the Occupational Safety and Health Bureau, within the Ministry of Labour. Before the passage of this act, there were approximately 17 sets of OHS related regulations published, both by the Ministry of Interior and by the Department of Labour Protection and Social Welfare (Ministry of Labour). These seven regulations remain in place and have been supplemented by an additional eight ministerial regulations under the OSHEA. None of these regulations are specific to regulating the agricultural sector.

[251] *See* UN, "Thailand Migration Report 2019," p. 62 at n 7 above.

[252] *See* Ralf Hussmanns, International Labour Office, Bureau of Statistics, "Defining and Measuring Informal Employment," 2004.

Exclusions are permitted under section 3 of the OSHEA, which states that it shall not apply to: "Other enterprises in whole or in part as prescribed in the Ministerial Regulation," but unlike other statutes, no existing ministerial regulation states which enterprises are excluded.

A migrant worker sprays chemicals on a cornfield in Mae Sot, Thailand (Photo: FED)

As explained above, agricultural workers are occasionally mistaken to be "informal sector workers". Informal sector workers are governed by the Thai Department of Labour Protection Notification called "Guidance on Occupational Safety, Health and Environment for Informal Workers," 2013,[253] which requires them to be responsible for their own safety and health and establishes no real standards.

The Ministerial Regulation on the Prescribing of Standard for Administration and Management of Occupational Safety, Health and Environment in relation to Hazardous Chemicals, B.E. 2556 (2013) discusses some measures necessary for the handling of hazardous chemicals, such as pesticides. It defines the term "Harmful Chemicals" as substances, compositions, or mixtures, in the form of solid or gas, including those that are:

- Poisonous, corrosive, volatile, allergenic, cancerous, or otherwise harmful to health or cause death; or
- Explosive, seriously reactive, or highly flammable.

[253] The guidance defines informal workers as "informal sector workers refers to people of working age and who are currently working, not including people who are legally employed by an employer with safety and security provisions and workplace environment."

The Welfare and Labour Protection Department has issued a list of chemicals considered to be "Harmful Chemicals." Section 2 requires that any employer possessing harmful chemicals to prepare a list stating their details in an official form and notify the Director General of the Welfare and Labour Protection Department within seven days from the date of possession of such harmful chemicals.

Section 10 sets the safety measurements for employers to arrange at their place of business for employees in relation to harmful chemicals. Section 12 also provides that the employer must require employees to wear personal safety equipment appropriate to the level of danger of harmful chemicals or type of work. But again, procedures for workers to complain of violations and for government enforcement outside of the general inspection mandate is unclear.

Outside of this regulation, the primary way pesticides are controlled in Thailand, is by the government registration scheme laid out in the Hazardous Substances Act, B.E. 2551 (2008), which ensures that the chemical is not permitted to be produced in, imported to, exported from, or kept in possession in Thailand. According to Article 25 of the Hazardous Substances Act, it is the Hazardous Substances Control Bureau, an agency of the Ministry of Agriculture and Cooperatives that is empowered to make decisions whether or not to register a particular chemical or not to renew a chemical's registration. The agency can refuse to register or to renew the registration for a chemical on grounds that it may be dangerous to plants, animals, humans, and/or the environment.

The Ministry of Agriculture and Cooperatives has the duty to provide information and advice to the Hazardous Substances Control Bureau, which in turn uses its authority according to Articles 18, 38, and 40 of the Hazardous Substances Act to classify the chemical. If the Hazardous Substances Control Bureau classifies a substance as Type 4, the production, import, export, or possession of the chemical in question is prohibited. Concerns specific to use of hazardous substances in the workplace, regulating employers or providing access to justice for workers handling hazardous substances are not included in this statute.

By law, an Advisory Committee within the Hazardous Substances Control Bureau was established as the decision-making body in terms of banning the two chemicals common to agricultural pesticides, paraquat and chlorpyrifos. However, no consensus has been reached for the ban of these substances,[254] and while a draft pesticide safety act has been part of discussion on national reforms on law on natural resources and environment, no affirmative steps have been taken to introduce and pass such a law.

