



# **Migration Management for the Most Vulnerable Groups Within ASEAN**

A Study of the ASEAN Intergovernmental Commission  
on Human Rights (AICHR)

Migration and Human Rights in ASEAN:

# Migration management for the most vulnerable groups within ASEAN

A Study of the ASEAN Intergovernmental Commission  
on Human Rights (AICHR)

2023

## List of Abbreviation

<b>3D</b>	Dirty, Dangerous, and Demeaning	<b>DLPW</b>	Department of Labour Protection and Welfare
<b>ABR</b>	Association of Bank Remittance Officers	<b>DOLAB</b>	Department of Overseas Labour
<b>ACE</b>	ASEAN Confederation of Employers	<b>DOL</b>	Department of Labour
<b>ACMW</b>	ASEAN Committee to Implement the Declaration on the Protection and Promotion of the Rights of Migrant Workers	<b>DOLE</b>	Department of Labour and Employment
<b>ACRA</b>	Association of Cambodian Recruitment Agencies	<b>ELX</b>	Electronic Labour Exchange
<b>ACWC</b>	ASEAN Commission on the Promotion and Protection of the Rights of Women	<b>EP</b>	Employment Pass
<b>ADB</b>	Asian Development Bank	<b>ETI</b>	Ethical Trading Initiative
<b>AEA</b>	Alien Employment Act	<b>FED</b>	Foundation for Education and Development
<b>AFML</b>	ASEAN Forum on Migrant Labour	<b>FFW</b>	Foundation for Women
<b>AGC</b>	Attorney-General's Chambers	<b>FTA</b>	Free Trade Agreement
<b>AGWO</b>	Alliance of Guest Workers Outreach	<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>AICHR</b>	ASEAN Intergovernmental Commission on Human Rights	<b>GHRE</b>	Grassroots Human Rights Education & Development
<b>AKAN</b>	Antar Kerja Antar Negara	<b>GMS</b>	Greater Mekong Subregion
<b>ALM</b>	ASEAN Labour Ministers	<b>GSC</b>	Good Shepherd Centre
<b>AMS</b>	ASEAN Member States	<b>HOME</b>	Humanitarian Organization for Migration Economics
<b>APMJ</b>	Asia-Pacific Migration Journal	<b>HRDF</b>	Human Right and Development Foundation
<b>ASCC</b>	ASEAN Socio-Cultural Community	<b>ICA</b>	Immigration & Checkpoints Authority
<b>ASEAN</b>	Association of Southeast Asian Nations	<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>ASEAN TRIANGLE</b>	ASEAN Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region	<b>ICERD</b>	International Convention on the Elimination of All Forms of Racial Discrimination
<b>ATUC</b>	ASEAN Trade Union Council	<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights
<b>BES</b>	Bureau of Employment Services	<b>ICMW</b>	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
<b>BI</b>	Bank of Indonesia	<b>ILAB</b>	International Labour Affairs Bureau
<b>BNI</b>	Indonesian State Bank	<b>ILMIA</b>	Institute of Labour Market Information and Analysis
<b>BNM</b>	Central Bank of Malaysia	<b>ILMS</b>	International Labour Migration Statistics
<b>BNP2TKI</b>	National Board for the Placement and Protection of Indonesian Migrant Workers (Indonesia)	<b>ILO</b>	International Labour Organization
<b>BP2MI</b>	National Board for the Protection of Indonesian Migrant Workers (Indonesia)	<b>IMW</b>	Indonesian Migrant Worker
<b>BP3TKI</b>	Agency for the Service, Placement and Protection of Indonesian Overseas Workers	<b>IOM</b>	International Organization for Migration
<b>BRI</b>	People's Bank of Indonesia	<b>IPPM</b>	Interrelations between Public Policies, Migration and Development
<b>CDE</b>	Centre for Domestic Employees	<b>IRR</b>	It's Raining Raincoats
<b>CDRI</b>	Cambodian Development Resource Institute	<b>JBMI</b>	Jaringan Buruh Migran Indonesia (Indonesian Migrant Worker Network)
<b>CEDAW</b>	Convention on the Elimination of All Forms of Discrimination against Women	<b>KTKLN</b>	Overseas Manpower Card
<b>CENTRAL</b>	Centre for Alliance of Labour and Human Rights	<b>LAC</b>	Labour Assistance Counter
<b>CFO</b>	Commission on Filipinos Overseas	<b>LBH</b>	Lembaga Bantuan Hukum (Legal Aid Institution)
<b>CIMWA</b>	Committee on Illegal Migrant Workers Administration	<b>LPN</b>	Labour Protection Network
<b>CLM</b>	Cambodia, Laos, Myanmar	<b>LSCW</b>	Legal Support for Children and Women
<b>CLMV</b>	Cambodia, Laos, Myanmar, Vietnam	<b>LSHTSE</b>	Law on the Suppression of Human Trafficking and Sexual Exploitation (Cambodia)
<b>CMC</b>	Complaints Mechanism Centres	<b>MAC</b>	Manpower Association of Cambodia
<b>COC</b>	Code of Conduct (Cambodia)	<b>MAP</b>	Migrant Assistance Programme Foundation
<b>COMECON</b>	Council of Mutual Economic Cooperation	<b>MAS</b>	Monetary Authority of Singapore
<b>COMMIT</b>	Coordinated Mekong Ministerial Initiative against Human Trafficking	<b>MCN</b>	Mandatory Consular Notification
<b>CRC</b>	Convention on the Rights of the Child	<b>MCYS</b>	Ministry of Community Development, Youth & Sports
<b>CSO</b>	Civil Society Organization	<b>MDW</b>	Migrant Domestic Worker
<b>DAWN</b>	Development Action for Women Network	<b>MEF</b>	Malaysian Employers Federation
<b>DFA</b>	Department of Foreign Affairs	<b>MFI</b>	Microfinance Institution
		<b>MHA</b>	Ministry of Home Affairs
		<b>MICRA</b>	Microfinance Innovation Centre for Resources and Alternatives MKM Council on Social Welfare
		<b>MNO</b>	Mobile Network Operator
		<b>MOEAF</b>	Myanmar Overseas Employment Agency Federation
		<b>MOFA</b>	Ministry of Foreign Affairs
		<b>MOH</b>	Ministry of Health
		<b>MOHA</b>	Ministry of Home Affairs
		<b>MOHR</b>	Ministry of Home Resources
		<b>MOI</b>	Ministry of Interior



<b>MOL</b>	Ministry of Law	<b>TWC2</b>	Transient Workers Count Too
<b>MOLISA</b>	Ministry of Labour, Invalids and Social Affairs	<b>TWP</b>	Training Work Permit
<b>MOLSW</b>	Ministry of Labour and Social Welfare	<b>UN</b>	United Nations
<b>MOLVT</b>	Ministry of Labour and Vocational Training	<b>UNCDP</b>	United Nations Committee for Development Policy
<b>MOM</b>	Ministry of Manpower	<b>UNDESA</b>	United Nations Department of Economic and Social Affairs
<b>MOPS</b>	Ministry of Public Security	<b>UNDP</b>	United Nations Development Program
<b>MOU</b>	Memorandum of Understanding	<b>WP</b>	Work Permit
<b>MRA</b>	Mutual Recognition Arrangement		
<b>MRC</b>	Migrant Workers Resource Center		
<b>MRWN</b>	Migrant Workers Rights Network		
<b>MSC</b>	COVID-19 Migrant Support Coalition		
<b>MSF</b>	Ministry for Social and Family Development		
<b>MTO</b>	Money Transfer Operator		
<b>MOTSB</b>	Manpower Training and Overseas Sending Board		
<b>MWAC</b>	Migrant Worker Assistance Centre		
<b>MWC</b>	Migrant Workers' Centre		
<b>MWOFR</b>	Migrant Workers and Other Filipino Resource Centre		
<b>NGO</b>	Non-Governmental Organization		
<b>NRCO</b>	National Reintegration Centre for OFW		
<b>NSB</b>	National Seamen Board		
<b>OEC</b>	Overseas Employment Certificate		
<b>OEDB</b>	Overseas Employment Development Board		
<b>OFW</b>	Overseas Filipino workers		
<b>OMWA</b>	Office of Migrant Workers Administration		
<b>OPAP</b>	Overseas Placement Agencies of the Philippines		
<b>OUMWA</b>	Office of the Undersecretary for Migrant Workers Affairs		
<b>OWWA</b>	Overseas Workers Welfare Administration		
<b>PASEI</b>	Philippine Association of Service Exporters, Inc		
<b>PHAMIT</b>	Prevention of HIV-AIDS among Migrant Workers P		
<b>RJTKI</b>	Indonesian Labour Service Company		
<b>POMRN</b>	Philippine Migration Research Network		
<b>POEA</b>	Philippine Overseas Employment Administration		
<b>POLO</b>	Philippine Overseas Labour Office		
<b>PPTKLN</b>	Directorate General of Placement and Protection of Migrant Workers Overseas		
<b>PRA</b>	Private Recruitment Agency		
<b>PSAD</b>	Phnom Srey Association for Development		
<b>PSSC</b>	Philippine Social Science Council		
<b>RE</b>	Recruitment Entity		
<b>SBMI</b>	Serikat Buruh Migran Indonesia (Indonesian Migrant Workers Union)		
<b>SHENA</b>	Safety, Health and Environment National Authority		
<b>SIP3MI</b>	Permit for the Company regarding the Placement of IMWs		
<b>SISKOTKLN</b>	System Information Placement of Overseas Workers		
<b>SLOM</b>	Senior Labour Officials Meeting		
<b>SLOM-WG</b>	Senior Labour Official Working Group on Progressive Labour Practice to Enhance the Competitiveness of ASEAN		
<b>SME</b>	Small and Medium Enterprise		
<b>SOF</b>	Survey of Overseas Filipinos		
<b>SP</b>	Solidaritas Perempuan (Women Solidarity)		
<b>SPF</b>	Singapore Police Force		
<b>SPPF</b>	Social Protection Policy Framework (Cambodia)		
<b>TEP</b>	Training Employment Pass		
<b>TFAMW</b>	Task Force on ASEAN Migrant Workers		
<b>TIP</b>	Trafficking in Person		

# List of Contents

Remarks (from the Secretary-General of ASEAN)	i		
Foreword (from the Representative of Indonesia to AICHR as the project proponent)	iii		
Executive Summary	v		
<b>1. Introduction</b>			
1.1. Regional Context of Labour Migration in ASEAN: Overview, Trends, Cross-cutting issues	01		
1.2. Conceptual Framework and Definitions	04		
1.3. The Objective and Scope of the Study	08		
1.4. Method of the Study	10		
1.5. Structure of the Report	10		
<b>2. Mapping Migration Management in ASEAN Using the Concept of Migration Infrastructure</b>			
2.1. Importance of Labour Migration in ASEAN	12		
2.2. Regulatory Infrastructure	15		
2.3. Technological Infrastructure	19		
2.4. Commercial Infrastructure	21		
2.5. Humanitarian Infrastructure	24		
2.6. Social Infrastructure	27		
2.7. Analysis of Migration Management	30		
<b>3. Cooperation Mechanism Related to Labour Migration Management in ASEAN</b>			
3.1. International Documents Related to Labour Migration Management	33		
3.2. ASEAN Documents and Institutions Related to Labour Migration Management	45		
3.3. Bilateral Agreement Related to Labour Migration Management between ASEAN Member States	49		
3.4. Best Practices at the Regional Level	57		
<b>4. Human Rights and Gender Equality Aspects in Management of Labour Migration in ASEAN Member States</b>			
4.1. Brunei Darussalam			
4.1.1. Country Profile and History Related to Labour Migration Management	60		
4.1.2. Policies, Regulations, and Legislations Related to Labour Migration	62		
4.1.3. Governmental Institutions Related to Labour Migration Management	63		
4.1.4. Non-State Actors Related to Labour Migration Management	64		
4.1.5. Remittance	65		
4.1.6. Best Practices in Labour Migration Management	66		
4.1.7. Conclusion	66		
4.2. Cambodia			
4.2.1. Country Profile and History Related to Labour Migration Management	67		
4.2.2. Policies, Regulations, and Legislations Related to Labour Migration	70		
4.2.3. Governmental Institutions Related to Labour Migration Management	72		
4.2.4. Non-State Actors Related to Labour Migration Management	73		
4.2.5. Remittance	75		
4.2.6. Best Practices in Labour Migration Management	77		
4.2.7. Conclusion	79		
4.3. Indonesia			
4.3.1. Country Profile and History Related to Labour Migration Management	80		
4.3.2. Policies, Regulations, and Legislations Related to Labour Migration	84		
4.3.3. Governmental Institutions Related to Labour Migration Management	86		
4.3.4. Non-State Actors Related to Labour Migration Management	89		
4.3.5. Remittance	91		
4.3.6. Best Practices in Labour Migration Management	93		
4.3.7. Conclusion	96		
4.4. Lao PDR			
4.4.1. Country Profile and History Related to Labour Migration Management	97		
4.4.2. Policies, Regulations, and Legislations Related to Labour Migration	99		
4.4.3. Governmental Institutions Related to Labour Migration Management	100		
4.4.4. Non-State Actors Related to Labour Migration Management	102		
4.4.5. Remittance	103		
4.4.6. Best Practices in Labour Migration Management	103		
4.4.7. Conclusion	104		
4.5. Malaysia			
4.5.1. Country Profile and History Related to Labour Migration Management	104		
4.5.2. Policies, Regulations, and Legislations Related to Labour Migration	111		
4.5.3. Governmental Institutions Related to Labour Migration Management	117		
4.5.4. Non-State Actors Related to Labour Migration Management	120		
4.5.5. Remittance	121		
4.5.6. Best Practices in Labour Migration Management	123		
4.5.7. Conclusion	124		
4.6. Myanmar			
4.6.1. Country Profile and History Related to Labour Migration Management	124		
4.6.2. Policies, Regulations, and Legislations Related to Labour Migration	127		
4.6.3. Governmental Institutions Related to Labour Migration Management	128		
4.6.4. Non-State Actors Related to Labour Migration Management	129		
4.6.5. Remittance	130		
4.6.6. Best Practices in Labour Migration Management	132		
4.6.7. Conclusion	133		



4.7. Philippines	
4.7.1. Country Profile and History Related to Labour Migration Management	134
4.7.2. Policies, Regulations, and Legislations Related to Labour Migration	136
4.7.3. Governmental Institutions Related to Labour Migration Management	139
4.7.4. Non-State Actors Related to Labour Migration Management	142
4.7.5. Remittance	143
4.7.6. Best Practices in Labour Migration Management	145
4.7.7. Conclusion	146
4.8. Singapore	
4.8.1. Country Profile and History Related to Labour Migration Management	147
4.8.2. Policies, Regulations, and Legislations Related to Labour Migration	148
4.8.3. Governmental Institutions Related to Labour Migration Management	152
4.8.4. Non-State Actors Related to Labour Migration Management	153
4.8.5. Remittance	155
4.8.6. Best Practices in Labour Migration Management	156
4.8.7. Conclusion	157
4.9. Thailand	
4.9.1. Country Profile and History Related to Labour Migration Management	157
4.9.2. Policies, Regulations, and Legislations Related to Labour Migration	159
4.9.3. Governmental Institutions Related to Labour Migration Management	164
4.9.4. Non-State Actors Related to Labour Migration Management	167
4.9.5. Remittance	168
4.9.6. Best Practices in Labour Migration Management	169
4.9.7. Conclusion	170
4.10. Vietnam	
4.10.1. Country Profile and History Related to Labour Migration Management	170
4.10.2. Policies, Regulations, and Legislations Related to Labour Migration	173
4.10.3. Governmental Institutions Related to Labour Migration Management	175
4.10.4. Non-State Actors Related to Labour Migration Management	176
4.10.5. Remittance	177
4.10.6. Best Practices in Labour Migration Management	177
4.10.7. Conclusion	180
<b>5. Commitment, Challenges, and Recommendation</b>	
5.1. Adoption of ASEAN Consensus by ASEAN Member States	182
5.2. Main Challenges in Labour Migration Management	183
5.3. Recommendations for Migration Management at the Regional Level	185
Bibliography	190



Remarks

**Dr. Kao Kim Hourn**

Secretary-General of ASEAN



Over the last two decades, greater connectivity alongside demographic changes as well as disparities in socio-economic development between and among ASEAN Member States have promoted higher human mobility within the region. Labour migration has emerged as a significant driver of economic growth and social development for ASEAN and should be included in any discussion on our economies, societies or cultures.

The AI CHR Study on Migration and Human Rights in ASEAN captures this important dynamic with a focus on delineating aspects of human rights and gender within the current labour migration management in ASEAN. The study examines how ASEAN has worked to promote, protect and fulfil the human rights of migrants, including those in vulnerable situations, who are among the most marginalised and at risk of discrimination, exploitation, or denied their human rights and fundamental freedoms.

The findings remind us that there is no “silver bullet” that works in all situations for everyone. Thus, it is essential to promote policies that places migrants at the centre of migration governance and management. It is encouraging to note the good practices and initiatives of ASEAN Member States in ensuring that labour migrant management is integrated in relevant national action plans and strategies. These include plans on the provision of public housing or national strategies to address racism and xenophobia, while ensuring respect for freedom of expression.

This report also provides invaluable lessons learned, ranging from protection gaps to migrants that were exposed during the COVID-19 pandemic. As the region strives to fully recover from the pandemic, the study’s discussions are very timely, particularly on how to maximise the impact of labour migration to sustained growth, shared prosperity, and social progress for all as envisioned in the ASEAN Charter, and in the implementation of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

Moving forward, it is crucial for governments, employers’ and workers’ representatives, as well as civil society to further review labour migration policies and practices to ensure that the region makes the most out of labour migration in the post-pandemic era. In particular, states

should promote a rights-based approach to migration that ensures migrants’ access to their rights and takes into account differentiated vulnerabilities based on gender, age, health, and legal status.