4.4 Workmen's Compensation Act

All workers classified as employees are also covered by the Workmen's Compensation Act, B.E. 2537 (1994), which sets forth the obligations of employers to pay compensation to an employee or the employee's representatives in the case of work-related injury, sickness, death or disappearance.[255] Employers are required to contribute to the WCF and the Thai Ministry of Labour establishes the rate of employer contributions. There is no required employee contribution. The contributions are generally assessed on total wages of employees multiplied by the contribution rate of that type of business and the rate typically vary from 0.2 – 1.0% of wages based on the risk rating of the industrial

[254] Isranews Agency, "'I'm a member of the minority' said Jiraporn Limpananon, voicing clearly the desire to ban 'paraquat,'" 23 May 2018, available (in Thai) at: https://www.isranews.org/isranews-article/66206-paraquat-662061.html.

[255] Medical expenses include medical treatment as necessary, not exceeding THB 50,000 per time but if combined medical expenses exceed THB 500,000, employees may be reimbursed up to THB 1,000,000.

establishment type.[256] Articles 25 and 44 explain that if the employer is current with respect to their contributions to the WCF, the fund bears the expenses, although the employer remains obligated to front initial expenses and then seek reimbursement from the fund.

Section 5 of Article 4 of the Workmen's Compensation Act B.E. 2537 (1994)[257] says the act shall not apply to: "(5) others employers as specified in the Ministerial Regulation." According to an announcement of the Ministry of Labour, as of March 2019, the fund does not require employers who have no legal entity and do not do any business-related work to contribute to WCF. [258] A representative from the Social Security Office (SSO) however has clarified at a Workshop organised by MMN in December 2019 that they "are committed to include all migrants in the Social Security System" and that they "are working with the Department of Employment to make sure all workers are enrolled in the Social Security System and are registered to participate in the Workmen's Compensation Fund".[259]

This confirms the Supreme Administrative Court's ruling of 9 September 2015,[260] which held that protection under WCF was intended to cover all employees without any discrimination or categorisation of the employee. The court eliminated all previous requirements instituted by the SSO requiring that migrant workers submit their personal income tax form as evidence that their employer has paid contributions to the WCF not less than the minimum wage in order to access the fund.[261]

As mentioned in the above section on international standards, the ILO has reminded the Thai government regarding its compliance with the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), stating that:

> **"With respect to ... workers in agriculture ..., who, according to the [Thai government] report, are exempt from coverage by both the social security scheme and the WCF due to limitation of collection of contributions, the Committee recalls that these categories of workers are fully covered by the Convention and therefore entitled to equal treatment with national workers in respect of employment injuries".[262]**

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[256] Office of the Official Information Commission, "Workmen's Compensation Fund," available at: http://www.oic.go.th/FILEWEB/CABINFOCENTER2/DRAWER056/GENERAL/DATA0000/00000089.PDF.

[257] The Workmen's Compensation Act was amended, WCA (No. 2) Act B.E. 2561 but did not affect this clause.

[258] Announcement of the Ministry of Labour regarding the size of the business, the area where the employer pays contributions, contribution rates, deposit rates Assessment methods and contributions http://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/067/T_0019.PDF.

[259] *See* MMN, "Press Release: Mekong Migration Network Convenes Multi-stakeholder Workshop to Discuss Migrant Agricultural Workers in Thailand", 20 December 2019, available at http://www.mekongmigration.org/?p=7859.

[260] คดีหมายเลขแดงที่ อ. 821/2558 คดีหมายเลขดำที่ อ. 399/2556, available at http://admincourt.go.th/admincourt/site/?page=05searchcategorydetail&id=1-1-22939.

[261] Ibid.

[262] See ILO, Observation at n 227 above.

The kitchen of a migrant family on a rubber plantation in Surat Thani, Thailand. Rubber sheets are hung from the ceiling to dry. (Photo: Raks Thai Foundation)

4.5 Social Security

Thailand's SSS is managed by the SSO of the Ministry of Labour, and is open to migrants employed in the formal sector who entered Thailand through one of the bilateral MOUs or who have completed the NV process. It does not cover agricultural migrant workers who do not work for the "whole year," or those holding the Section 64 Border Pass. Social security,[263] provides benefits outside of healthcare, such as maternity leave,[264] disability,[265] child allowance,[266] old-age pension,[267] death/survivor

[263] Social Security Office, Thailand, "Social Security System in Thailand: Policy and Planning Division, Social Security Office," available at: http://www.social-protection.org/gimi/gess/RessourceDownload.action?ressource.ressourceId=31513.

[264] If employee can establish sevan months contributions within last 15 months, medical coverage of up to THB 13,000 and 90 days benefits at 50% of salary is provided (maximum two confinements for each insured person).

[265] If employee establish three months of contributions within the last 15 months, they are eligible for reimbursement up to THB 4,000 per month and 50% of wages for life.

[266] If employee can establish 12 months' contribution within the last 36 months, they are eligible for a lump sum of THB 400 per month per child, but children must be six years old or younger and not more than two children at a time.

[267] To be eligible for Social Security retirement benefits, contributions must have been made to the fund for at least 180 months, although such contributions do not need to be consecutive. Such employees can receive benefits after they reach 55 years of age. Currently the pension is 20% of average wage of the last 60 months and 1.5% per additional 12 months of contributions above 180 months. Thailand has not entered into any Social Security mutual recognition agreements with any other states.

benefits,[268] and unemployment insurance.[269] This is a tripartite payment scheme that includes government, employers, and employees. Employers and employees each contribute 5% of an employee's income (with a current maximum monthly contribution of THB 750 as of August 2019) and the government 2.75%.

In the course of the study, MMN's partner, the MAP Foundation explained that while migrant workers were technically eligible for social security once they completed the NV process, employers were failing to register them into the system. The SSO pressured employers to comply which led to an increase in the numbers of migrant workers with NV registered in SSS. While MOU workers are more likely to be put into the SSS during the recruitment process, in practice there remains problems, with many migrant workers simply opting to purchase health insurance on their own. But as noted earlier in the section on migration processes, very few agricultural migrant workers utilise the MOU procedures. Under CMHI, migrants can purchase health insurance only for dependents who are children up to seven years of age if they can provide a birth certificate and their temporary 13-digit ID card.

Section 4 of Social Security Act, B.E. 2533 (1990) excludes "(6) other activities or employees as may be prescribed in the Royal Decree". In 2015, the Social Security Act was amended, and the definition of employee was altered, by way of the Social Security Act (No. 4) 2558 (2015).[270] A revised Royal Decree Categorizing Employees in Accordance with Section 4 of Social Security Act, (B.E. 2560) 2017, specifically excludes employees in agricultural activities, fishery, forestry and livestock whose employers do not hire employees for the whole year; and their work is not related to other industry/sector.

4.6 Labour Relations Act

Under the Section 5 of the Labour Relations Act (LRA) B.E. 2518 (1975),[271] the definition of an "employee" is "a person agreeing to work for an employer in return for wages," mirroring that of the LPA, and any employees outside of government, are protected by the LRA. In a reply by the Thai government to a Complaint filed by IndustriALL Global Union to the ILO concerning legislative shortcomings which deny or restrict the right to organise and bargain collectively in Thailand, the Thai government stated "that since the LRA gives every employee, defined as a person agreeing to work for an employer in return for wages, the right to organise, employees or workers in the agricultural sector,... can submit their proposals to register a trade union".[272]

A non-Thai national who ceases to be insured and does not wish to continue residing in Thailand will be entitled to old-age compensation in the form of a lump sum.

[268] If establish one month contribution within six months before death, entitled to a funeral grant of THB 40,000 and if contributed to a grant fund for survivors for more than 10 years, family is eligible to receive five month wages. For three to nine years of contribution, eligible for 1.5 month wages.

[269] Technically eligible after six months contribution within 15 months before unemployment, but migrant workers are required to leave Thailand or find new employment within 15 days and benefits only began after 10 days.

[270] Unofficial English translation of the Social Security Act (No. 4) 2558 (2015) available at: http://www.mekongmigration.org/wp-content/uploads/2008/05/PDF444KB.pdf.

[271] Amended, Labour Relations Act, 2001.

[272] ILO, Report in which the committee requests to be kept informed of development - Report No 380, October 2016 - (Case No 3164 (Thailand) - Complaint date: 07-OCT-15, available at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:3302068.

While the law in Thailand technically permits agricultural workers to unionise, Section 88 of the LRA, states that only Thai nationals can form unions, and Section 101 prohibits migrants from being on a union's Board of Directors. Practically speaking, given that agricultural migrant workers work in isolation and rarely with other Thai workers, they do not enjoy the right to collectively bargain.