I trust that the recommendations in this study by AI CHR, under the auspices of AI CHR Indonesia, will provide a basis for policy dialogue and help generate practical solutions for advancing the migration infrastructure management from human rights and gender lenses. Only with inclusive labour migration policies, underpinned by human rights-based principles, and a strong, reliable and timely evidence base, will we be able to ensure migrants the protection and promotion of their rights in ASEAN.

## Foreword

### Wahyuningrum

Representative of Indonesia and  
Chair ASEAN Intergovernmental Commission  
on Human Rights (AICHR)



*Migration and Human Rights in ASEAN: Migration Management for the Most Vulnerable Group within ASEAN* is one of the studies of the ASEAN Intergovernmental Commission on Human Rights (AICHR).

This study aims to examine (a) state practice (policies, processes to regulation, and enforcement measures) in managing the different forms of migration (b) existing cooperation mechanisms, (c) best practices of effective migration management of the most vulnerable migrants in migration, and provide recommendations for the consideration of related ASEAN Sectoral Bodies on the protection and promotion of the rights of migrant workers.

This research is the implementation of AICHR's mandate to prepare studies on thematic issues on human rights in the region. Moreover, Article 4 of the 2012 ASEAN Human Rights Declaration has affirmed that the rights of migrant workers are an inalienable, integral, and indivisible part of human rights and fundamental freedoms.

The finalisation of this report has taken a series of rigorous consultations to solicit inputs from relevant ministries in the ASEAN Member States, experts and practitioners on labour migration in ASEAN, migrant workers, and also from AICHR Representatives with the purpose of verifying and validating the analysis, the findings and recommendations of the study. The inputs were also gathered from relevant stakeholders through conducting the AICHR Regional Consultation on Migration and Human Rights: Validating the AICHR Study on Migration and Human Rights on 1 November 2021.

Focusing on the management of migration in ASEAN, especially for the most vulnerable groups in the region, this study applies human rights and gender lenses in analysing the existing migration management system in ASEAN and its Member States. It draws the lesson learnt and best practices in labour management of the ASEAN Member States.

The study has also identified nine challenges in labour migration management in the region, one of them is the lack of uniformity of labour migration policies in the ASEAN Member States has prevented more synchronised and coordinated actions among member states in addressing the issue of migrant workers.

Accordingly, the study also provides some recommendations for ASEAN bodies such as AICHR and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) as well as the ASEAN Member States to better manage labour migration in the region.

On behalf of AICHR, I have the honour to convey our appreciation to the Lead Researcher, Dr. Sylvia Yazid of the Parahyangan Catholic University (Indonesia), and the team members, Dr. Shanti Thambiah of the University of Malaya (Malaysia) and Mr. Jorge Tigno from University of the Philippines (the Philippines) for their commitment and hard work in finalising this study.

I also would like to thank the ASEAN member states, the ASEAN Secretariat, and the partners who have contributed significantly toward the completion of this report.

As we continue our commitment to protect and promote the rights of migrant workers in ASEAN, I am confident that the findings and recommendations of this study will complement our approaches, policies, and programmes toward building a stronger and more inclusive ASEAN Community.



## Executive Summary

Labour migration is a complex process which requires an established management system to ensure that all the individuals involved have their rights protected. Using the concept of migration infrastructure, this research aims to identify the respective roles played by the various actors involved in the migration management in each ASEAN member state, describe the relationship between and among these actors, identify best practices of migration management in each ASEAN member state, and give recommendation on how to improve the current migration management in ASEAN. For these purposes, this study proceeded using the method of qualitative literature study by focusing on the human rights aspect within the current labour migration management in ASEAN. Particularly, this study aims to describe the rights and responsibilities of state as the main actors and other stakeholders within the multidimensional labour migration management system. This study mainly relies on the availability of information found in publicly available written report from ASEAN and its member states, other international organisations, news media outlet, and published paper as well as books. Considering this limitation, this study focuses more on providing general overview of labour migration management in ASEAN and the condition in each ASEAN Member States (AMS). Specific information regarding labour migration, which requires further field research on the field, may not be present at this study. Moreover, this study has not covered the change within the labour migration management system due to the COVID-19 Pandemic because the authors believe that the pandemic has brought a new set of challenges, which requires a new set of research tools.

This report is divided into 5 sections. It starts with an introductory part of the research which includes the objective and scope of the study, conceptual frameworks and definitions, as well as the method of the research. The second part describes the general migration management in ASEAN using migration infrastructure concept. Third, it describes the available international, regional, and bilateral cooperation mechanism related to labour migration in ASEAN. Fourth, the research assesses the labour migration management in each of AMS, including the best practice in labour migration management. Lastly, this research provides an illustration of the commitment of AMS towards the adoption of ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, highlights main challenges in labour migration management in ASEAN, and provides recommendation for ASEAN and its member states to further improve the labour migration management system in the region.





# 1. Introduction

## 1.1. Regional Context of Labour Migration in ASEAN: Overview, Trends, Cross-cutting issues

In general, migration is understood as a process where people are moving across state borders resulting in a temporary or permanent change of residence. At the present time, temporary labour migration overseen by the government is the type of migration that dominates migration flows in Asia.<sup>1</sup> Such type of migration has been recognized as an essential component of the economic and social life of every state as it contributes to the economic growth of the countries of origin while also meeting the labour demands of the destination countries.<sup>2</sup> Moreover, when labour migration is regulated and protected by the government, it has proven to get many households out of poverty as well as increase the level of health and education in the country of origin's society.<sup>3</sup> Therefore, properly managed migration can be beneficial for individuals, societies, and states in both origin and destination countries.

Complex challenges frequently accompany the process of migration. Most of the problems faced are caused by or related to the lack of access to regular forms of migration and safe migration channels. Within the Association of Southeast Asian Nations (ASEAN), the movement of people between the member states has taken various forms, including regular and irregular ones. Most of the migrant workers, particularly those who end up in an irregular migration process are vulnerable to human rights abuses and in dire need of protection.<sup>4</sup> Hence, ASEAN countries are working hard to manage migration flow within their borders by establishing effective legal frameworks, strengthening law enforcement, and building inter-state cooperation.

Of various types of migration, labour migration has been the major form of migration

in the ASEAN. According to the International Labour Migration Statistics (ILMS) Database in ASEAN, in 2013 there were more than 9 million registered migrant workers and 6 million of them were from ASEAN countries.<sup>5</sup> In 2019, the ILO estimated that there were 10 million foreign migrant workers in ASEAN, with approximately half of them being women.<sup>6</sup> Furthermore, the intraregional migration (migrants from ASEAN countries going to other ASEAN countries) also shows the importance of labour migration for the region since the statistics show that in 2013, half of ASEAN countries host more than 50% of intraregional migrants.<sup>7</sup> With the push and pull factors existing in ASEAN, preventing or halting labour migration is unthinkable, especially when the labour movement is recognized as one method to maximize and fully utilize human resources. Moreover, the development of the ASEAN Economic Community will transform ASEAN "into a region with free movement of goods, services, investment, skilled labour, and free flow of capital".<sup>8</sup>

While ASEAN has been clear on making a free flow of skilled labour by 2015, ASEAN should explore the necessary and appropriate ways to manage labour migration.<sup>9</sup> According to the International Organisation for Migration (IOM), the management of migration is based on the understanding that each State has the right and duty to develop its own legal framework on migration and to protect the security and well-being of its population, consistent with existing international human

rights standards. On the other hand, migrants are required to comply with the laws of the host State. In this regard, relevant bilateral, regional and global instruments provide a foundation for developing cooperative approaches to migration management. Through well managed migration, irregular migration can be prevented and reduced. It is also an effort to combat human trafficking, people smuggling and other forms of international criminality affecting migrants and to provide support to victims.

In the wake of the COVID-19 pandemic, an established and secure migration management system becomes even more important to protect the wellbeing of migrant workers since health risk becomes an additional factor that can harm migration activities. Moreover, an established migration management system can also ensure the consistent commitment of both origin and destination countries in upholding and protecting the rights of the migrant workers amidst the pandemic. Thus, a study on the current migration management system and an effort to improve the current condition are crucial to lead us to a better migration condition in the ASEAN region.

In this regard, the ASEAN Intergovernmental Commission on Human Rights (AICHR) conducted a study on labour migration in ASEAN with an approach to migration management. In this study, migration management should be perceived as activities

1. United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), Trends and drivers of international migration in Asia and the Pacific (Bangkok, 2017), 4.  
2. "Labour Migration in Asia and the Pacific," International Labour Organization (ILO), accessed 24 August 2020, [http://www.ilo.int/asia/areas/labour-migration/WCMS\\_634559/lang-en/index.htm](http://www.ilo.int/asia/areas/labour-migration/WCMS_634559/lang-en/index.htm).  
3. UNESCAP, Trends and drivers, 9.  
4. Syed Munir Khasru, "Migration - the forgotten part of ASEAN integration," Nikkei: Asian Review, November 20, 2018, <https://asia.nikkei.com/Opinion/Migration-the-forgotten-part-of-ASEAN-integration>.

5. International Labour Organization (ILO), International Labour Migration Statistics (ILMS) Database in ASEAN (2018), document can be downloaded through <http://apmigration.ilo.org/asean-labour-migration-statistics>, 1.  
6. ILO, ILO Brief: Experience of ASEAN migrant workers during COVID-19 (Bangkok: ILO, 2020), [https://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/documents/briefingnote/wcms\\_746881.pdf](https://www.ilo.org/wcmsp5/groups/public/-asia/-ro-bangkok/documents/briefingnote/wcms_746881.pdf), 1.  
7. ILO, ILMS Database in ASEAN, 13-14.  
8. Sriprapha Petcharamesree as Thailand Representative to AICHR (inputs, April 23, 2011)  
9. Ibid.



which aim to create a humane and orderly movement of people across state borders through a harmonised system of institutions, practices and discourses.<sup>10</sup> This study also employs Xiang and Lindquist's concept of migration infrastructure to comprehensively understand the current landscape of ASEAN's labour migration management.<sup>11</sup> Under the prevailing national laws, regulations and policies of AMS, the obligation of the respective origin and destination states serve as the main reference of migration management in this study. Such arrangements are stated in the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

This initiative is congruent with the ASEAN Political Security Community Blueprint (2016-2025) in promoting the interaction and consultation between AICHR and relevant ASEAN sectoral bodies and other stakeholders concerning the promotion and protection of human rights (A.2.5.vii). The ASEAN Political-Security Community Blueprint (2016-2025) highlights, among others, the characteristics of being a rules-based, people-oriented, and people-centred community. Furthermore, the Blueprint envisioned that one characteristic of the ASEAN community was that it shall be "bound by fundamental principles, shared values and norms, in which our people enjoy human rights, fundamental freedoms and social justice, embrace the values of tolerance and moderation, and share a strong sense of togetherness, common identity and destiny".

Furthermore, it is also consistent with the following AICHR mandates:

- » Article 4.2 to establish a framework for human rights cooperation in ASEAN;
- » Article 4.8 to engage in dialogue and consultation with ASEAN bodies;
- » Article 4.12 to prepare studies on thematic issues of human rights in ASEAN.

In addition, it also contributes to the realisation of the ASEAN's commitment to regional cooperation to protect and promote the rights of migrant workers as enshrined in Chapter 7 of the ASEAN Consensus as follow:

- » Article 53 "Facilitate information sharing through development or strengthening of their respective database and information systems on matters relating to migrant workers, for the purpose of enriching policies and programmes concerning migrant workers in both Sending and Receiving States"
- » Article 54(a) "Building capacity and sharing of information including on laws, regulations, policies, and practices in relation to protection and promotion of migrant workers' rights and welfare".
- » Article 54(b) "Encouraging constructive dialogue, consultation, cooperation, and regular exchange of information, for the purpose of effective enforcement of policies and programmes concerning migrant workers".

The series of activities included in this study involves AICHR Representatives, the ASEAN Secretariat, the representatives of ASEAN Committee of Migrant Workers (ACMW), representatives of ASEAN Commission on

10 Younes Ahouga, "The local turn in migration management: the IOM and the engagement of local authorities," *Journal of Ethnic and Migration Studies* (2017), 1.

11 Biao Xiang and Johan Lindquist, "Migration Infrastructure," *International Migration Review* 48, no. 1 (2014): 122-148.

the Promotion and Protection of the Rights of Women (ACWC), and other relevant Sectoral Bodies and Entities and national stakeholders. The direct beneficiaries are the AICHR and ACMW. The indirect beneficiaries are other

ASEAN Sectoral Bodies, migrant workers' organisations and civil society organisations working on the rights of migrant workers in the region.

## 1.2. Conceptual Framework and Definitions

### 1.2.1. Migration Management

In order to observe the migration management in ASEAN, this study utilizes the framework of migration infrastructure to see the interconnected components which constitute a harmonized migration management system. This concept is chosen because it helps in limiting and focusing the research while also providing guidelines for a comprehensive illustration of the current condition of migration activities in ASEAN. While there are other concepts such as migration and development nexus or migration governance, both concepts do not fit with the objective of the study as migration and development nexus focuses on the cause and effect of migration<sup>12</sup> while the migration governance does not provide clear indicators to describe the migration management system<sup>13</sup>. Hence, we see that migration infrastructure is the most suitable concept to be used as a framework to describe migration management in ASEAN.

Although migration infrastructure deals with technical issues of migration activities, such technicalities also provide a system of responsibilities and rights for various actors involved in migration activities. Hence, this approach fits with our aim to see how the human rights norms manifest in the system. It gives responsibility for state and non-state actors to protect the rights of migrants, including migrant workers. At the same time, the system also provides rights for migrants when they undergo migration activities. Additionally, this study also observes the social, political, and economic conditions which affect the flow of remittances since remittances also play a significant role in migration management. Migration infrastructure refers to a systematic and interconnected technologies, institutions, and actors which facilitate and enable mobilization of people.<sup>14</sup> Such a system connects 5 dimensions of the infrastructure

12 Hein De Haas, "Migration and Development: A Theoretical Perspective," *International Migration Review* 44, no. 1 (2010): 227-264.

13 Alexander Betts, "The global governance of migration and the role of trans-regionalism," in *Multilayered Migration Governance*, eds. Rahel Kunz, Sandra Lavenex, and Marion Panizzon (New York: Routledge, 2011), 23-45.

14 Xiang and Lindquist, "Migration Infrastructure," 124.

which are the regulatory, the humanitarian, the technological, the commercial, and the social. The relations between these 5 dimensions may both enable and impede the process of migration. Thus, understanding each dimension and their relations with each other are important to comprehensively understand the current state of human rights protection system within migration management in ASEAN countries.

First is the regulatory dimension, which consists of institutions, policies, and discourses on the mobilization of people.<sup>15</sup> In this sense, migration is treated as an activity that needs to abide by certain regulations and both the process of formulating and implementing such regulations are included within this dimension. Second is the humanitarian dimension which refers to the role of mass media, non-governmental organisations (NGOs), and international organisations in shaping migration activity through active intervention and advocacy.<sup>16</sup> Third, the technological dimension includes the use of communication, transportation, and information technologies to control, facilitate, or hamper the mobilisation of people.<sup>17</sup> The advent of the internet to connect people as well as demand and supplies, the vast development of the airline industry, and the development of the digital system for identification data storage and exchange are examples of factors which affect how migration activities are done. Fourth is the commercial dimension which treats the migration activity as a business sector. This dimension highlights

services provided by various actors to facilitate the process of migration in terms of brokering, documenting, training, controlling, and rescuing.<sup>18</sup> The last is the social dimension where cross-border networks of people are sustained over the years so that the demand of labour on one side can be fulfilled by the supply on the other side of the network through migration.<sup>19</sup>

These 5 dimensions are interconnected in a way that a change in one dimension affects others. For example, the change in technological dimension in terms of the development of the airline industry changes the landscape of regulatory dimension since the significant influx of migrants arriving by plane requires change of the ways migration control procedures are conducted in some airports. Similarly, such change affects the commercial dimension as the labour market expands significantly since the fulfilment of labour demands in farther areas can also be catered.

Additionally, the social, political, and economic conditions affecting the flow of remittances are also an important dimension to be observed. Other than economic regulations in origin and destination countries, conditions such as wage rates, facility for transferring funds, marital status of migrants, education level, and household income level affect the flow of remittances.<sup>20</sup> As the flow of remittances is one of the main benefits of labour migration for origin countries, destination countries, and

migrant workers, understanding the conditions affecting the flow of remittances can help improve the conduct of migration management. We, therefore, added remittance as the sixth dimension since remittance has been an integral part of the labour migration that occurs in ASEAN. Furthermore, an observation of how remittance is generated, transferred and utilized throughout the labour migration describes how the dimensions of migration management interact with each other.

The interconnection between these 5 dimensions comprehensively delineates migration infrastructure. With the added dimension of remittances, this research seeks

### 1.2.2. Definitions

Other than the concept of migration management and migration infrastructure, some concept definitions which are used in this paper are as follow:

**Gender:** functions of individuals that are socially and culturally constructed to distinguish the roles between men, women, boys, and girls within the society.<sup>21</sup>

**Gender equality:** equal rights, responsibilities, and opportunities for all men, women, boys, and girls to contribute to and benefit from every aspect of life such as economic, social, cultural and political development.<sup>22</sup>

to observe the current condition of migration infrastructure management in ASEAN and the rights and responsibility which are guaranteed by the system. Some dimensions are emphasized more than others. Some elements may be modified as the study proceeds since this study focuses on the current state practices, cooperation mechanisms on labour migration, and the current best practices within the current ASEAN migration infrastructure management. Furthermore, the dimension and elements may also be modified from the original source to fit in the study's objective which seeks to give recommendations to improve ASEAN migration infrastructure management from human rights and gender lenses.