4.7 Access to Justice

Aside from the bars on unionising and collective bargaining to improve their working conditions, migrant workers face challenges in enforcing their rights under the laws that do offer them protection. As of 2016, Thailand had 880 labour inspectors who are responsible for monitoring all enterprises that employ one or more workers, which the UN notes is significantly lower than the ILO recommendation of one inspector for every 15,000 employees, which would require Thailand to have 2,563 labour inspectors.[273] During 2014, a total of 40,274 labour inspections were conducted in Thailand, and just 715 of the inspections were conducted in the agricultural sector, and only two agricultural establishments were issued with orders for non-compliance with the LPA.[274] In addition to these inspections, only 232 agricultural workplaces were inspected for compliance with the OSHEA and 12 were issued with orders.[275]

In addition, without a minimum wage guarantee under the LPA for agricultural migrant workers who work less than the whole year, it is difficult to make a contractual claim for wages, as there is almost never any written record. Due to their geographic isolation, agricultural migrant workers are often not aware of their rights, do not have access to NGOs, and cannot travel to make complaints at the governmental offices, such as the Labour Protection Office.

Furthermore, there are no enforceable protections against retaliation by employers. If a labour disputes occurs following termination, a migrant may not legally remain in the country to pursue the case unless they can find a new employer. They may also be blacklisted and find it difficult to secure employment after lodging a complaint.

4.8 Precarious & Temporary Immigration Status

As noted above, agricultural migrant workers – based on their status as migrants, face barriers to asserting their rights. In particular, undocumented migrants were historically not covered by the WCF, employers are not registering workers under the SSS who have undergone NV or come through the MOU process or hold Section 64 Border Passes, and migrants can still not form a union or serve on the board of directions of a union. Migrants also cannot access unemployment benefits under SSS because they must find a new employer or leave the country before the benefits would fully become available.

[273] See, UN "Thailand 2019 Migration Report," p, 63 at n 7 above.

[274] *Ibid.*

[275] *Ibid.*

While the Thai government's efforts towards regularising undocumented migrants and providing amnesty are often welcomed, there are numerous flaws in the system that result in migrants' legal status being precarious at best, and the system provides little added protection for migrants' rights and access to remedies. In MMN's experience, while all migrant workers want to be documented and feel more secure with legal status, they also experience numerous circumstances where their documentation provides few guarantees against the exploitation and the discrimination they face in their lives.

Furthermore, it's extremely easy and common for documented workers to become undocumented at any point due to: confiscation of documents by employers/brokers, labour disputes, violations of restrictions on travelling outside of specific provinces, or violations of the prescribed terms and conditions of their work permit including category, nature of work, employer, and location. The table below provides a comparison of the treatment of documented and undocumented migrant workers in relation to a number of key rights and issues.

Table 20: Treatment of Documented and Undocumented Workers Under the Law and In Practice

	Documented vs. Undocumented (Law & Practice)
Right to Work	Both documented and undocumented migrant workers are legally entitled to protections under labour law. However, there are three major problems in enforcing these rights: 1) The temporal limitation to accessing full rights (see LPA section above, agricultural migrant workers who work less than a whole year do not get minimum wage, overtime, paid leave for public holidays or severance pay, etc.) or misclassification of workers as "contract labour" and not "employees"; 2) Documented workers generally lose legal status during a labour dispute and become undocumented; 3) Undocumented workers receive no protection against arrest or deportation during legal processes to enforce their labour rights; 4) Workers who complain may be blacklisted and unable to secure work in the future.
Security	Both documented and undocumented workers are legally entitled to file a complaint for violations under the Criminal Code or other criminal laws, and perpetrators should be prosecuted and punished under the law. However, our study found that migrants are fearful of reporting incidents due to possible repercussions, such as the threat of violence from employers and possible arrest and deportation where migrants are undocumented.