**Human rights:** inherent and inalienable rights to all human beings, regardless of any distinction such as race, gender, age, language, religion, political or their opinion, national or social origin, economic status, birth, disability, or other status.<sup>23</sup>

**International migration:** is a process whereby people move across state borders, resulting in temporary or permanent change of residence.<sup>24</sup>

**Migration management:** perceived activities which aim to create humane and orderly movements of people across state

15 Ibid, 133.

16 Ibid, 134.

17 Ibid, 135.

18 Ibid, 133.

19 Ibid.

20 Shivani Puri and Tineke Ritzema, "Migrant Worker Remittances, Micro-finance and the Informal Economy: Prospects and Issues," Working Paper N/21, International Labour Office Geneva, [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_117997.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_117997.pdf), 13.

21 "Gender Mainstreaming: Strategy for Promoting Gender Equality," Office of the Special Advisor on Gender Issues and Advancement of Women, August 2021, <https://www.un.org/womenwatch/osagi/pdf/factsheet1.pdf>

22 Ibid.

23 ASEAN, ASEAN Human Rights Declaration and the Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration, adopted on 18 November 2012, [https://www.asean.org/storage/images/ASEAN\\_RTK\\_2014/6\\_AHRD\\_Booklet.pdf](https://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf), 4.

24 ASEAN, Compendium on Migrant Workers' Education and Safe Migration Programmes (Jakarta: ASEAN Secretariat, 2017), 20.



borders through a harmonized system of institutions, practices and discourses.<sup>25</sup>

**Migrant worker:** refers to a person who is to be engaged or employed, is engaged or employed, or has recently been engaged or employed in a remunerated activity in a State of which he or she is not a national.<sup>26</sup>

**Recruitment entities (REs):** The term used in this paper to encompass formal, informal, individual, group, private, and/or public actors whose activities revolve around recruiting potential migrants and support the process of migration until their departure to destination countries. While the article 1 of C181 - Private Employment Agencies Convention of International Labour Organization only recognises formal and private actors as recruitment agencies,<sup>27</sup> this paper expands such definitions in order to fit with various phenomena on the ground.

**Remittance:** Portion of the compensation of migrant workers for their economic activities in destination countries which is sent back to their country of origin.<sup>28</sup>

**Vulnerability:** A structural condition which makes a person exposed to dangerous situation and such dangerous situation may cause harm

both physically and psychologically.<sup>29</sup> Human rights and vulnerability are 2 connected concepts insofar that human rights regime serve as social, legal, and political institutions which create protection against certain structural condition which create dangerous situation for certain people. In this research, women and domestic workers are identified as vulnerable groups in labour migration. Furthermore, the institutions which create protection against vulnerability refer to regional cooperation frameworks, national legal frameworks, activities of law enforcement apparatus, and activities of non-state actors. These institutions may specifically protect the identified vulnerable groups or generally protect the public, including identified vulnerable groups.

**Undocumented or Irregular Migrant Worker:** A person who enters and works at destination country without fulfilling his/her legal obligation according to laws, regulations, and policies in the destination country. This definition also includes person who formerly worked legally in the destination country but is no longer so despite still in employment.<sup>30</sup>

25 Younes Ahouga, "The local turn," 1.

26 ASEAN, ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, adopted on 14 November 2017, <https://asean.org/storage/2019/01/3.-March-2018-ASEAN-Consensus-on-the-Protection-and-Promotion-of-the-Rights-of-Migrant-Workers.pdf>, 8.

27 "C181 - Private Employment Agencies Convention, 1997 (No. 181)," International Labour Organization (ILO), accessed 3 December 2020. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312326](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326). 28 Putri and Ritzema, "Migrant Worker Remittances, Micro-finance and the Informal Economy," 3.

29 Bryan S. Turner, *Vulnerability and Human Rights* (Pennsylvania: Pennsylvania University Press, 2006), 28.

30 ASEAN, ASEAN Consensus, 9.

## 1.3. The Objective and Scope of the Study

This study on labour migration management in ASEAN covered the following discussions:

- **(State Practices) Main actors:** Identifying main actors - state and non-state - and the respective roles they play in migration management in each ASEAN member state. State actors are government agencies at national level who engage with migrant workers while non-state actors are recruitment agencies, NGOs, and other actors when relevant.
- **(Cooperation Mechanism) Role of various stakeholders:** Describing the relationship, which includes but is not limited to coordination, cooperation, competition, between and among actors in migration management in each ASEAN member state.

- **Best practices of labour migration management:** Identify and summarise best migration management practices in each ASEAN member state from the perspective of human rights and gender equality. The best practices of migration management in each country includes bilateral and national examples.
- **Recommendations to Improve labour migration management:** Identify some challenges in promoting and implementing human rights and gender equality principles in migration management in each ASEAN member state. Such identification is followed by clear recommendations to overcome the identified challenges.

### 1.3.1. Scope of Study

The scope of this study on labour migration management in ASEAN consists of the main focus and limitations of the study.

#### Focuses

This study focuses on delineating the human rights aspect within the current labour migration management in ASEAN. Particularly, this study aims to describe the rights and responsibilities of state as the main actors and other stakeholders within the multidimensional labour migration management system. Moreover, this study mainly relies on publicly available official documents of ASEAN and AMS and hence, generally, the term 'migrant workers' within this study refers to the legally documented migrant workers.

#### Limitations

This study was limited to literature study without any field research and hence, it relies on the availability of information found on publicly available written report from ASEAN and its member states, other international organisations, news media outlet, and published paper as well as books. Considering this limitation, this study only aims to provide general overview of labour migration management in ASEAN and the condition in each AMS. Specific information regarding labour migration which requires

further research on the field may not be present at this study. Moreover, this study does not cover the change within the labour migration management system due to the COVID-19 Pandemic because the finalization of the study occurred during the start of the pandemic. Therefore, further research on the effect of COVID-19 Pandemic to the labour migration

### 1.3.2. Research Questions

In brief, on the receiving states' part, this study focuses on the working condition of migrant workers during his/her working contract. On the origin countries' part, this study focuses on pre- and post-employment stages. The study covers the arrangement before a migrant worker leaves his/her country of origin to work abroad and when he/she returns home after his/her working contract ends.

Different emphasis should be paid with respect to the different nature of each ASEAN Member State and this becomes the subject of this study. For instance, Indonesia and the Philippines are mainly country of origin, Malaysia and Singapore are country of destination, while Thailand is both a country of origin and destination. Therefore, the main research questions are as follow:



management system in ASEAN is needed to advance this study. Lastly, due to limited literature on specific kind of labour migration, such as mixed migration and undocumented migrant workers, this study is limited to labour migration activities performed by legally documented migrant workers.

1. What are the national policies, regulations, legal arrangements related to labour migration management in AMS that affect the rights of migrant workers in ASEAN?
2. What are the regional arrangements or mechanisms at the regional level (bilateral and multilateral)?
3. What are existing cooperation mechanisms between state actors and non-state actors (the commercials, the human rights institutions, and the social) in both advocacy and implementation of relevant policies and legislations to enhance the protection of migrant workers?
4. What are best practices pertaining to the protection of migrant workers in terms of setting the standards and monitoring mechanism related to the technologies, the commercials, the human rights institution, the social, and the regulatory?
5. What are the challenges on the implementation of human rights-based labour migration management in ASEAN, considering the prevailing policies, regulations, and arrangements?
6. What are the recommendations towards the migration management in ASEAN to further promote and protect the rights of migrant workers?

## 1.4. Method of the Study

This study was a qualitative literature study. A qualitative literature study refers to research which focuses on the non-quantitative data collection with the aim to have a comprehensive understanding of certain phenomenon rather than making a parsimonious inference.<sup>31</sup> In this research, an interpretation of texts and documents becomes the main method of understanding the phenomenon. With that being said, the research started with formulating research questions to serve as an outline to limit the scope of research. It is followed by the conceptual framework which guides the process of data gathering, data selection, and data interpretation. During the process of gathering, selecting, and interpreting data, the conceptual framework is also subject to be revised and updated in order to fit with the data interpretation. Lastly, the writing of the research result will be based

on the comprehension of the data which is structured according to the final conceptual framework in order to bear clear significance and contribution in the academic state of the art.<sup>32</sup>

The analysis was made based on the information gathered from official documents and sources such as the governments and organisations. Information and data were also obtained from other reliable sources such as the media. There were two main challenges in developing the data gathering method further. First, several technical factors, including those related to the pandemic, have limited mobility of the researchers. Second is language, which has limited the data gathering to sources in English and the language understood by the researchers.

## 1.5. Structure of the Report

The report is divided into the following parts:

- Part 1: Introduction
- Part 2: Mapping the Migration Management in ASEAN Using the Concept of Migration Infrastructure
- Part 3: Cooperation Mechanism Related to Labour Migration Management in ASEAN Part 4: Human Rights and Gender Equality Aspects in Management of Labour Migration in ASEAN Member States
- Part 5: Commitment, Challenges, and Recommendation



31 Alan Bryman, *Social Research Methods* (New York: Oxford University Press, 2012), 380.

32 Ibid, 386.



# 2

## 2. Mapping Migration Management in ASEAN Using the Concept of Migration Infrastructure

### ● 2.1. Importance of Labour Migration in ASEAN

Labour migration within the ASEAN region has become both more prevalent and more restrictive. As more and more people move across borders, we see their movements becoming increasingly and intensely mediated by different processes and institutions and networks. As discussed in Chapter 1, such mediating institutions or infrastructures can serve to mediate, facilitate, or restrict mobility. The labour migration patterns observed in ASEAN are old, complex, and nuanced and have shaped and reshaped the region as well as the entire Southeast Asian region in very profound ways.

Labour migration in the ASEAN region has been shaped by various factors ranging from deliberate colonial policies to national development policies and geographic closeness and ethnic affinities. The economic growth of Singapore was fueled by large-scale immigration that occurred during the colonial

period. British merchants as well as Chinese, Malay and Indian migrants moved to Singapore in the 19th century that helped propel its growth and transformed its economy and society. The Malaysian peninsula (including Singapore) has been a destination for countless Chinese and Indian migrants who eventually settled beginning in the 19th century. This is due to the economic potential of the sub-region. The same can be said about the Mekong sub-region. Countries in the Mekong sub-region have seen much migration since colonial times before the advent of modern nation-states. The geographical contiguity of Thailand, Cambodia, Lao PDR, Myanmar, Vietnam, and China have contributed to a rich and diverse migration phenomenon that continues to this day.

Over the last two decades, labour migration has been seen to be a significant driver of economic growth and development within the



ASEAN region triggered by economic and social disparities as well as demographic shifts and differences. In recent years, however, labour migration has become more and more mediated and regulated by systematic and temporary mobility schemes that operate both at the official and informal levels throughout the ASEAN region. The regulatory mechanisms are performed through official government channels while the mediation mechanisms themselves are organized through formal and informal channels involving Private Recruitment Agencies (PRAs), labour brokers, remittance agents, among others.

Within the region can be found origin, destination, as well as transit areas for labour migrants. Countries have prospered to a great degree as a result of the remittance incomes and the labour power of migrant workers. In certain instances, the national economies of

origin countries have grown substantially as a result of the contributions of migrant workers who perform jobs that are in need in these areas. At the same time, labour migration has become a way out of countless workers from sending areas who could not find adequate suitable employment in their origin countries. However, the prosperity in the ASEAN region brought about by labour migration has glossed over the difficult and dangerous conditions experienced by the migrant workers themselves.

This chapter describes the different dimensions of the labour migration infrastructures (as discussed in Chapter 1) that can be observed in the ASEAN region as a whole. The focus of this chapter is more on how these labour migration infrastructures operate in the ASEAN region.

### 2.1.1. Intra-ASEAN Flows

According to the latest 2019 estimates of the United Nations Department of Economic and Social Affairs (UNDESA), there are around 10.1 million stock migrants in ASEAN today as shown in the table below. Over the last three decades, the total migrant stock population in ASEAN has been increasing from just 2.8 million in 1990 to over 5.1 million by 2000, and 10.1 million by 2019. Nearly all of this migrant stock (over 9 million) is located in only three countries - Malaysia, Singapore, and Thailand.

Table 1. Migrant Stocks in ASEAN (1990, 2000, 2019)

Country	1999	2000	2019
Brunei Darussalam	73,200	96,296	110,641
Cambodia	38,375	146,085	78,649
Indonesia	465,612	292,307	353,135
Lao PDR	22,866	21,948	48,275
Malaysia	695,920	1,463,598	3,430,380
Myanmar	133,545	98,011	75,998

Philippines	154,071	318,095	218,530
Singapore	727,262	1,351,691	2,155,653
Thailand	528,693	1,257,821	3,635,085
Vietnam	28,118	56,754	76,104
<b>TOTAL</b>	<b>2,867,662</b>	<b>5,102,606</b>	<b>10,182,450</b>

Source: "International migrant stock 2019," UN Department of Economic and Social Affairs, accessed December 7, 2020, <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>.

Around 6.8 millions of those are intra-regional labour migrants. While the proportion of labour migrants in absolute terms is rather small compared to ASEAN's overall population (655 million), the way that these migrants are deployed as well as the work that they do has an undeniably tremendous impact on all the countries in the region socially, economically, and politically. Labour migration flows make up a significant part of the intra-ASEAN population movements. The major destination countries

are Malaysia, Singapore, Thailand, and Brunei while the significant source countries are Indonesia, Myanmar, and the Philippines as seen in the table below. It is also important to note that Malaysia and Thailand are also source areas for migrants going to Singapore and other parts of Asia. However, these two countries can be considered as net-destination areas as they are seen to accept more foreign migrants than their nationals leaving abroad.

Table 2. Intra-ASEAN Labour Migration (2019)

Country	Destination			
	Malaysia	Singapore	Thailand	Brunei
Cambodia			689,451	
Indonesia	1,225,156	138,338		6,639
Lao PDR			934,936	
Malaysia		952,261		
Myanmar	345,947		1,858,735	
Philippines	116,423	13,044		14,492
Singapore	91,002			1,659
Thailand		16,329		15,491
Vietnam	99,875			

Source: "International migrant stock 2019," UN Department of Economic and Social Affairs, accessed December 7, 2020, <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>.



While Malaysia is seen as both a major source country with nearly a million Malaysian migrants going to Singapore, it is actually a net-destination country as it also receives more than 1.5 million migrants from Indonesia, Myanmar, the Philippines, Singapore, and Vietnam. The actual numbers of Filipinos in Singapore are over 200,000 migrants working there mainly as migrant domestic workers.<sup>33</sup>

Labour migration flows from Lao PDR are informal and undocumented primarily involving low-skilled workers. Such conditions lead to exploitation and abuse issues pertaining to the rights and welfare of migrant workers, women, and children. In countries like Cambodia and the Philippines, the migration experience became more pronounced during the 1970s and has continued up to now although in the former case, a great deal of forced migration during the 1970s caused by the brutalities of the Pol Pot regime. In the Philippines case, migration is in the form of temporary labour movements. Myanmar's recent international migration experience has been limited largely

to Thailand, Malaysia, and China. While many Filipinos can be found working as domestic workers in Malaysia and Singapore, there are also a few of them working in the professional sector as teachers and engineers in Thailand, Cambodia, and Vietnam.

ASEAN has become a very interconnected region largely due to migration. These interconnections are primarily between net-origin and net-destination countries. Cambodia, Indonesia, Lao PDR, Myanmar, Philippines, and Vietnam are net-origin countries while Brunei, Malaysia, Singapore, and Thailand are the net-destination countries. Intra-ASEAN labour migration is dominated by low-skilled workers particularly in domestic work and production processing (most notably in the fisheries and plantation sectors). In many cases, the migrant workers are predominantly women. As well, there large numbers of undocumented (both smuggled and trafficked) migrants found working and living in different parts of the region.

## 2.2. Regulatory Infrastructure

Different countries in ASEAN have their respective national frameworks for regulation labour migration. Likewise, the specific country regulatory mechanisms in place varies in complexity and scope as will be evident in Chapter 4. Both origin and destination countries have, over the decades, devised and

established complex and formal regulatory mechanisms for migrant workers.

Among source countries, Indonesia and the Philippines are prime examples. The Philippines has its Philippine Overseas Employment Administration (POEA) and the Overseas

33 Embassy of the Philippines in Singapore, "Overview of Philippines-Singapore Relations," Philippine Embassy Website, accessed 8 November 2020, <https://www.philippine-embassy.org.sg/about-us-2/overview-of-philippines-singapore-relations/>.

Workers Welfare Administration under the Department of Labour and Employment (DOLE) while Indonesia the National Board for the Protection of Indonesian Migrant Workers (BP2MI) under the President and administered through the Ministry of Manpower. It is not untypical for source countries in ASEAN to include the foreign ministries in labour migration regulations such as in the cases of Indonesia and the Philippines again.

Cambodia has the Ministry of Labour and Vocational Training (MOLVT) as a key institutional actor in regulating labour migration whose main functions have to do with establishing the norms and management procedures for sending workers abroad, including the recruitment, education, and training; and ensuring the health and safety of labour migrants. The Ministry of Interior of Cambodia also plays a role in the migration policy architecture because it is the agency responsible for issuing passports to departing Cambodian workers and also provides the mechanism for dealing with the complaints of labour migrants onsite in collaboration with the Ministry of Foreign Affairs (MOFA).

In Lao PDR, the Ministry of Labour and Social Welfare (MOLSW) is in charge of migrant workers' issues in addition to the MOFA and the MOPS. These three ministries have developed an operational manual on the safe and protective management of migrant workers.

Regulating labour migration from Myanmar is done through the Ministry of Labour. This ministry has four main roles which are protecting and ensuring the rights of workers, maintaining the fulfilment of social rights, ensuring productivity, and arranging matters pertaining to international affairs. On the implementation side, Myanmar's labour migration management system is largely

undertaken by a government institution called the Overseas Employment Central Committee and Supervisory Committee. This Committee is responsible for monitoring the activities of private service agencies that prepare Burmese migrant workers going abroad.

Vietnam has a Department of Overseas Labour (DOLAB) under the Ministry of Labour, Invalids and Social Affairs (MOLISA) that oversees the management of labour export, regulates the granting of recruitment licenses, and deals with violations, among others. The MOFA is also a key actor in the labour migration system of Vietnam. This Ministry provides protection assistance to overseas Vietnamese migrants. The MOPS is responsible for the return of Vietnamese overseas migrants.

Among the destination countries, labour migration is usually regulated through their respective labour and home affairs ministries as well as immigration offices. In Malaysia, labour migration regulations are formulated and administered through the Ministry of Human Resources (MOHR) and Home Affairs (MOHA) while in Singapore, labour migration regulations are coursed through the Ministry of Manpower (MOM) in coordination with other relevant agencies such as the Immigration and Checkpoints Authority (ICA).

The MOL is in charge of both immigration and emigration of labour migrants in Thailand. The Department of Employment under the MOL manages both the sending of Thai workers abroad as well as the regulation of the entry of foreign migrants into Thailand. For Brunei, the Department of Labour (DOL), which is a government agency under the Ministry of Home Affairs (MOHA), is the regulator of foreign labour through the issuance of licences for foreign workers and support for a work permit in addition to acting as a facilitator to local job seekers to be channelled to the private sector.

The Department of Immigration and National Registration (also a government agency under MOHA) controls and regulates people's movement to/from the country under the Immigration Act (CAP 17) and its Regulations.

### 2.2.1. Migrant Levies and Quota

It is also important to note that some origin and destination countries have established mechanisms for the regulation of employers and PRAs. In destination areas, migrant levies are imposed on employers hiring migrant workers to offset the hiring of local workers. Typically, the practice involves employers needing to show proof that no local workers are willing to be hired for certain jobs. Only then can an employer hire a foreign migrant worker.

Levies may be imposed on employers hiring foreign migrant workers in Malaysia and Singapore. The migrant workers levy acts as a pricing mechanism to regulate the entry and hiring of foreigners. The foreign workers levy is usually accompanied by a quota system. Quota systems for specific sectors may also be in place in Malaysia, Singapore, and Thailand for hiring migrant workers.

A Malaysian employer who hires migrants in manufacturing, construction, services, and plantation sectors needs to pay from US\$ 154 (RM640) to US\$ 445 (RM1,850). Employers in

Singapore with a foreign domestic worker pays a levy ranging from US\$ 220 (S\$300) to US\$ 331 (S\$450) per month per migrant worker. Moreover, employers in these countries may need to abide by a migrant quota system to monitor and regulate the number of foreign migrants working in their firms and sectors. There is currently no levy system in place in Thailand.

The Philippines and Indonesia as countries of origin mandate the licensing of PRAs that are sending workers abroad. Thousands of REs operate in the different source areas as will be discussed in the section on the commercial infrastructures. Recruitment licensing regulations vary and requires REs to abide by authorized procedures as well as other documentation fees. In many cases, migrants are charged at least one month of their basic wages as the agency's recruitment fee. Failure to abide by these regulations can lead to the suspension or cancellation of one's license to recruit.

### 2.2.2. Other Regulatory Mechanisms

Some countries in ASEAN impose restrictions on the deployment of their migrant workers. The Philippines and Indonesia are both mandated by law to impose deployment restrictions in order to secure the rights and interests of Filipino migrant workers. Moreover, the goal of the bans is to convince destination

countries to treat their migrants fairly and professionally. Instances of maltreatment of migrants can be grounds for declaring country-wide deployment bans. The Philippines currently restricts the deployment of migrant workers to over 40 countries.

Cambodia, Philippines, Indonesia, Malaysia each have in place their respective set of policies dealing with the repatriation and reintegration of migrants returning from abroad. Cambodia's official migration policies incorporate the return and reintegration of overseas migrants. Cambodia's bilateral agreement with Thailand provides for the safe return of migrant workers. Indonesia has developed programs to assist the return of migrants and their families through the Migrants Workers/Migration-Friendly Villages program in partnership with the local governments. Several villages have managed to implement this program in collaboration with non-state actors. Indonesia has also undertaken a program to empower returning migrant workers in the business sector called Business Empowerment for Former Indonesian Migrant Workers under the Ministry of Manpower. For purposes of coordinating return and reintegration policies, the Philippine government has the National Reintegration Centre for OFWs (NRCO) under the Overseas Workers Welfare Administration (OWWA).

In many destination countries in ASEAN, migrant domestic workers are typically covered by special employment regulations in order to protect their rights and welfare. These special regulations are most pronounced in Brunei and Singapore. The Employment Order, 2009 is the primary legislation governing the employment in Brunei. It provides the terms and conditions of employment including for migrants and domestic workers, and provisions which stipulate requirement of contracts, salaries, healthcare, accommodation, medical care, insurance, and repatriation. Brunei also has in place the Employment (Domestic Workers) Regulations, 2009 which regulates for the conditions for the employment of domestic workers. Migrant workers are accorded the same protection as Singapore citizens under its civil and criminal laws. The relevant employment laws include: (a) Employment

Act; (b) Workplace Safety and Health Act; (c) Work Injury Compensation Act; and (d) Employment Agencies Act. In addition, there is also legislation specifically catering to migrant workers, such as the (a) Employment of Foreign Manpower Act (EFMA), which covers areas relating to employer and work responsibilities in relation to work passes; and (b) Foreign Employees Dormitories Act, which seeks to complement the EFMA by ensuring that dormitory operators house migrant workers at premises that comply with standards on physical and structural safety, land use, hygiene and cleanliness.

Pre-departure orientation programs are a commonplace mechanism for ensuring that migrants are adequately empowered to defend and uphold their rights and welfare when they go abroad. REs in Cambodia are responsible for providing pre-departure training to their migrant workers under supervision by MOLVT. In Lao PDR, the pre-departure training is the responsibility of the PRAs. In the Philippines, the pre-departure training is conducted both by government, NGOs, and the PRAs although there is officially a common program for all.

Dispute settlement systems are in place in most of the AMS. In the case of Brunei, there is a division that is responsible for resolving disputes between workers and employers, that is called as Complaint and Investigation Unit under the Labour Enforcement Division in Department of Labour. The Majlis Kesejahteraan Masyarakat (MKM) a non-governmental organisation established a Legal Advice and Advisory Clinic to provide free information and support to vulnerable groups including migrant workers. The Philippines also has a dispute settlement mechanism that operates within the POEA as well as in the different foreign missions under the Department of Foreign Affairs.



## 2.3. Technological Infrastructure

The technological infrastructures in the ASEAN countries that facilitate migration in the region and beyond vary widely and are composed of a wide range of technological capacities from road networks to airports and the use of new media and digital technologies.

The physical proximity and contiguity of the ASEAN countries has contributed to the diverse and substantial flows (both in and out) of labour migrants. Road connectivity in mainland Southeast Asia has greatly facilitated the flows not only of capital and goods but also of people. Air travel has been made easier among the ASEAN countries that allow for greater exchanges of tourists, professionals, and workers. International air travel has grown significantly over the past two decades.

### 2.3.1. Migrant Counselling Hotlines

Different ASEAN countries are promoting the development of hotlines and online services to assist distressed migrant workers in the region with a special emphasis on domestic workers. In Brunei, the DOL has set up a 24-hours online complaint service while the POEA in the Philippines provides several online services to migrant workers and their families. This includes an online verification system of the status of PRAs and an online manpower registry system. Recently, the POEA also implemented an online pre-employment seminar for Filipinos wanting to work abroad.

The Indonesian MOFA has come up with a platform called “e-protection” to disseminate information for Indonesians across the world regarding their rights as well as information on certain legal assistance for certain issues. In addition, BP2MI has established a crisis centre that can be accessed 24-7 directly, through email, text message, telephone, social media, and other means of available communication regarding the complaints of migrant workers unpaid salary, violation of working agreement,

fraud, human trafficking, violence against IMWs, and other abuses related to human rights.

In Lao PDR, the migrant workers resource centre (MRC) provides counselling and other outreach services to migrants and their families in various modalities - online or by phone. MRC also publicly disseminates information through radio and television on matters pertaining to safe migration. In addition, the Federation of Trade Unions of Laos has set up a hotline for migrant workers.

The Singapore Ministry of Manpower runs a migrant domestic worker hotline to provide migrant domestic workers (MDWs) with an avenue to recourse when necessary. Migrant workers are also provided the contact details of NGOs, to file grievances as necessary. For instance, the Centre for Domestic Employees (CDE) runs a 24-hour hotline manned by native speakers; the Migrant Workers' Centre (MWC) also runs a 24-hour helpline where MWC officers assist migrant workers who call

in using native languages. MDWs can also access free mediation services offered by CDE and the Association of Employment Agencies (Singapore). CDE runs a shelter for 120 MDWs, where they are provided with psycho-emotional wellness support, communal activities, crafts and skills training.

In Malaysia, the Migrant Working Group, Tenaganita, North South Initiative, and the Bar Council Legal Aid Centres manage hotlines that provide pertinent information to migrant workers. The Malaysian Government has also established the Institute of Labour Market Information and Analysis that serves as an information / data centre for Malaysian labour market analysis.

The manner in which migrants are transported and accommodated in the destination country is usually managed by PRAs. Aside from their transport, in certain instances, the recruitment agency is the one that also facilitates or provides the means through which migrants communicate with their families left behind as well as provide some assistance in the remittance of their salaries. The Philippines is mandated to provide assistance to migrant workers and their families regarding the sending of income remittances.

### 2.3.2. National Identification Systems

A key ingredient of the technological infrastructure for migrants is a digital national identification system. Almost all AMS have traditional national identification systems in place. However, these national identification systems do not always apply to foreigners or are difficult to implement for migrant workers who may not be able to provide supporting documentation due to their irregular status or are subject to quota restrictions. In the case of the Philippines, a national ID system has yet to be put in place and is still in the early stages of development.

Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Singapore, Thailand, and Vietnam currently have national ID systems in place. Lago notes that some countries are starting to transition to digitised ID systems.<sup>34</sup> Malaysia

is the first country in 2001 to use an ID card containing biometric data as an official identification document. Indonesia has had an electronic ID system since 2011. Singapore has put on trial a centralised biometrics identification system. Cambodia has had its compulsory biometric ID system since 2011. Thailand also approved in principle its Digital ID Bill that would allow it to establish a digital ID system. Lao PDR already has a national identity card system issued by the police since 2015. It has yet to take any actual steps towards developing a digital ID system although there are talks towards developing such a system. In 2018, the Philippines passed a law creating a national ID system. However, the implementation of the system has been met with opposition from different civil society groups and data privacy watchdogs.

34 Cristina Lago, “Which countries are implementing digital IDs in Southeast Asia?” CIO.com, January 4, 2019, accessed 3 November 2020, <https://www.cio.com/article/3331296/which-countries-are-implementing-digital-ids-in-se-asia.html>

## 2.4. Commercial Infrastructure

Labour migration in ASEAN is mediated to a great extent by PRAs that includes both formal and informal agents and labour brokers as well as remittance agents. These commercial entities constitute the profit-driven infrastructures of migration that operate on both formal and informal levels.

### 2.4.1. Recruitment Entities (REs)

Government efforts in the different countries have sought to regulate and supervise these REs. However, the resources of government appear to be no match to the resources of the more numerous REs. While a few hundred or thousand cases have been filed against erring REs, it remains to be seen whether such cases act as a deterrence. It is easy for REs to establish their recruitment businesses despite the stringent regulations and high licensing fees and bonds imposed by the government.

Cambodia, Indonesia, and the Philippines have instituted their respective mechanisms to allow for private sector participation in the recruitment process. Cambodia currently has the 2011 Sub-Decree No 190 on the Management of the Sending of Cambodian Workers Abroad Through PRAs. As in the case in the Philippines, REs that fail to fulfill their responsibilities in Cambodia are penalised and would have their permits revoked.

Most ASEAN countries adopt a licensing system for REs to allow them to continue to recruit and deploy migrant workers. In such cases, PRAs are monitored and regulated by the government. In Cambodia, REs operate under the supervision of the MOLVT. In Indonesia, REs are supervised by BP2MI and the Ministry of Manpower. The Labour

and Social Welfare Ministry of Lao PDR is the agency that supervises, regulates, and monitors the operations of PRAs.

However, despite the existence of recruitment licensing systems in the origin countries, illegitimate REs still operate. Many of these informal recruiters used to be migrant workers themselves or relatives of migrants. The networks that these informal recruiters have developed are quite extensive and hard to eradicate. It is these informal recruiters that pose a significant challenge to government regulators.

Recently, Cambodia launched a Code of Conduct for PRAs in collaboration with the Association of Cambodian Recruitment Agencies and the Manpower Association of Cambodia with assistance from the International Labour Organization (ILO). The Code of Conduct generally regulates the PRAs in ensuring ethical recruitment and a safe migration process for migrant workers.

In Indonesia, the migration management system is one that involves the participation of private profit-seeking REs. Malaysia largely outsources the hiring, processing, and transport of migrant workers to PRAs, recruiters, and brokers. The Malaysian government requires

that these PRAs be licensed and operate under government supervision through the Private Employment Agencies Act of 1981. Government also strictly monitors these PRAs for compliance and can suspend or revoke their licenses if they are found to violate the prescribed regulations. Malaysia also requires employers hiring migrant workers to sign the Employers Undertaking (introduced in 2018) that obliges them to pay a levy. Employers are also required to provide a written employment contract that specifies a wage and other relevant provisions for the migrant workers.

Myanmar's labour migration system is dominated by licensed private service agencies. These private service agencies are required by the government to conduct job proficiency training programmes for potential migrant workers. While in the Philippines, PRAs are regulated and monitored by the POEA. Licenses are issued only to those qualified REs. In addition, the Philippines applies the joint and solidary liability on all local REs for any violations of the labour contract by the foreign employer or broker. Associations of PRAs also operate in the Philippines. These include the Philippine Association of Service Exporters, Inc (PASEI) and the Overseas Placement Agencies of the Philippines (OPAP).

Incident reporting mechanisms are typically used to monitor the compliance of REs to make them accountable for their treatment of migrant workers under their care and responsibility. This is the case in Brunei where there are two Divisions involved Labour Enforcement Division which specialises in Welfare of workers and employers, and Workmen Compensation Division which specialise in workplace incident/accident matters. Reporting can be lodge at the Labour Enforcement Division Counter or via hotline, email and website as mentioned from the previous statement. In Cambodia, REs are expected to submit pre-

departure training reports and other pertinent data to the government. The Philippines has a policy of joint and several liability insofar as PRAs are concerned. What this means is that PRAs in the Philippines are liable for the wrongdoings of their agents/brokers overseas for what happens to their migrant workers.

In Vietnam, laws exist that call for the regulation of PRAs in sending migrant workers abroad. These PRAs have the responsibility to provide migrants with the necessary knowledge to protect their rights and interests as well as to conform to the laws of both Vietnam and the destination country.

Some of the ASEAN countries have established a reputation for being strict in regulating REs and making sure they adhere to ethical recruiting practices. All recruitment agencies in Singapore are governed under the Employment Agencies Act, where employment agencies can only charge agency fees equivalent to one month's salary for each year of the employment contract, capped at a total of two months of the worker's salary. Employment agencies must also refund 50% of the fee charged to the worker if the worker's employment is terminated within the first six months of employment. Singapore authorities take enforcement actions against employers and REs that flout the law. Vietnam, through DOLAB, issues warnings, fines, and other penalties to erring REs and encourages them to adhere and foster safe migration practices for Vietnamese migrant workers.



### 2.4.2. Remittance Mechanisms

For many migrant families, remittances are a vital source of income – they help reduce poverty, improve standards of living, and provide children with opportunities to obtain higher levels of education as well as support entrepreneurial activities and other productive investments.<sup>35</sup> Outside of the ASEAN region itself, the Middle East region is a major source of migrant remittances for origin countries. In 2018, ASEAN countries received 16.6% of remittance outflows from the Middle East, second only to South Asia (83%).<sup>36</sup> In 2019, the three ASEAN countries that received the largest migrant remittances were the Philippines (US\$ 35.1 billion), Vietnam (US\$ 17 billion), and Indonesia (US\$ 11.7 billion), according to the World Bank.

Isaacs notes that a large proportion of remittances in the world are still sent through informal channels. Not surprisingly, remittance costs in Asia remain high. Isaacs also notes that Cambodia is the most expensive country among the Colombo process countries to send money to in Southeast Asia at 14% followed by Thailand at 9%. In 2018, the average cost to send US\$200 to Cambodia is around 14.47%, Vietnam is 7.65%, Indonesia is 7.55%, and Philippines is 4.85%. The average cost to send US\$200 from Thailand is around 15.98% while sending money from Thailand to Cambodia is

expensive and can cost as much as 14.47% for every US\$ 200 sent.

Not all countries in ASEAN have regulations or institutional mechanisms in place to oversee money transfers.<sup>37</sup> While the central banks in the different countries have jurisdiction over the banking sector, other non-bank companies and agents that wish to operate as money transfer entities are required to register as such with the proper financial authorities and regulators such as the securities and exchange commission.

Different countries have different policies concerning the licensing and operations of remittance businesses. Increasingly, however, non-bank money transfer agents are given license to operate under special provisions in each country. The major money transfer players in the region include Western Union and MoneyGram.

In Southeast Asia, approximately 73% of the population has no bank accounts.<sup>38</sup> Financial inclusion continues to be a major challenge for the region. Migration compounds that challenge as migrants face numerous difficulties and problems in sending their remittances back to their home countries. This undocumented status of many migrants in

35 Leon Isaacs, Study on Remittance Regulatory Frameworks and Accessibility of Regular Remittance Channels of the Colombo Process Member States (Colombo: International Organization for Migration, 2019), [https://publications.iom.int/fr/system/files/pdf/study\\_on\\_remittance\\_regulatory\\_frameworks.pdf](https://publications.iom.int/fr/system/files/pdf/study_on_remittance_regulatory_frameworks.pdf).

36 Ma. Concepcion G. Latoja, "Remittances to Asia in 2018: Sources and Costs," Asia Regional Integration Center: Asian Development Bank, February 3, 2020, accessed 4 November 2020, <https://aric.adb.org/blog/remittances-to-asia-in-2018-sources-and-costs>.

37 Asian Development Bank (ADB), Workers' Remittance Flows in Southeast Asia (Philippines: Asian Development Bank, 2006).