	Documented vs. Undocumented (Law & Practice)
Access to Health & Workmen's Compensation	Under CMHI, documented workers are permitted by law to have access to the national health insurance scheme after paying THB 600 (USD 20) for a health check-up during the work permit process and THB 3,200 (USD 106) for two years of health insurance that requires THB 30 (USD 1) co-payments per hospital visit, and now, documented workers who have completed NV or come through MOU process, should be part of the Thai SSS and have access to healthcare through the tripartite contributory system (excluding agricultural workers who do not work for the whole year or do not qualify as "employees", as well as those who hold a Section 64 Border Pass). Employers of agricultural migrant workers should all be required to contribute to WCF and whereas previously, only documented migrant workers were eligible, potentially both documented and undocumented agricultural migrant workers may be entitled to treatment, care, death benefits and loss of income under Workmen's Compensation. Previously, undocumented workers had to pay for the full costs of medical services themselves. However, other barriers to accessing healthcare include discrimination, transport, and language apply to both undocumented and documented workers, with the added threat of arrest and deportation for undocumented migrants who travel to hospitals/clinics to seek medical services.
Access to Education	Both documented and undocumented migrants who are minors have access to free state primary and secondary education. However, practical barriers exist in enrolling both documented and undocumented migrants, and administrators may often not permit undocumented migrants to attend.
Freedom of movement	Documented workers with migrant registration/NV or MOU workers are legally allowed to travel throughout Thailand, but migrants with Section 64 Border Passes may not leave certain restricted areas. Undocumented workers have no right to freedom of movement, although some workers pay for a Village Headman Card to protect them from immediate arrest and deportation within local vicinity. This is not a legally recognised form of documentation.
Arrest, Detention and Deportation	Documented workers are legally protected against arrest, detention and deportation; however, they are often subject to these procedures or extortion because they have become undocumented due to the nature of restrictive employment laws (they are not in possession of their documents, they have travelled outside a permitted area or violated terms of their work permit) or because officials misapply the law.

Thailand's various labour migration polices have all been temporary in nature and treat migrants as short-term disposable labour, providing no pathway for residence or citizenship. In fact, many migrants have now been in Thailand continually for over a decade, but the policies ensure that Thai society only benefits economically from the presence of migrants while ignoring the social, educational and cultural enrichment that can be achieved through integration.

4.9 Conclusion

As stated earlier, given the power structures inherent between employers and migrant workers and restrictions on migrant workers owning land, based on MMN's study, most agricultural workers would qualify as "employees" under the LPA. Accordingly, the majority of agricultural migrant workers should no longer be considered informal workers unprotected by labour law. There are no clear policy rationales for affording employees who work for less than a year, less rights than those who work "throughout the year," and thus the current distinction under the LPA, whereby only agricultural workers who work for the whole year should be abolished and agricultural workers under current Ministerial Regulation Concerning Labour Protection of Employee in Agriculture Work, B.E. 2557 should be treated equally. Making temporal distinctions harms the many workers who work and reside on the same plantation year-round for numerous years, and allows employers to abuse the system by finding ways to interrupt continuous employment, potentially using the renewal process for immigration documents as a way to disrupt continuous employment.

In the past, Thailand has often allowed the method of payment utilised by employers to lead to misclassification of employees, namely claiming that "piece workers," workers who are paid by the piece as opposed to a daily or monthly wage, are contract labour and not employees. This is out of sync with national standards, and even the standards of neighbouring countries such as Myanmar. In its recommendation regarding employment relationship, the ILO,[276] has stated that member states should have a national policy to "combat disguised employment relationships… noting that a disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise [which] have the effect of depriving workers of the protection they are due." The ILO further recommends that the national policy take particular account to ensuring effective protection to "workers especially affected by the uncertainty as to the existence of an employment relationship, including women workers, as well as the most vulnerable workers… workers in the informal economy, migrant workers." Thus, Thailand should ensure that agricultural workers, no matter type of payment system, such as per percentage output of crops, are properly classified as employees based on its own laws and prevailing international standards for disguised employment relationships, and accordingly enjoy full protection of LPA, LRA, and other laws.

Currently, the level of regulation on OHS in Thailand is very low as compared to other emerging and developed countries, with only 25 regulations and none specific to hazards common in agriculture and particular to the management of pesticides. Not only should Thailand improve its OHS regulations, but more resources should be dedicated to labour inspection and clear mechanisms available to workers to seek redress for violations of standards.

The Thai government should make it clear that even under the March 2019 Ministry Notice, all employers in the agricultural sector are required to contribute to the WCF and all agricultural migrant workers, regardless of immigration status, are entitled to protections under the Workmen's Compensation Act. Furthermore, employers of undocumented workers should also be required to pay for any treatment, rehabilitation or loss of income for workers who are injured or become ill because of the workplace. Social Security Coverage should also apply to all agricultural migrant workers, including those who work for less than one year, and those with less than full immigration status, such as workers with Section 64 Work Permit. The SSO office should take clear steps to ensure

[276] ILO, R198 Employment Relationship Recommendation, 2006.

A migrant worker's house on a palm oil plantation in Phang Nga, Thailand (Photo: FED)

all employers are registering their workers and that they perform outreach to educate migrant workers of their right to register as well.

Finally, Thailand should ratify ILO conventions concerning unions, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and eliminate all the restrictions in the Labour Relations Act that exclude migrants from forming a union or serving on leadership.

CHAPTER FIVE:

CONCLUSION AND RECOMMENDATIONS

While increasing numbers of GMS migrants are employed in Thailand's agriculture sector, their contributions remain largely unnoticed and their voices go mostly unheard. This study has sought to raise attention to the situation of migrants in agriculture by highlighting their experiences and providing recommendations to improve the rights and protections afforded this group of workers. The results from the research presented in this report points to the conclusion that incidents of abuse and exploitation are not uncommon, and that the working and living conditions of migrants in agriculture are in urgent need of improvement.

Across the cassava, corn, rubber and palm oil plantations surveyed, migrant workers recounted their experiences of sub-minimum wage labour; long working hours; discrimination; inadequate accommodation, restricted freedom of movement; limited access to schools, hospitals, and other forms of social protection; insufficient and inadequate PPE; lack of access to formal justice systems; and harassment from elements within rural communities. While many of these issues also affect migrants in other employment sectors, agriculture workers are particularly vulnerable given that they live and work in isolated rural areas where access to assistance from government authorities and NGOs is limited. Furthermore, our results suggest that a significant proportion of migrants in agriculture remain undocumented in part due to a variety of obstacles which are distinctive to migrants in this sector. These include prohibitively high registration costs relative to average incomes, and difficulties reaching government agencies where documents are issued. Without proper immigration status in Thailand, migrants are deprived of essential rights and services.

This research has also sought to challenge the notion that all employees in the agriculture sector are "informal workers" and thus not entitled to legal and social protection under Thai labour law. MMN's legal analysis suggests that migrants in agriculture who have worked continuously for one year should be considered as workers who enjoy the same legal and social protections afforded workers in other sectors.

The paragraphs below set out MMN's specific stakeholder recommendations that have emerged from this study:

Recommendations to the Royal Thai Government:

Documentation Issues

1. Simplify migration procedures and minimise the costs involved so that migrant workers and their families can more easily obtain and maintain their immigration status;
2. Provide migrant workers with clear information concerning registration and work permit application processes. Such information should be made available in relevant migrant languages and in a form that is accessible and easily understood; and
3. Conduct public consultations involving representatives of migrant agricultural workers and CSOs when developing policies.

Working Conditions

1. Provide migrant agricultural workers with clear information concerning their labour rights including the minimum wage and redress mechanisms available in case of rights violations.
2. Ensure that the Department of Labour Protection and Social Welfare has a physical presence in areas with large populations of agricultural migrant workers, and has appropriate language interpretation available;
3. Conduct regular and comprehensive workplace inspections (including unannounced inspections) to ensure relevant labour regulations are observed, including seeing to it that migrants in agriculture receive the minimum wage; have set hours of work; receive proper overtime payments; have regular payment of wages; receive compensation for workplace accidents; are equipped with sufficient PPE; do not have their freedom of movement restricted; and have been registered to enrol in relevant social protection schemes. This can be done more effectively with increased number of labour inspectors and other innovative methods such as setting up an online reporting system;
4. Promote access to formal complaint mechanisms so that agricultural labour disputes can be formally settled according to the law;
5. Harmonise labour laws to remove legal distinctions between migrant agricultural workers who work for the "whole year" and those who work for less than a year or "seasonally" by crop, and take concrete measures to ensure all workers are entitled to equal rights and social protections;
6. Steps should be taken to allow migrants in agriculture and other work sectors to form unions and serve in union leadership positions. Ratify ILO's union related conventions, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and eliminate all current restrictions in the Labour Relations Act that exclude migrants from forming a union or serving on union leadership bodies; and
7. Ratify the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Plantations Convention, 1958 (No. 110) to strengthen the rights and protection afforded to agricultural workers.