38 Prentice, 2020

Southeast Asia deprives them of the opportunity to utilise formal remittance channels since documentation is a key requirement to open a bank account and to send money back home. Adding to the problems that migrants face is the high remittance service costs. Currently, remittance transaction costs across Southeast Asia averages around 7%.<sup>39</sup>

The reality throughout much of Southeast Asia is people have less access to financial services compared to those living in highly developed economies. A substantial percentage of the population (more than 70%) is either unbanked (no access to a basic bank account) or underbanked (no access to credit cards or long-term savings products).<sup>40</sup> One

reason for this may be due to the fact that digitised identification systems have yet to be put in place in many countries as discussed in the previous section on technological infrastructures.<sup>41</sup>

In order to open an account and transact business in a bank, the minimum basic documentary requirement for foreigners in all the ASEAN countries is an unexpired passport. However, different countries require additional documents depending on the nature of the bank transaction and especially as it pertains to remitting money which can include a valid work permit or a letter from the employer, an alien certificate of registration, and the passport as minimum requirements.

## 2.5. Humanitarian Infrastructure

Different countries in the region have their own ways of addressing the social security and humanitarian concerns of migrant workers. In certain instances, the humanitarian and health security concerns overlap with the regulatory infrastructure in that certain social security regulations are made mandatory for migrants. In Cambodia, the Protection Policy Framework (2016-2025) provides the architecture for addressing the social security concerns of migrant workers and their families. These

include emergency responses, human capital development and vocational training as well as providing for social insurance assistance in the form of pension, health insurance, employment injury, unemployment, and disability.

Indonesian migrant workers are accorded social protection through Indonesian Law No 24 on the Social Security Agency (2011). Indonesian workers who regularly paid their dues are entitled to receive social protection

39 Frédéric Ponsot, Donald F. Terry, Bibiana Vásquez, and Pedro de Vasconcelos. Sending Money Home: Contributing to the SDGs, One Family at a Time (International Fund for Agricultural Development (IFAD), 2017), <https://www.ifad.org/documents/38714170/39135645/Sending+Money+Home+-+Contributing+to+the+SDGs%2C+one+family+at+a+time.pdf/c207b5f1-9fef-4877-9315-75463fccfaa7>.

40 Florian Hoppe, Aadarsh Baijal, Thomas Olsen and Usman Akhtar, "Fulfilling Southeast Asia's Digital Financial Services Promise," Bain & Company, October 30, 2019, <https://www.bain.com/insights/fulfilling-southeast-asias-digital-financial-services-promise/>.

41 Cristina Lago, "Which countries are implementing."

from the Social Protection Program. This also includes migrant workers living in Indonesia for a minimum period of six months.

In 2018, Lao PDR established an MRC with the help from ILO to provide information to the potential migrant workers, migrant workers' families and communities about their rights and support services within the country and destination countries. The MRC also provides information about how to access legal counselling and seek support on different matters related to wages, contract and frauds. A similar MRC is also found in Vietnam.

Since 2019, Malaysia has its Social Security Organization (SOCSSO) that provides certain benefits and social protection to migrant workers for accident and repatriation. Myanmar's Social Security Law guarantees that all foreign have social and health insurance as well as employment injury benefit insurance. Vietnam's Law No 58/2014/QH13 on Social Insurance provides for health insurance coverage for all workers including overseas migrants.

Indonesia, the Philippines, and Vietnam are some of the countries in ASEAN that have instituted mechanisms for providing pre-departure training to migrant workers. The intention of such pre-departure training is to equip prospective migrants with a basic knowledge of the languages, customs, and laws of the destination country as well as the relevant national laws of the country of origin.

In order to address the specific problems of migrant domestic workers from the Philippines, the government instituted a series of reforms called the Reform Package for Filipino Migrant Domestic Workers in 2006. These reforms are specifically designed to address the vulnerabilities of Filipino migrant domestic workers and include specific

provisions on their minimum wage, minimum age, working conditions, accommodations, and their professional training, among others. Also, the POEA in the Philippines provides a mechanism for the redress of grievances and complaints of migrants particularly those involving recruitment violations and labour contract obligations. The Philippines provides on-site assistance to migrants through the Philippine Overseas Labour Offices (POLOs) found in major destination countries. These POLOs provide welfare assistance as well as repatriation assistance to distressed or returning migrant workers.

Vietnam has instituted mechanisms for the settlement of complaints and disputes by Vietnamese migrant workers. Labour Code No. 45 stipulates the rights and obligations of workers and employers, as well as the dispute settlement mechanism. In terms of access to social security, a majority of the AMS have yet to incorporate migrant workers in their respective national social security systems. Occupational health and workplace safety regulations for all workers, including migrant workers are in place in Brunei and Singapore.

The ILO acknowledges that most of the AMS have laws and regulations that relate to migrant workers that are consistent with international labour standards and conventions. Some ASEAN countries have collaborated with intergovernmental organisations on projects that seek to protect and promote the rights of migrant workers in the region. Since 2017 the Thai Government has been actively supporting intergovernmental processes to promote the rights and welfare of migrant workers. It has supported the Global Compact for Safe, Orderly and Regular Migration (GCM) by hosting three national stakeholder workshops in consultation with the IOM. While recognizing the importance of GCM and other norm-setting multilateral and intergovernmental arrangements, it must also

be mentioned that most of such measures tend to be non-legally binding (see Chapter 3).

All the ASEAN countries have laws and constitutional mandates against all forms of slavery and forced labour that, in principle, should also apply to migrants. The ASEAN countries have also enacted laws to combat and prevent human trafficking and/or protect the victims of human trafficking in their respective jurisdictions. Brunei has the Anti-Trafficking in Persons Order (2019) and Prevention of People Smuggling Order (2019), Cambodia has the Law on the Suppression of Human Trafficking and Sexual Exploitation (2008), Indonesia has its Law No 21 on the Eradication of the Criminal Act of Trafficking in Persons (2007), Malaysia has the Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act (2007), Myanmar has the Anti-Trafficking in Persons Law (2005), Philippines has the Anti-Trafficking in Persons Act (2003), Singapore has the Prevention of Human Trafficking Act (2015), Thailand has the Anti-Trafficking Act (2008), and Vietnam has its Law on Human Trafficking Prevention and Combat (2011). However, no systematic and objective assessments have been done to determine the effectiveness of such mechanisms against slavery and human trafficking.

Many ASEAN countries have bilateral agreements or understandings with each other as well as with other countries in dealing with labour migration cooperation and also to combat human trafficking. These bilateral agreements typically cover the formal mechanisms and process for the deployment of migrant workers as well as their repatriation to their respective home countries.

Indonesia has a memorandum of understanding (MOU) with the Philippines and Malaysia. Cambodia has an MOU with Thailand and Malaysia. During 2002-2004, the

Thai Government announced a migrant worker management policy intended for the long-term systematization of 3 strategies, i.e., registration of migrant and family members, migrant nationality verification, and the recruitment of formal migrants. MOUs were signed with Lao PDR, Cambodia, and Myanmar to facilitate cooperation on the problem of migrant worker employment. And, during 2015-2016 MOUs were revised and changed to the "Agreement on Employment", a key component of the MOU on Labour Cooperation. With the revision, in addition to the previous 3 countries, Vietnam also signed an MOU with Thailand. However, due to changing circumstances, the Thailand-Vietnam MOU has not proven to be very effectively implemented from the perspectives of both sides. In 1999, Vietnam signed an agreement with Taipei on the sending and return of Vietnamese contract workers to Taiwan. Vietnam also has cooperative arrangements on the sending of Vietnamese migrant workers to South Korea, Oman, Qatar, and the United Arab Emirates.

Indonesia and the Philippines are countries that have had numerous bilateral agreements on labour migration with different destination countries. Indonesia also has bilateral agreements (specifically MOU) with different destination countries. These countries include Kuwait (1996), Philippines (2003), Taiwan (2004), Malaysia (2006) with additional Protocol on 2011, United Arab Emirates (2007), Qatar (2008), Republic of Korea (2008), Japan (2008), and Jordan (2009). Generally, the agreements stipulate the agreed terms and conditions for recruitment, contracts, employment, remittance, and labour disputes between both parties. The Philippines has entered into bilateral agreements with 27 destination countries and includes MOU to protect and promote the rights of migrant workers.



Finally, as noted in Part 3, Indonesia and the Philippines have been diligent in ratifying and adopting different international conventions and standards pertaining to migrant workers' rights and welfare. Since the 1990s, Indonesia has ratified and adopted several international conventions and instruments pertaining to migrant workers. These include the International Convention on the Elimination of All Forms of Racial Discrimination (adopted in 1999); ILO Convention No. 81 Concerning Manpower Inspection in Industry and Commerce (adopted in 2003); ILO Convention No. 88 Concerning Organization of the Employment Service (adopted in 2002); Convention No. 111 of the ILO Concerning Discrimination in Respect of Employment and Occupation (adopted in 1999); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted in 2012).

## 2.6. Social Infrastructure

Throughout the region, various mechanisms and regulations are in place designed or intended to protect and promote the rights of migrant workers ranging from repatriation arrangements to deployment restrictions and networks of NGOs and migrant associations. While it is good that NGOs operate in the region to help migrants address their concerns as well as to protect and promote their rights and welfare, the operations of such organisations are not enough to address the various problems of migrants. Many NGOs operate entirely on a voluntary basis and subsist on donations from churches or from the general public.

Various social infrastructures and networks are in place in the different ASEAN countries that allow for migrants to interact with one

The Philippines has placed special emphasis on the importance of international labour conventions and standards in pursuit of protecting the rights and welfare of its overseas migrant workers. The country has signed and ratified numerous international conventions such as the Forced Labour Convention (1930); the Freedom of Association and Protection of the Right to Organize Convention (1948); the Equal Remuneration Convention (1951); and the Discrimination Convention (1958), among many others. The Philippines was the first country in ASEAN to sign the 1990 UN Convention on the Rights of Migrant Workers and Their Families. The 1995 Migrant Workers Act (RA 8042) was passed in conformity with the 1990 UN Convention.

another as well as with NGOs that support their cause and interests. Informal networks among migrants and their families are also quite significant. These networks of people and informal entities are likely to facilitate undocumented migration.

Some destination countries face the challenge of not having enough non-state actors that can support and recognise the rights and welfare of migrant workers while other countries have mechanisms in place that allow for the open operations of NGOs especially in terms of providing assistance to vulnerable groups such as women, children, the underprivileged, women, and migrant workers. Their assistance usually takes the form of policy advocacy, legal aid, and shelter

for distressed migrants. CSOs have stepped in to provide assistance to migrants where public institutions are seen to be insufficient, limited or absent.<sup>42</sup>

The Cambodian Constitution grants Khmer citizens the freedom to organise for mutual assistance, especially to care for women and other underprivileged groups. There are several non-state actors actively involved in migration issues in Cambodia. These include the Cambodian Development Resource Institute (CDRI), the Legal Support for Children and Women (LSCW), and the Phnom Srey Association for Development (PSAD), among others. These NGOs provide a variety of services and assistance to migrant workers from policy advocacy and policy research to free legal advice, and community-based assistance.

In Indonesia, the government acknowledges the role played by non-state actors in protecting migrant workers. Indonesian Law No 18 of 2017 provides that non-state actors can provide advice to the government on suspending the sending of migrant workers to particular countries to protect their rights and security as well as to support the government in monitoring and protecting their welfare and to assist in the conduct of pre-departure training.

In Indonesia, Lembaga Bantuan Hukum (Legal Aid Institution) or LBH is a non-governmental entity that provides free legal assistance to vulnerable and marginalised groups. While LBH does not specifically address the issue of international migration, it has been engaged in policy advocacy in favour of the welfare of workers. Solidaritas

Perempuan (Women Solidarity) or SP is also another NGO that serves women but has also been involved in campaigns for issues faced by Indonesian women migrant workers. Migrant Case is another NGO that provides legal aid and policy advocacy for migrant workers.

In Lao PDR, there is the MRC that partners with the government as well as with other NGOs in providing counselling and other forms of assistance to migrant workers and their families.

Malaysia has several NGOs working for the welfare of migrant workers. These include Tenaganita and the Malaysian Trade Union Congress which together manage three MRCs in Selangor, Johor, and Penang to provide support services to migrant workers. The Malaysian Employers Federation (MEF) in 2018 made a survey of migrant workers in small and medium enterprises (SMEs) in Malaysia. The survey findings were used to develop practical guidelines for employers in dealing with their foreign employees.

IOM Malaysia has also partnered with the Government of Malaysia on capacity building initiatives in areas of document security, fraud recognition, impostor detection, and investigative interviewing to counter trafficking in persons, smuggling of migrants and to curb transnational organised crime.

Myanmar has the Migrant Assistance Programme (MAP) Foundation, a grassroots NGO that assists and empowers Myanmar migrants in Thailand through rights education, informal collective bargaining, legal aid and policy advocacy campaigns. Another NGO is

42 Atsuko Geiger, "Regional Frameworks for Managing Migration and the Role of Civil Society Organizations," in *Asia on the Move: Regional Migration and the Role of Civil Society* eds. Mely Caballero-Anthony and Toshihiro Menju (Tokyo: Japan Center for International Exchange, 2015).

the Foundation for Education and Development (FED) which also focuses on the issues faced by Myanmar migrants in Thailand as well as their families. Myanmar also works closely with IOM in developing a framework on labour management.

The Philippines has a variety of NGOs that cater to the needs of migrant workers and their families. These include Migrante International, Kanlungan Centre Foundation, Atikha Overseas Workers and Communities Initiative, Development Action for Women Network (DAWN), among many others. These different NGOs provide a wide range of services and assistance from finance education to legal aid to policy advocacy. The government in many cases cooperates and partners with some of the NGOs especially in the areas of providing pre-departure education and crisis shelter assistance and counselling.

Singapore has NGOs that are able to provide socio-psychological support like counselling, healthcare, and recreational activities, among many others while a few provide legal assistance, case work support, and even small cash grants to disadvantaged migrants. Some of the NGOs that do are the MWC, Transient Workers Count Too (TWC2), and the Humanitarian Organization for Migration Economics (HOME). Migrant workers can seek free basic legal advice and information at the Free Legal Clinic, an initiative jointly organised by the Singapore Law Society's Pro Bono Services, MWC and CDE. Apart from legal clinics, CDE has also established a network of pro bono lawyers who are passionate and committed to providing legal assistance to migrant domestic workers in need.

Several non-state actors in Thailand are operating to protect and promote the rights of migrant workers and their families including the more vulnerable types of migrants such

as women and children. Only a few are mentioned here. The Foundation for Women (FFW) provides social and legal assistance both to Thai and non-Thai women and children who are victims of national and cross-borders trafficking. The Human Right and Development Foundation (HRDF) provides legal assistance to disadvantaged migrants in Thailand. The Prevention of HIV-AIDS among Migrant Workers in Thailand (PHAMIT) is concerned about HIV prevention among documented and undocumented migrants in Thailand. Finally, the Labour Protection Network (LPN) was formed to improve the lives of migrant labourers in Thailand by addressing the injustice brought on by discrimination and inequality. LPN has been providing life-saving rescues and humanitarian assistance for labour migrants in the fishing industry, both abroad and in Thailand.

Under Vietnamese laws, non-state actors are encouraged to be involved in the labour migration management process. In particular labour unions are allowed to engage in dialogue and collective bargaining with employers towards securing fair working conditions for workers including migrant workers.

Certain ASEAN countries explicitly allow for their migrant workers to form a union. For instance, Indonesian migrant workers have their own union called Serikat Buruh Migran Indonesia (Indonesian Migrant Workers Union) or SBMI which was established in 2003 to promote their rights and welfare. Before being acknowledged as a trade union, SBMI was a non-governmental organisation affiliated with Jaringan Buruh Migran Indonesia (Indonesian Migrant Worker Network) or JBMI. SBMI also works in the area of policy advocacy, organising, education, economic empowerment, and campaign for and on behalf of Indonesian migrant workers.

## 2.7. Analysis of Migration Management

Migration management is a critical concern for many countries in ASEAN. Management and regulatory systems are in place. However, the actual effectiveness of these regulatory systems is one that requires further study. Informal systems shape the labour migration phenomenon as much as the formal mechanisms.

Both public and private institutions (e.g., government regulators, REs, labour brokers, and remittance entities) have become integral to the labour migration management systems observed in the ASEAN region. These institutions mediate (i.e., regulate and supervise) the flows in the region and beyond. They are made up of different types of entities - informal and formal, individual and collective, business-oriented and social-oriented. Different parallel structures exist and operate that mediate, control, and facilitate labour migration in the region.

On the one hand, destination countries have instituted measures to differentiate migrants according to skills placing a strong preference on highly skilled workers. Moreover, governments in receiving areas have also established bilateral agreements with origin countries on ways to enhance more formal and documented labour migration and reduce or prevent human trafficking and smuggling as well as other undocumented flows.

Conversely, origin countries have institutionalised mechanisms to facilitate the systematic and large-scale deployment of their migrant labour force. As well, governments in origin areas have also come up with mechanisms to protect and promote the rights

and welfare of their nationals overseas through a system of mechanisms ranging from MOU with destination countries to actual on-site welfare programs and return-reintegration arrangements including ways to encourage migrants to remit their incomes back to their left-behind families in the home countries.

Overall, labour migration is seen as an integral part of the ASEAN community building process. Significant demographic shifts and rapid economic growth, attended by great openness among countries in the region has fostered the value of migration among the ASEAN members. Migration in general has produced a region that is ethnically and culturally diverse. Labour migration has undeniably played an important role in propelling the development and prosperity that the region has enjoyed over the last several decades.

This chapter has attempted to map out the history and characteristics of the labour migration management systems operating in the different ASEAN countries. Obviously, there are nuances and differences in the ways that labour migration has been managed partly depending on whether the country is an origin or destination for migrant workers and also partly due to the diverse economic situations of different countries in the region. Certainly, best practices abound as well as challenges and difficulties.

It has been observed that the ASEAN region places emphasis on sovereignty and non-interference which leads to a reluctance to collectively and substantively tackle migration issues particularly from a human rights



perspective.<sup>43</sup> Nevertheless, it can be said that ASEAN (both as a whole and by individual country) have come a long way in establishing their respective labour migration management infrastructure. More importantly, the countries of ASEAN have sought to embed within their labour management infrastructure a human rights-based approach and understanding to the phenomenon of labour migration that are found in their respective jurisdictions.

While migration management systems that are specific to protecting and promoting the rights and welfare of migrants are in place in many ASEAN countries, it remains to be seen whether such mechanisms can be sustained in the face of the challenges of informal mechanisms that include unscrupulous REs and brokers.

---

43 Atsuko Geiger, "Regional Frameworks."



### 3. Cooperation Mechanism Related to Labour Migration Management in ASEAN

#### 3.1. International Documents Related to Labour Migration Management

##### The ILO Conventions and ASEAN countries

All ILO's instruments (conventions and recommendations) apply to all workers, including migrant workers unless otherwise stated.<sup>44</sup> Overall, the ILO has eight core conventions, four governance-related conventions and 178 technical conventions related to technical assistance provided to countries in implementing the conventions. The ILO's core conventions include:

1. C029 - Forced Labour Convention, 1930
2. C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948
3. C098 - Right to Organize and Collective Bargaining Convention, 1949
4. C100 - Equal Remuneration Convention, 1951
5. C105 - Abolition of Forced Labour Convention, 1957
6. C111 - Discrimination (Employment and Occupation) Convention, 1958
7. C138 - Minimum Age Convention, 1973- Minimum age specified: 15 years
8. C182 - Worst Forms of Child Labour Convention, 1999

In addition, the ILO's four instruments that directly deal with migrant workers include:

1. C097 - Migration for Employment Convention (Revised), 1949 (No. 97)
2. R086 - Migration for Employment Recommendations (Revised), 1949 (No. 86)
3. C143 - Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)
4. R151 - Migrant Workers Recommendation, 1975 (No. 151).<sup>45</sup>

44 International Labour Organization (ILO), Asian Decent Work Decade resource kit: protecting migrant workers (Bangkok: ILO, 2011). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_098142.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_098142.pdf).

45 "Ratifications by country," International Labour Organization (ILO), accessed December 13, 2020. <https://www.ilo.org/dyn/normlex/en/f?p=1000:11001>.

##### ASEAN member countries ratification of the ILO conventions

**Brunei** is a member of the ILO since 17 January 2007. Brunei has ratified only two of the eight ILO's core conventions - C138 - Minimum Age Convention, 1973 (under which Brunei has specified the minimum age at 16 years) ratified on 17 Jun 2011 and C182 - Worst Forms of Child Labour Convention, 1999, ratified on 09 Jun 2008.

**Cambodia** is member of the ILO since 24 February 1969. It has ratified a total of 13 ILO's conventions including all eight core conventions, one governance convention and four technical conventions. Out of 13 conventions, 12 are in force; one is revoked. The only governance-related Convention ratified on 28<sup>th</sup> September 1964 by Cambodia is C122 - Employment Policy Convention, 1964. It is in force. Cambodia has not signed any migrant workers' technical Convention of the ILO.<sup>46</sup>

**Indonesia** is member of the ILO since 12 June 1950. It has ratified 20 conventions, of these, 19 were in force with one denounced. Of the 20, all eight are core conventions, two governances linked and ten technical assistance conventions. The governance-related conventions include C081 - Labour Inspection Convention, 1947, ratified on 29 January 2004; and C144 - Tripartite Consultation (International Labour Standards) Convention, 1976, ratified on 17 October 1990.<sup>47</sup>

46 "Ratifications by country," ILO.

47 Ibid.

48 Ibid.

**Laos** is member of the ILO since 23 January 1964. It has ratified a total of 10 ILO's conventions of which, five are core, one governance linked, and four related to technical assistance. Of the total ten ratified, only nine are in force because one Convention was rescinded. The following are five core conventions ratified by Laos: C029 - Forced Labour Convention, 1930, ratified on 23 January 1964; C100 - Equal Remuneration Convention, 1951, ratified on 13 June 2008; C111 - Discrimination (Employment and Occupation) Convention, 1958, ratified on 13 June 2008; C138 - Minimum Age Convention, 1973- Minimum age specified: 14 years- ratified on 13 June 2005; C182 - Worst Forms of Child Labour Convention, 1999, ratified on 13 June 2005.<sup>48</sup>

**Malaysia** is member of the ILO since 11 November 1957. Malaysia has ratified six of the eight ILO's core conventions, and one core Convention (C105 - Abolition of Forced Labour Convention, 1957) has been revoked by it on 10 Jan 1990 after ratifying it on 13 Oct 1958. The six core conventions ratified include C029 - Forced Labour Convention, 1930 ratified on 11 Nov 1957; C098 - Right to Organize and Collective Bargaining Convention, 1949, ratified on 05 Jun 1961; C100 - Equal Remuneration Convention, 1951 ratified on 09 Sep 1997; C138 - Minimum Age Convention, 1973- Minimum age specified: 15 years- on 09 Sep 1997; C182 - Worst Forms of Child Labour



Convention, 1999 (No. 182) ratified on 10 Nov 2000. Malaysia has ratified two governance-related and ten technical assistance related conventions. Of the total 18 ratified conventions, 14 are in force, one Convention is withdrawn, and three has been repealed in the International Labour Conference. Malaysia has not signed any migrant workers specific technical Convention (ILO, undated (A)).<sup>49</sup> The Malaysian Labour Force Survey of 2017 shows that of the total labour force 15 per cent (2,274,000) were migrant workers in Malaysia.<sup>50</sup> Malaysia has not yet ratified forced labour protocol (P29), which supports the ILO's CO29 (Forced Labour Convention). The protocol emphasises on clampdown and prevention of forced labour, trafficking, protection of victims and enabling their access to legal recourse.<sup>51</sup> The ILO noticed that Malaysia had shown interests in doing activities to comply with the international obligations on forced labour and trafficking.

**Myanmar** is member of the ILO since 18 May 1948. It has ratified 25 ILO conventions that include four core conventions, no governance-related convention and 21 technical assistance related conventions. Of the total 25, 18 conventions are in force. Myanmar has denounced two ILO conventions, and four have been repealed. Myanmar has not ratified any convention linked to migrant workers.<sup>52</sup>

The Philippines is member of the ILO since 15 July 1948. It has ratified 38 ILO conventions, including all eight core conventions, two governance-related, and 28 technical assistance related. Of the total 38 ratified conventions, 31 are in force and it denounced six conventions. Of the total 28 technical assistance conventions, two conventions are directly associated with migrant workers, which are C097 - Migration for Employment Convention (Revised), 1949 ratified on 21 April 2009, and C143 - Migrant Workers (Supplementary Provisions) Convention, 1975, ratified on 14 September 2006. Both conventions are in force.<sup>53</sup>

**Singapore** is member of the ILO since 25 October 1965. It has ratified 28 ILO conventions, including six core conventions, two governance-related and 20 related to technical assistance. Singapore has denounced six conventions; however, 17 are still in force. Besides, five instruments were abrogated. Singapore has not ratified or signed any migrant workers related conventions. Of the eight core conventions, Singapore is not a party to C087 - Freedom of Association and Protection of the Right to Organize Convention, 1948, and C111 - Discrimination (Employment and Occupation) Convention, 1958. On 19<sup>th</sup> April 1979, Singapore has denounced C105 - Abolition of Forced Labour Convention, 1957,

49 "Ratifications by country," ILO.

50 International Labour Organization (ILO), The future of work and migration: Thematic background paper for the 12th ASEAN Forum on Migrant Labour (AFML) (Bangkok: ILO, 2019). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_733923.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_733923.pdf).

51 International Labour Organization (ILO), Situation and gap analysis on Malaysian legislation, policies and programmes, and the ILO Forced Labour Convention and Protocol (ILO, 2018).

52 "Ratifications by country," ILO.

53 Ibid.

which it had ratified on 25 October 1965.<sup>54</sup> As of December 2020, the total foreign labour force in Singapore stood at 1,231,500 (34.18%).<sup>55</sup>

**Thailand** is a member of the ILO since 28 June 1919. It is the oldest member of the ILO among the ASEAN member countries but has ratified only 19 of the ILO's instruments. It has also ratified one protocol. Of the 19 conventions, six are core conventions. However, 18 conventions are in force. Thailand has denounced one non-core Convention on 5th April 1968 (Minimum Age (Underground Work) Convention, 1965 (No. 123), and another non-core convention has been abrogated on 29 July 1964 (C104 - Abolition of Penal Sanctions (Indigenous Workers) Convention, 1955 (No. 104). Of the total 8 core conventions, Thailand ratified 6 and has not signed the two core conventions associated with migrant workers,<sup>56</sup> i.e., Conventions 87 and 98. Thus, the conditions of migrant workers are not good. Thailand has yet to provide migrant workers with the right to freedom of association and the right to organise and collective bargaining. However, Thailand has been resisting to ratify these conventions, and unwilling to provide these rights to migrant workers.<sup>57</sup> In Thailand, 17 million workers are in the formal, and 21.7 million workers are in the informal sectors of the economy. But to cater

to the needs of workers in the formal sector, there are only 1400 labour unions for 610,000 members. The low numbers of unionisation, even in the formal sector is due to the lack of support from the government. According to the Foreign Workers Administration Office, there were 3,222,150 foreign workers as of September 2019. Of them, 1,747,723 have passports and registration papers, while the rest have temporary permits. This is higher than the 1,626,235 registered migrants in 2016. Migrant workers cannot access their rights, bargain for better conditions or access social security. In the absence of bargaining power, migrant workers are getting low wages and facing poor working conditions without welfare benefits. These conditions are entirely against the ILO's conventions 87 and 98.<sup>58</sup>

Vietnam has been a member of the ILO at different times. It was first a member from 1950 to 1976, after that from 1980 to 1985 and now since 20 May 1992. Vietnam has ratified only 25 Conventions that include seven fundamental conventions, three governance conventions, and 15 technical conventions. Of the total conventions, 22 are in force; two conventions were denounced. Vietnam has not signed any convention-related to migrant workers.<sup>59</sup>

54 Ibid.

55 "Summary Table: Employment," Ministry of Manpower, June 17, 2021, accessed 9 July 2021, <https://stats.mom.gov.sg/Pages/employment-Summary-Table.aspx>.

56 "Ratifications by country," ILO.

57 Yongyuth Chalamwong and Ratre Prasomsup, "Respect labour rights to avert sanction," Bangkok Post, January 8, 2020. <https://www.bangkokpost.com/opinion/opinion/1830979/respect-labour-rights-to-avert-sanction>.

58 Ibid.

59 "Ratifications by country," ILO.

Table 3. Dates of ratifying the ILO's core conventions

	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
C029	No	24 Feb 1969	12 Jun 1950	23 Jan 1964	11 Nov 1957	04 Mar 1955	15 Jul 2005	25 Oct 1965	26 Feb 1969	05 Mar 2007
C087	No	23 Aug 1999	09 Jun 1998	No	No	04 Mar 1955	29 Dec 1953	No	No	No
C098	No	23 Aug 1999	15 Jul 1957	No	05 Jun 1961	No	29 Dec 1953	25 Oct 1965	No	05 Jul 2019
C100	No	23 Aug 1999	11 Aug 1958	13 Jun 2008	09 Sep 1997	No	29 Dec 1953	30 May 2002	08 Feb 1999	07 Oct 1997
C105	No	23 Aug 1999	07 Jun 1999	No	13 Oct 1958 but de-nounced on 10 Jan 1990	No	17 Nov 1960	25 Oct 1965 but de-nounced on 19 Apr 1979	02 Dec 1969	14 Jul 2020
C111	No	23 Aug 1999	07 Jun 1999	13 Jun 2008	No	No	17 Nov 1960	No	13 Jun 2017	07 Oct 1997
C138	17 Jun 2011	23 Aug 1999	07 Jun 1999	13 Jun 2005	09 Sep 1997	08 Jun 2020	04 Jun 1998	07 Nov 2005	11 May 2004	24 Jun 2003
C182	09 Jun 2008	14 Mar 2006	28 Mar 2000	13 Jun 2005	10 Nov 2000	18 Dec 2013	28 Nov 2000	14 Jun 2001	16 Feb 2001	19 Dec 2000
Total Ratified	2	8	8	5	6	4	8	6	6	7

Source: "Ratifications by country," ILO.

Table 4. ASEAN member countries that have ratified migrant workers' ILO's technical conventions

Countries	Migrant workers' rights			Equal treatment in social protection		
	C097	C143	UN Convention of 1990	C019	C118	C157
Brunei	....	....	....	....	....	....
Cambodia	....	....	2004 signed	....	....	....
Indonesia	....	....	2012	1950	....	....
Lao PDR	....	....	....	....	....	....
Malaysia	1964 <sup>60</sup>	....	....	1964	....	....
Myanmar	....	....	....	1927	....	....
Philippines	2009	2006	1995	1994	1994	1994
Singapore	....	....	....	1965	....	....
Thailand	....	....	....	1968	....	....
Vietnam	....	....	....	....	....	....

Source: "Ratifications by country," ILO.

The above table shows that only the Philippines has ratified all six conventions within the ASEAN region. Thus, overall, ratification of the ILO conventions on migrant workers' rights remains a major issue.

60 Only Sabah state of Malaysia

### Adoption and Implementation of the ILO Conventions and International Treaties by ASEAN Countries on Protecting Migrant Workers' Rights

In ASEAN, Brunei, Malaysia, Singapore and Thailand hosts around 90 per cent of the region's migrant workers, and they are also hosts to migrant workers from South Asian countries like Nepal and Bangladesh.<sup>61</sup> The origin countries of migrant workers have very high unemployment rates. Thus, migrant workers hope to address their poverty by finding jobs overseas to earn an income, enhance their skills and have better work mobility. These factors drive migrant workers to these destination countries. Additionally, the labour origin countries like Cambodia, Lao and Vietnam officially support labour migration as a source and strategy to alleviate poverty and bring development. These countries recognised the importance of remittance, which formed a substantial percentage of the countries' GDP.<sup>62</sup>

The UN Women and the ILO's study published in 2019<sup>63</sup> shows great concerns that, in ASEAN countries like Thailand, Singapore and Malaysia, common persons' behaviour towards migrant workers are negative and hostile. It also stated that in these countries, public support for migrant workers is negligible. Such public attitude has caused discriminatory practices and contributes to creating anti-migrant workers environment.

The study revealed that in Thailand, Singapore and Malaysia, the public's interaction and engagement with migrant workers are extremely little and therefore the lack of interaction excludes, isolates and discriminates them. The ILO clearly stated that migrant workers make important contributions to the societies and economies of the destination and origin countries. However, even though there are labour shortage in the destination economies and there are economic benefits from migrant workers, but the general public are doubtful of the need for migrant workers. On the one hand, to meet the economic needs of these countries, the demand for migrant workers have increased, but the public's positive attitudes towards migrant workers have decreased. To counter negative stereotypes, the public has to know the actual contributions the migrant workers make to both the origin and destination countries. This approach will help to garner support for migrant workers in destination countries by ensuring the rights-based approach is used in migration management, where migrant workers are treated with dignity and equality.<sup>64</sup>

The eighth ASEAN Labour Inspection Conference in December 2019, in Thailand, recognised and acknowledged the importance

61 UNDP, The Right to Health: Right to Health For Low-Skilled Labour Migrants in ASEAN Countries (Bangkok: UNDP, 2015). [http://apmigration.ilo.org/resources/the-right-to-health-right-to-health-for-low-skilled-labour-migrants-in-asean-countries/at\\_download/file1](http://apmigration.ilo.org/resources/the-right-to-health-right-to-health-for-low-skilled-labour-migrants-in-asean-countries/at_download/file1).

62 Ibid.

63 "Public attitudes towards migrant workers remain unfavourable in ASEAN destination countries," International Labour Organization (ILO), December 18, 2019. [https://www.ilo.org/asia/media-centre/news/WCMS\\_732449/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_732449/lang-en/index.htm).

64 Ibid.



of the commercial fishing sector to the economies of some ASEAN member countries, and also to the thousands of workers especially migrant workers' livelihoods. The Conference urged the AMS to take adequate measures to address abuses encountered by migrant workers in the sector.<sup>65</sup> In 2018, the ILO announced to support 'ASEAN safe migration campaign' that aimed to create public awareness on safe labour migration which is beneficial for all parties. In 2018, the ILO study found that social protection had improved in ASEAN countries. However, the vast majority of migrant workers remain not well protected under social protection policies and laws.<sup>66</sup> The Philippines, Indonesia and Cambodia have signed all core ILO conventions; but these countries within ASEAN are labour-origin countries.<sup>67</sup>

The ILO Convention (No. 183) the Maternal Protection Convention says that women should not be obliged to work during pregnancy.

However, ASEAN countries have not ratified it.<sup>68</sup> The domestic workers' Convention, 2011 (No. 189) is also not ratified by all ASEAN countries except for the Philippines. The increasing demand for domestic workers in the destination countries, led to an increase in female migrant workers. Thus, female migrant workers are the predominant workers to migrate for work. In Indonesia, females constitute 64 per cent, and Filipino females constitute 53 per cent of the total labour force outside of the country.<sup>69</sup>

Table 5 below shows ASEAN member countries lack of commitment in ratifying and adopting international treaties on protecting migrant workers' rights except for the Philippines.

65 ASEAN, The eighth ASEAN labour inspection conference: Securing Decent Work in the Fisheries Sector through Labour Inspection in ASEAN – Conclusions and Recommendations (Bangkok: ASEAN, 2019). <https://asean.org/storage/2012/05/Recommendations-of-the-8th-ASEAN-Labour-Inspection-Conference.pdf>

66 "ILO: Social protection coverage has improved in ASEAN, but migrant workers remain among the least protected," ILO, December 18, 2018. [https://www.ilo.org/asia/media-centre/news/WCMS\\_655163/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_655163/lang--en/index.htm).