Occupational Health & Safety

1. Require all employers of agricultural workers to provide appropriate and sufficient PPE, free of charge, and conduct necessary training on OHS;
2. Create an easy to use and accessible complaint mechanism for migrant workers to report poor or dangerous OHS conditions and provide them with protection from dismissal and reprisal;
3. Dedicate more resources to labour inspection, with a focus on OHS paired with an awareness raising campaign on OHS and effective use of PPE in agriculture. Such awareness raising campaigns must be complemented by providing updated information to employers about the harmful effects of some chemicals and their duties to ensure the safety of their employees;
4. Undertake a comprehensive review into occupational diseases in the agricultural sector, particularly their relationships with the types of pesticides and other chemicals commonly used;
5. Support the agricultural industry to ban or promote the reduction of the use of toxic agrochemicals which are known to cause human bodily harm;
6. Ensure migrant workers receive compensation for workplace accidents and that all employers in the agricultural sector contribute to the WCF. Employers of undocumented workers must be required to pay for any treatment, rehabilitation or loss of income for any workers who are injured or debilitated due to workplace accidents; and
7. Ratify the ILO Safety and Health in Agriculture Convention, 2001 (No. 184) and its accompanying recommendations (No. 192).

Housing Conditions

1. Require employer landlords to provide safe appropriate housing; and monitor the living and housing conditions of migrant agricultural workers to ensure that they meet appropriate standards of health and safety.

Access to Healthcare

1. Make the national health insurance scheme available to all migrants living in Thailand regardless of nationality or legal status by making the process for obtaining health insurance independent from the process of applying for a work permit;
2. Support hospitals to provide services in common migrant languages and to recruit trained medical interpreters; and
3. Increase funding and budgets to hospitals in border areas to provide preventative health outreach activities so that all people living in these areas including migrants can increasingly access healthcare.

Migrant Families

1. Given the challenges migrant agricultural workers face in sending their children to school, provide necessary support, such as transportation and subsidies, to ensure Thailand's "education for all" vision is realised;
2. Ensure all family members of migrant workers, especially the elderly, are able to reside with their families and have access to public health services.

Recommendation to Employers:

Documentation Issues

1. Fully support migrant worker employees in their efforts to obtain and maintain their immigration status by facilitating registration and covering all related expenses without deductions from migrants' wages.

Occupational Health & Safety

1. Protect employees' safety by implementing OHS to the highest standards; and
2. Educate migrant employees about workplace hazards, and provide them with adequate and proper PPE and training at no cost.

Housing Conditions

1. Provide housing to migrant worker employees that meets safety standards, is equipped with electricity, clean water and proper sanitation, and is not immediately exposed to agrochemicals sprayed in fields; and
2. In cases where workers need to commute between their home and place of work (fields/ plantation), provide safe transportation back and forth without charge.

Health Care

1. Enrol all migrant employees in the SSS or CMHI and be responsible for paying associated costs;
2. Provide migrant employees with accurate information about the coverage of SSS and CMHI and how to utilise them; and
3. Facilitate migrant employees' timely access to hospitals at times of sickness and injury, and provide paid sick leave.

Migrant Families

1. Facilitate the attendance of migrant children in schools, including assisting them with transportation;
2. Ensure children are properly registered with necessary identification documents; and
3. Protect migrants and their dependents from harassment by local gangs or wayward youth.

Recommendation to the Governments of Countries of Origin:

Documentation Issues

1. Work constructively in coordination with the Royal Thai Government towards simplifying the migration processes and minimizing the costs involved.

Working Conditions

1. Support labour attachés to conduct outreach work to their nationals employed in Thailand's agriculture sector.

Return and Reintegration

1. Enhance current efforts to expand the coverage of NSSF and SSB, making social security portable and provide migrant returnees with relevant information; and
2. Assist migrant returnees find work or start their own businesses which utilise the funds or skills gained while working in Thailand.

Recommendations to NGOs in Thailand:

Occupational Health & Safety

1. Carry out increased outreach to migrant agricultural workers in remote areas to raise awareness about OHS and promote the comprehensive use of PPE; and
2. Advocate to reduce/ban the use of harmful pesticides, and facilitate migrant agricultural workers' access to blood testing for harmful chemical components and relevant health services and treatment.

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