67 Arisman and Ratnawati Kusuma Jaya, Protection of Human Rights and Labour Migration for Employment Purpose Across ASEAN (Jakarta: Center for Southeast Asian Studies, 2018).

68 Ibid.

69 UNDP, The Right to Health.

Table 5. Ratification of international treaties protecting migrant workers' rights within ASEAN

Countries	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)	Migration for Employment Convention (ILO No. 97)	Migrant Workers (Supplementary Provisions) Convention (ILO No. 143)	Domestic Workers Convention (ILO No. 189)
Brunei	No	No	No	No
Cambodia	✓	No	No	No
Indonesia	✓	No	No	No
Lao PDR	No	No	No	No
Malaysia	No	No*	No	No
Myanmar	No	No	No	No
Philippines	✓	✓	✓	✓
Singapore	No	No	No	No
Thailand	No	No	No	No
Vietnam	No	No	No	No

\* Ratified by Sabah an East Malaysian state on 03 Mar 1964

Source: UNDP, The Right to Health (2015)

Table 6. Ratification of international treaties within ASEAN

Countries	International Covenant on Economic, Social and Cultural Rights (ICESCR)	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	International Covenant on Civil and Political Rights (ICCPR)	International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Convention on the Rights of the Child (CRC)
Brunei	No	✓	No	No	No
Cambodia	✓	✓	✓	✓	✓
Indonesia	✓	✓	✓	✓	✓
Lao PDR	✓	✓	✓	✓	✓
Malaysia	No	✓	No	No	✓
Myanmar	No	✓	No	No	✓
Philippines	✓	✓	✓	✓	✓
Singapore	No	✓	No	✓	✓
Thailand	✓	✓	✓	✓	✓
Vietnam	✓	✓	✓	✓	✓

Source: United Nations, UN Treaty Body Database, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=157&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=157&Lang=en).

It is apparent that the ratification of international standards on migrant workers' rights and the right to health varies country to country in the region, however, in 2008, WHO's Resolution on Migrant Health was adopted by all 10 ASEAN member countries. The adoption of the resolution means that ASEAN countries

have recognized the health risks faced by migrant workers and it urged the states to promote (a) migrant-sensitive health policies, and (b) to enter into bilateral and multilateral agreements among ASEAN member countries, to ensure migrant workers' rights to health in the migratory process is guaranteed.<sup>70</sup>

### The United Nations (UN) Convention on Migrant Workers of 1990 and ASEAN countries

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 has not been ratified by Brunei, Laos, Malaysia, Thailand, Singapore and Vietnam but ratified only by Indonesia in May 2012 and the Philippines in July 1995 (see Table 5). Cambodia had signed (succession to signatures) in September 2004.<sup>71</sup> It was due on Indonesia to submit an initial report to the Committee on the Convention 1990 in 2013. The Committee issued concluding observations and recommendations in 2017, suggesting Indonesia to take legal and procedural measures to protect migrant workers in the destination countries.<sup>72</sup>

In 2014, the Committee had issued concluding observations and recommendations on the Philippine's second periodic report. The Committee had noted various positive measures; some of those include the adoption

of the Magna Carta of Women in 2009 and amended the Migrant Workers and Overseas Filipinos Act in 2010 to provide more protection to Filipino migrant workers going abroad. The Philippines had also introduced legislation like the Domestic Workers Act in 2013, and the Expanded Anti-Trafficking in Persons Act that offered more protection to victims of trafficking and service providers in 2013. However, the Committee regretted that the Philippines had not supplied adequate information on the Committee's previous recommendations related to laws and practical measures on migrant workers and their families. Since no ASEAN receiving or destination country has ratified the Convention of 1990; therefore, assessing the status of such states because of the guidelines of the Convention appears to be challenging.<sup>73</sup> Among many other rights, the Convention of 1990 guarantees the migrant workers to access health services and treatment, and also address the health-

<sup>70</sup> Ibid.

<sup>71</sup> "International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families," United Nations Treaty Collection, accessed 27 December 2021, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=V-13&chapter=4](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-13&chapter=4).

<sup>72</sup> United Nations, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families: Concluding observations on the initial report of Indonesia (2014). [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fPHL%2fCO%2f2&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2fC%2fPHL%2fCO%2f2&Lang=en).

<sup>73</sup> Ibid.

related risks of migrant workers.<sup>74</sup> Women migrant workers have been contributing significantly towards the economies of destination countries. These women tend to find employment in low skilled jobs and are paid low wages. However, their contribution to ASEAN economic growth is significant both for the destination countries and also their home countries. However, women migrant workers

face immense challenges and barriers at the time of migrating and in living and working at the destination countries. These women are discouraged by the heavy administrative, official (for documentation) and intermediation costs. Women migrant workers are placed at the lowest level of occupational skills. Thus, they are forced to receive the lowest wages as compared to male migrant workers.<sup>75</sup>

### Monitoring the Right to Health of Migrant Workers as per International Laws in ASEAN

United Nations Development Program (UNDP) has indicated the following four main challenges that hamper the effective monitoring of migrant workers' health in the ASEAN region:

1. **"lack of funding and capacity for data collection;**
2. **lack of standardisation due to differences in national health systems;**
3. **lack of coordination on data consolidation among the various stakeholders**
4. **who collect data; and**
5. **lack of good practice examples for data collection and disaggregation."**<sup>76</sup>

UNDP believes that scattered evidence and disconnected data reveals that overall living conditions and working environment for the majority of migrant workers are poor. Thus, policy decisions at the regional and national levels are not adequately informed about the ground realities and the evidence of poor conditions. To improve the conditions, policy

decisions are largely tilted towards exclusion, discrimination, stigmatisation and the negative utilisation of the existing scattered health-related data. This approach is a great challenge in the effective monitoring of migrant workers' health in the region or any ASEAN country. In Thailand, the scattered data and information has caused lack of data consolidation. There are around nine databases having information about migrant workers but collected and managed by three different ministries. Also, the data sets are produced in different formats, thus, extremely difficult to compile the data when required. However, attempts are being made to integrate data into a big data system.

In host countries, in ASEAN, the demand for migrant workers is increasing, which has frightened the host countries of the unseen financial burden for providing health care services to migrant workers. Thus, these countries have sought to control migrant workers' access to health care services or social security programmes out of fear of the

<sup>75</sup> UN Women, Women Migrant Workers in the ASEAN Economic Community (Bangkok: UN Women, 2017) <https://asean.org/storage/2012/05/AEC-Women-migration-study.pdf>

<sup>76</sup> UNDP, The Right to Health, 44.



financial burden (See Table 7 for Coverage of migrant workers in social security). These kinds of policy reaction are the outcome of a lack of consolidated and reliable data on migrant workers' health-seeking behaviour and vulnerabilities, which further results in ineffective cost-benefit analyses. When these policies are practiced on the ground, these deprive migrant workers of equal access to health services. In countries of origin, such as Lao and Cambodia, a large number of undocumented migrant workers often do not come in contact with health professionals before their departure. They, thus, receive little or no preparatory information related to health and safety in the host countries. This lack of interaction with health services and systems contributes to limited opportunities for gathering data on migrant workers' health.<sup>77</sup>

In ASEAN, PRAs are hired to deal with migrant workers, including to conduct health assessments of migrant workers because of the destination countries' policies and procedures. This outsourcing of health screening does

not bind private agencies to gather, collate and share data on migrant workers. The outsourcing of recruitment process has not only affected data collating and sharing, but such practices of outsourcing have caused limited multisectoral engagement in the monitoring of government agencies and the interaction between government agencies related to the recruitment process of migrant workers. For instance, in Lao, consulates and embassies take measures to connect migrant workers to social protection or support services. The officials (ministries, immigration officials) and other stakeholders (NGOs and Unions) also have little communication on migrant workers movement from one country to another. Therefore, there is the absence of a mechanism to collate data on these practices. In some countries, multi-stakeholder agreements are signed on data gathering and consolidation. For instance, Malaysia's ministries of Health, Human Resources and Home Affairs have signed such agreements, however, the data related to migrant workers is not generated.<sup>78</sup>

Table 7. Coverage of migrant workers in social security

Countries	Medical care	Sickness	Unemployment	Old age	Work Injury	Family	Maternity	Invalidity
Destination countries								
Singapore	Yes	Yes	--	No	Yes	--	Yes**	Yes
Brunei	Yes*	Yes*	--	No	Yes*	--	Yes	No
Malaysia	Yes	--	--	No	Yes	--	--**	Yes
Thailand	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Origin countries								
Cambodia	Yes	Yes	--	Yes	Yes	Yes	Yes	Yes

77 UNDP, The Right to Health, 44.

78 Ibid.

Indonesia	Yes	Yes	--	Yes	Yes	--	--	--
Laos	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Myanmar	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Philippines	Yes	Yes	--	Yes	Yes	--	Yes	Yes
Vietnam	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Source: UN Women, Women Migrant Workers.

\* It should be noted that it is a requirement under the law for employers to take out insurance to protect their migrant employees. Employees (and family) can also claim compensation as a result of work injury.

\*\* It has been observed that if a domestic worker gets pregnant in Singapore and Malaysia, she is sent home – sometimes before delivery; sometimes after (depends on when pregnancy is discovered). Maternity provisions are almost 'nil' for domestic workers in both countries.

### The UN Global Compact for Migration

For the first time at the global level, Heads of State and Government met on September 19, 2016, at the United Nations General Assembly to examine issues relating to migration and refugees. The Global Compact for Migration is an international, nonbinding agreement. It delivered a strong political statement, indicating that migration and refugee concerns had risen to the top of the world agenda. The 193 UN Member States recognized the need for a comprehensive response to human mobility and increased global collaboration when they adopted the New York Declaration for Refugees and Migrants.<sup>79</sup> The Global Compact (GCM) was adopted by most UN Member States at an Intergovernmental Conference in Marrakesh, Morocco, on December 10, 2018, and was formally endorsed by the UN General Assembly on December 19, 2018. On December 19, 2018, the UN General Assembly voted to accept the GCM officially. A total of

152 countries voted in favour, with five voting against and twelve abstaining. Hungary, Poland, the United States, the Czech Republic, and Israel were among the countries that voted no. Algeria, Australia, Austria, Bulgaria, Chile, Italy, Latvia, Libya, Liechtenstein, Romania, Singapore, and Switzerland were among the countries that did not vote. Among those voted in favour include ASEAN countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Thailand, Vietnam. Singapore abstained on the vote.<sup>80</sup> The Global Compact is the first intergovernmental agreed framework, established under the auspices of the UN, that addresses all aspects of international migration holistically and comprehensively. It incorporates cross-cutting, interdependent guiding principles, 23 objectives, and numerous associated concrete actions to address the current and future difficulties and possibilities linked with

79 "Global Compact for Migration," International Organization of Migration, accessed 17 November 2021, <https://www.iom.int/global-compact-migration>.

80 United Nations, Asia Pacific Migration Report 2020 (Bangkok: United Nations, 2020).

international migration. The Member States agreed to use the United Nations framework to assess the state of the Global Compact's implementation at the local, national, regional, and global levels.<sup>81</sup>

### 3.2. ASEAN Documents and Institutions Related to Labour Migration Management

#### The ASEAN Declaration and the ASEAN Consensus on Migrant Workers

In 2007, heads of ASEAN member countries adopted a regional level instrument called the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration) and in 2017 adopted the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers (ASEAN Consensus).<sup>82</sup> The Cebu Declaration calls on all origin and destination countries to defend migrant workers' rights and dignity by defining their responsibilities in the areas of labour migration governance, protection from violence, exploitation, and discrimination, and combating human trafficking.<sup>83</sup> The Cebu Declaration recognizes the importance of dealing with situations of abuse and violence against migrant workers wherever they arise.

The purpose of the ASEAN Consensus was to "establish a framework for cooperation on migrant workers in the region and contribute to the ASEAN Community building process".<sup>84</sup> One of the principles of the ASEAN Consensus

was to recognise fundamental rights of migrant workers enshrined in the international and regional instruments to which ASEAN countries are party but as per the existing laws of the ASEAN member countries. The other principle stated that the purpose of the ASEAN Consensus is to support the fundamental rights and dignity of migrant workers but without undervaluing the use of the destination countries' laws, regulations and policies.<sup>85</sup> ASEAN believed that the ASEAN Consensus is the outcome of their commitment and promises that provide migrant workers access to justice, social protection, humane and fair treatment and access to health services in the region. Though non-binding, the ASEAN Consensus lays down the principles and basic rights of migrant workers and obligations and commitments of ASEAN countries. The ASEAN Consensus also aimed to establish a framework for better and effective cooperation among ASEAN countries to address issues linked to migrant workers' rights in the region.<sup>86</sup> ASEAN

81 UNESCAP, Review of progress and challenges with regard to implementing the Global Compact for Safe, Orderly and Regular Migration in Asia and the Pacific, including the implications of the coronavirus disease pandemic, ESCAP/GCM/2021/1, December 29, 2020, [https://migrationnetwork.un.org/sites/default/files/docs/escap\\_gcm\\_2021\\_1\\_e.pdf](https://migrationnetwork.un.org/sites/default/files/docs/escap_gcm_2021_1_e.pdf).

82 ILO, Implementation of recommendations from the 3rd to 10th ASEAN Forum on Migrant Labour (AFML) (Bangkok: ILO, 2019).

83 ILO, ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, <https://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>.

84 ASEAN, ASEAN Consensus, 3.

85 Ibid.

86 Ibid.

member countries also held that the action plan of the Consensus was a continuously evolving and changing document.<sup>87</sup>

#### ASEAN Forum on Migrant Labour (AFML)

In addition to these instruments, ASEAN formed the AFML to strengthen the promotion and protection of the rights of the migrant workers by increasing and improving labour migration governance in ASEAN countries. The formation of the AFML was the outcome of one of the recommended activities in 2008 in the first meeting of the Committee for the Implementation of the Declaration. In 2009, meetings of Senior Labour Officials from ASEAN nations agreed to institutionalise AFML as a routine activity in the ACMW Work Plan. The AFML is meant to ensure and advance the implementation of the principles of the ASEAN Declaration.<sup>88</sup>

The ASEAN Labour Ministers Meeting leads cooperation among ASEAN member countries on labour and migrant workers. These ministers meet every two years. The meetings are supported by the annual Senior Labour Officials Meeting (SLOM). Under the SLOM three subsidiary bodies are constituted:

- Senior Labour Officials Meeting Working Group on Progressive Labour Practices to Enhance the Competitiveness of ASEAN (SLOM-WG);
- ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW); and
- ASEAN Occupational Safety and Health Network (ASEAN-OSHNET).<sup>89</sup>

#### The ASEAN Committee and Other Stakeholders

After the Cebu Declaration, ASEAN ministers of foreign affairs had called for the establishment of the ACMW which reports to the SLOM.<sup>90</sup> However, the Declaration comes under the theme of the ASEAN Socio-Cultural Community. Additionally, other stakeholders involved in the labour migration management includes the Task Force on ASEAN Migrant Workers (TFAMW), ASEAN Trade Union Council (ATUC) and the ASEAN Confederation of Employers (ACE).<sup>91</sup>

87 "ASEAN Leaders commit to safeguard the rights of migrant workers," ASEAN, November 14, 2017, accessed 9 July 2021, <https://asean.org/asean-leaders-commit-safeguard-rights-migrant-workers/>.

88 "The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers," ILO, May 4, 2015. [https://www.ilo.org/dyn/migpractice/migmain.showPractice?p\\_lang=en&p\\_practice\\_id=41](https://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=41).

89 Marius Olivier, Social protection for migrant workers in ASEAN: Developments, challenges, and prospects (Geneva: ILO, 2018).

90 ASEAN, ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Work Plan (2008), <https://asean.org/wp-content/uploads/images/archive/23062.pdf>.

91 "Background Information," TRIANGLE in ASEAN Quarterly Briefing Note (2020). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_735103.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_735103.pdf).



### The ASEAN Labour Ministers

Cooperation among ASEAN countries is made possible by the ASEAN Labour Ministers (ALM) in each ASEAN country. These ministers meet every two years to review progress against the ASEAN Labour Ministers' Work Programme. This programme is developed for every five years. By the end of 2020, the ALM would have implemented two-five years' work programmes that include ASEAN Labour Ministers' Work Programme 2010- 2015 and ASEAN Labour Ministers' Work Programme 2016- 2020. The ALM has also introduced ASEAN Labour Ministers' Work Programme 2021- 2025. These work programmes provide a roadmap and blueprint of the objectives, activities, and tasks to be carried out by each country independently and jointly in cooperation with the ASEAN secretariat.<sup>92</sup>

### ASEAN Socio-Cultural Community (ASCC) Blueprint 2025

As part of ASEAN, the ASCC aims to improve the quality of life for people through cooperation activities. It seeks to open opportunities and deliver services to people in every field of life. It "is committed to opening a world of opportunities to collectively deliver and fully realise human development, resiliency and sustainable development through Member States' cooperation on a wide range of area, including culture and information, education, youth and sports, health, social welfare and development, women and gender, rights of women and children, labour, civil service, rural development and poverty eradication, environment, transboundary haze-pollution, disaster management and humanitarian assistance."<sup>93</sup> In November 2015, the ASEAN leaders adopted the ASCC Blueprint 2025. The ASCC Blueprint 2025 aims to strive for a community that involves programmes that benefits communities. It is believed to be comprehensive, sustainable, strong and dynamic.

For meeting these objectives, the ASCC is working for:

1. "A committed, participative and socially-responsible community for the benefit of ASEAN peoples;
2. An inclusive community that promotes high quality of life, equitable access to opportunities for all and promotes and protects human rights;
3. A sustainable community that promotes social development and environmental protection;
4. A resilient community with enhanced capacity and capability to adapt and respond to social and economic vulnerabilities, disasters, climate change, and other new challenges; and
5. A dynamic and harmonious community that is aware and proud of its identity, culture and heritage."<sup>94</sup>

<sup>92</sup> "ASEAN Labour Ministers Meeting (ALMM)/Overview," ASEAN, accessed 13 December 2020. <https://asean.org/asean-socio-cultural/asean-labour-ministers-meeting-alm/overview/>.

<sup>93</sup> "ASEAN Socio – Cultural Community," ASEAN, accessed 13 December 2020, <https://asean.org/asean-socio-cultural/>.

<sup>94</sup> Ibid.

### The ASEAN Guideline on Effective Return and Reintegration of Migrant Workers

As a labour market for millions of migrant workers, ASEAN has facilitated the migration of individuals across ASEAN in both short and long term. Seeing this, ASEAN sees the return of migration can be exercised at any given day and any given time. However, ASEAN has seen a gap on the lack of a comprehensive and adequate framework on the return and reintegration of migrant workers. Unprecedented challenges may be experienced by migrant workers upon their return to their origin country.<sup>95</sup> Such a gap has been mentioned several times in the AFML Meetings. Fortunately, the gap was highlighted and emphasized more during the 4<sup>th</sup> AFML Meeting in 2011. Several recommendations on the return and reintegration of migrant workers were produced.

One of the recommendations was to set up a guideline called the "ASEAN Guidelines on Effective Return and Reintegration".<sup>96</sup> Although the effort was delayed for several years, Indonesia finally commenced a Workshop to establish the outline of the ASEAN Guidelines on Effective Return and Reintegration—which will be addressed as 'Guidelines' for future reference—on August 2019 at Yogyakarta. The Workshop was conducted by Indonesian Ministry of Manpower which was supported by ASEAN Secretariat and ILO TRIANGLE in ASEAN programme.<sup>97</sup> With reviews, inputs, and finally agreements from the governments, employers' organisations, workers'

organisations, and civil society organisations (CSOs), the outline of the ASEAN Guidelines was adopted. The Guidelines were voluntary and not solely intended for the governments. They also target other actors such as NGOs, CSOs, or even general public.

The Guidelines were based on several international frameworks, among them are the Cebu Declaration and ASEAN Consensus. With the primary aim to provide guiding principles for AMS in ensuring a safe and effective return and reintegration effort of migrant workers, the Guidelines also seek to enhance the cooperation among AMS. Although the Guidelines are voluntary and non-binding, the Guidelines encourage AMS to internalize the guiding principles in their effort for an effective and sustainable return and reintegration of migrant workers.<sup>98</sup> There are eleven guiding principles within the Guidelines. However, these eleven guiding principles bear the same spirit of human and labour rights, fairness, gender-based, factual, and inclusive.

There are four main guides concisely arranged within the guideline regarding the regulatory framework, economic integration, social and cultural reintegration, and social protection.<sup>99</sup> Furthermore, the Guidelines also critically and carefully elaborated the strategy to promote the success of reintegration programs. The strategies were focused on the overall economic, political, and social

<sup>95</sup> ASEAN, ASEAN Guideline on Effective Return and Reintegration of Migrant Workers (Jakarta: ASEAN Secretariat, 2020), 1.

<sup>96</sup> Ibid, 2.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid, 3.

<sup>99</sup> Ibid, 9-14.

environment; pre-departure process; and post-arrival and during the employment period. The implementation of the guidelines requires a comprehensive capacity-building for the implementing organisations and bodies that is in line to the value of human and labour rights, as well as to put in mind regarding the special issue experienced by women migrant workers. Collaboration among Origin and Destination countries and also relevant stakeholders plays a vital role within this effort. In addition, as an effort to ensure the implementation of the Guidelines, the tripartite partners shall carry the monitoring and evaluation practices.

Hanoi Action Plan 1998

Hanoi Action Plan of 1998 aims to promote freer flow of skilled labour and professionals in the ASEAN region.<sup>100</sup>

ASEAN Senior Labour Official Action Plan 2010-2015

ASEAN Senior Labour Official Action Plan 2010-2015 promotes sharing of experiences on protection of migrant workers' rights.

3.3. Bilateral Agreement Related to Labour Migration  
Management between ASEAN Member States

The MOUs are often used to govern the migration of low-skilled workers in ASEAN through formal channels and to decrease irregular migration. In addition, the MOUs are also used to gather information about the treatment of migrant workers in the destination countries. Compliance of bilateral MOUs is extremely valuable, which lays procedures and guarantees of migrant workers' rights.<sup>101</sup> The AFML claimed that it often recommended

using and implementing multilateral or bilateral MOUs that follow international labour standards. The AFML adds that its emphasis includes various important aspects in the MOUs such as social protection, work conditions, labour inspections, and the roles and responsibilities of labour attachés in the MOUs.<sup>102</sup> The MOUs also add migrant workers' access and use of health care services and facilities, and conditions of migrant workers'

100 ASEAN, Hanoi Action Plan, adopted on 15 December 1998, [https://www.icnl.org/wp-content/uploads/Transnational\\_1998hanoi.pdf](https://www.icnl.org/wp-content/uploads/Transnational_1998hanoi.pdf).

101 IOM, Situation Report on International Migration in East and South-East Asia: Regional Thematic Working Group on International Migration including Human Trafficking (Bangkok: IOM, 2008). [https://publications.iom.int/system/files/pdf/situation\\_report.pdf](https://publications.iom.int/system/files/pdf/situation_report.pdf).

102 ILO, Implementation of recommendations.

children.<sup>103</sup> The AFML also suggest the value of referring to the relevant social partners and stakeholders while negotiating for MOUs with any country or organisations.<sup>104</sup>

Table 8. ASEAN countries' labour attaches (ASEAN safe migration campaign)

Country	No. of labour attaches	Countries/territories of assignment
Cambodia	4	Japan, Republic of Korea, Malaysia, and Thailand
Indonesia	11	Brunei Darussalam, Hong Kong (China), Jordan, the Republic of Korea, Kuwait, Malaysia, Qatar, Saudi Arabia (2), Singapore, the Syrian Arab Republic, and the United Arab Emirates
Laos	1	Thailand
Malaysia	4	India, Indonesia, Singapore, and Switzerland
Myanmar	5	The Republic of Korea, Malaysia (2), and Thailand (5)
Philippines	39	Australia, Bahrain, Brunei Darussalam, Cyprus, Greece, Hong Kong (China), Israel, Italy, Jordan, the Republic of Korea, Kuwait, Lebanon, Libya, Macau (China), Malaysia, Oman, Qatar, Saudi Arabia (3), Spain, Switzerland, Taiwan (China), the United Arab Emirates (2), and the United Kingdom.
Thailand	13	Brunei Darussalam, Germany, Hong Kong (China), Israel, Japan, Malaysia, the Philippines, Saudi Arabia (2), Singapore, Switzerland, Taiwan (China) (2), and the United Arab Emirates
Vietnam	9	Czech Republic, Japan, Libya, Qatar, the Republic of Korea, Malaysia, Taiwan (China), Saudi Arabia, and the United Arab Emirates.

Source: ILO, Policy Brief Issue 1: The role of ASEAN labour attachés in the protection of migrant workers (Bangkok: ILO, 2015), [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/projectdocumentation/wcms\\_417372.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/projectdocumentation/wcms_417372.pdf), 4.

The ASEAN Consensus states that “the achievements made by the AMS towards the protection and promotion of the rights of migrant workers, as well as the importance and usefulness of bilateral and multilateral agreements in this field”.<sup>105</sup> However, before the ASEAN Consensus, several bilateral

agreements and MOUs were signed between ASEAN member countries and between ASEAN countries with non- ASEAN destination and origin countries.

Indonesia is the most populous country in the ASEAN region. It is known as a origin

103 IOM, Situation Report on International Migration in East and South-East Asia.

104 ILO, Implementation of recommendations.

105 ASEAN, ASEAN Consensus, 5.



country. Largely, Indonesians in other countries are unskilled migrant workers, more than half of them are women. Indonesia is also known to be migrant workers' destination country from the Philippines and Myanmar for the fisheries and services (restaurant) sectors. Since 2011, the majority of Indonesians migrated for work to Brunei, Malaysia and Saudi Arabia. In Malaysia, most Indonesian migrant workers are engaged in the agricultural (plantation), construction, manufacturing, and service sectors. Indonesian migrant women are largely engaged in the domestic work sector.<sup>106</sup> Indonesia and Malaysia have signed several MOUs on labour migration.

Within Myanmar, an MOU was signed between the Ministry of Labour and the consortium of organisations under the name of Aung Myin Hmu consortium comprised of CARE Myanmar, BusinessKind Myanmar, and Pyoe Pin. Through the MOU, they aim to provide vocational training relevant to the garment sector. Also, Myanmar and Singapore signed a three-year MOU to provide vocational training through Vocational Training Institute (SMVTI) in Yangon (Myanmar).<sup>107</sup>

For proving quick assistance to Indonesian citizens abroad, Indonesia had signed Mandatory Consular Notification (MCN) agreement with the relevant countries. Under the MCN, countries are bound to provide a consular notification immediately after the

custody, detention, demise, or other legal issues involving Indonesian citizens. Indonesia had signed the MCN with Australia in 2010, Brunei Darussalam in 2011, and the Philippines in 2014. The MCN is also mentioned and discussed within bilateral agreements, for instance, the MoU on cooperation in Combating Trafficking in Person and Protection of Victims of Trafficking signed between Indonesia and the UAE on 13 September 2015.<sup>108</sup>

ASEAN countries have preferred to sign MOUs with countries rather than committing to bilateral or multilateral ties and agreements. It is because agreements are binding, but MOUs are not binding but guiding the countries to take certain steps if these countries are willing to.<sup>109</sup> However, these MOUs or agreements need special governance to guarantee their smooth functioning related to publicity, hiring, recruitment, examining and certifying the applicants for the relevant project. The MOUs also includes responsibilities to share information about the flow of the migrant workers. The ILO assumes that agreements or MOUs are not given adequate attention in terms of enforcement and monitoring. These MOUs are signed usually to focus on recruitment procedure rather than on the protection of migrant workers.<sup>110</sup>

In 2018, Indonesia's Ministry of Manpower signed an MOU with the Tahir Foundation to improve the skills of migrant workers. The

<sup>106</sup> Arisman and Jaya, Protection of Human Rights and Labour Migration.

<sup>107</sup> ILO, Implementation of recommendations, 14.

<sup>108</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR), Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families pursuant to the simplified reporting procedure (2017), [https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW\\_C\\_IDN\\_1\\_6902\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW_C_IDN_1_6902_E.pdf).

<sup>109</sup> Migrant Forum Asia, Policy Brief No. 10: Bilateral Agreements And Memoranda Of Understanding For The Promotion And Protection Of The Rights Of Migrant Workers And Members Of Their Families (2014). [http://mfasia.org/migrantforumasia/wp-content/uploads/2015/06/policybrief\\_bilaterals\\_winter2014.pdf](http://mfasia.org/migrantforumasia/wp-content/uploads/2015/06/policybrief_bilaterals_winter2014.pdf).

<sup>110</sup> "Bilateral agreements and regional cooperation: Bilateral agreements," ILO, accessed 13 December 2020. [https://www.ilo.org/asia/areas/labour-migration/WCMS\\_226300/lang-en/index.htm](https://www.ilo.org/asia/areas/labour-migration/WCMS_226300/lang-en/index.htm).

agreement was part of the MOM's efforts to renew the training centres and enhance the training centres' capacity to provide training and certification of migrant workers. Under the MOU, a pilot project was initiated to train 5,000 potential migrant workers. It is believed to be the first step towards improving the effectiveness of Indonesian migrant workers in the global labour market.<sup>111</sup>

Table 9. Coverage of migrant workers under social security by country and branch, 2017

Countries	Medical care		Sickness		Unemployment		Old age		Work Injury		Family <sup>112</sup>		Maternity		Invalidity		Survivors' Benefits		National Workers Abroad
	N	NN	N	NN	N	NN	N	NN	N	NN	N	NN	N	NN	N	NN	N	NN	
Brunei	✓	✓* <sup>1</sup>	✓**	✓**	-	-	✓	✓*	✓**	✓**	-	-	✓	✓*	✓	✓*	✓	✓*	No
Cambodia	✓	✓	✓**	✓**	-	-	✓	✓	✓	✓	-	-	✓	✓	✓	✓	✓	✓	No
Indonesia	✓	✓	✓**	✓**	-	-	✓	✓	✓	✓	-	-	✓**	✓**	✓	✓	✓	✓	Yes
Lao PDR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	✓	✓	Yes <sup>2</sup>
Malaysia	✓	✓***	✓**	✓**	-	-	✓	✓***	✓	✓***	-	-	✓**	✓**	✓	✓***	✓	✓***	No
Myanmar	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Yes <sup>4</sup>
Philippines	✓	✓	✓	✓	-	-	✓	✓	✓	✓	-	-	✓	✓	✓	✓	✓	✓	Yes
Singapore	✓	✓* <sup>5</sup>	✓**	✓**	-	-	✓	✓* <sup>10</sup>	✓**	✓**	-	-	✓**	✓**	✓	✓** <sup>6</sup>	✓	✓** <sup>6</sup>	Yes <sup>7</sup>
Thailand	✓	✓ <sup>8</sup>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	Yes
Vietnam	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	-	-	✓	✓	-	-	✓	✓	Yes

Note: N – Nationals; NN – Non-Nationals; \* – permanent residents only; \*\* – employer liability; \*\*\* – separate scheme.

1) Universal coverage – permanent residents; employer liability – other migrant workers (insurance-based).

2) Via a Labour Fund. 3) Not applicable to establishments with fewer than five employees. Such employees can register voluntarily. 4) Voluntary contributions possible. 5) For those who are not permanent residents, employer-based/employer-insured provision is available. 6) This includes foreign domestic workers as well as work injury-related cases, through mandatory insurance coverage – feedback received from SLOM Singapore, July 2017. 7) In relation to Medishield Life – the Singapore Government provides for continued contribution to Medishield Life even while overseas. 8) Undocumented non-nationals (except for those who completed the National Verification Process) are covered under a separate scheme. 9) 2018 position indicated here: as from 1 January 2018, regular migrant workers will be covered by compulsory social insurance. 10) Migrant workers can save for retirement through the Supplementary Retirement Scheme (SRS), a private-sector-run programme that supplements the Central Provident Fund

Source: Olivier, Social protection for migrant workers in ASEAN

<sup>111</sup> ILO, Implementation of recommendations.

<sup>112</sup> Family refers to migrant workers' family – whether they have provision or access to social security.

Some countries have ratified the international labour standards, adopted the regional documents, and introduced more laws and policies, and the rules and policies focused on ensuring the instituting of the legalisation processes for undocumented migrant workers in the host countries. These also aim to set up legal migration processes for upcoming migrant workers. Bilateral MOUs aim to regulate the flow of migrant workers adequately. But these new initiatives, laws and policies seldom subsume explicit language related to protection and promotion of migrant workers' rights.<sup>113</sup> However, such changes and developments, primarily aim to govern migration to fulfil employment needs of developing sectors through cheap labour. In migration-related laws in origin countries, one could easily find explicit references to the protection of migrant workers. However, in the majority of the cases, such protections are difficult to be enforced beyond national borders.<sup>114</sup>

In 2003, Thailand and Cambodia signed an MOU to devise a framework to govern sending and receiving practices related to migrant workers. However, its implementation has been reported to be slow because, for Cambodians, the legal process to secure work in Thailand is extremely slow, complicated, time-consuming, and expensive. PRAs are used to recruit and place migrant workers. These agencies are registered with the Department of Employment, MOL. The private agencies make huge money from migrant workers.<sup>115</sup> Cambodia has also signed MOU with Korea on the employment

permit system and with Malaysia on the recruitment procedure for Cambodians. The MOU with Thailand aimed to ensure and enable legal migration of Cambodian workers to Thailand. It also seeks to regularise the already irregular Cambodian migrant workers in Thailand.<sup>116</sup>

The issue of trafficking in Cambodia is common. Thus, the Cambodian government had developed a national plan of action and aimed to implement it. It also sought to sign MOUs with the relevant governments to tackle this issue. In 2003, Cambodia had signed the MOU with Thailand on preventing trafficking in women and children and in 2005, had signed a bilateral agreement with Vietnam to combat Human Trafficking. Cambodia is also part of the Greater Mekong Subregion (GMS) and is actively involved in the Coordinated Mekong Ministerial Initiative against Human Trafficking (COMMIT). The COMMIT is an Inter-Governmental process to bring together the six GMS countries. Due to the regional integration of trafficking initiatives, Cambodia has ratified all ILO Conventions and the United Nations documents to combat trafficking in persons. Therefore, Cambodia has revised the 1996 Law on the Suppression of Kidnapping, Trafficking, and Exploitation of Human Persons and brought it to international standards. In 2008, a new anti-trafficking law was adopted.<sup>117</sup>

In 2006, Malaysia and Indonesia had signed an MoU on migrant domestic workers.<sup>118</sup> Also, bilateral cooperation agreements

113 UNDP, The Right to Health.

114 Ibid.

115 IOM, Situation Report on International Migration in East and South-East Asia.

116 Ibid.

117 Ibid.

118 Ibid.

exist between Japan, as a destination, and Thailand, the Philippines and Indonesia.<sup>119</sup> The Philippines signed an MOU with the USA treasury Department to decrease remittance transfer cost by refining accessibility to a financial institution in the USA. There are also mutual agreements between Japan and the Philippines, and Malaysia to facilitate the transfer of remittance from the destination country, and also to improve migrant workers access to financial institutions.

In 2002, Lao PDR and Thailand signed an MOU on Employment Cooperation. Under the MOU a framework was set up for sending and receiving of migrant labour between Lao PDR and Thailand. The prime purpose of the MOU was to facilitate regular migration of workers to Thailand, ensure protection and welfare of Lao migrant workers in Thailand, decrease the incidence of trafficking in persons and decrease the unemployment rate in Lao PDR. However, the process of implementing the MOU was slow, expensive and time-consuming. Therefore, the majority of Lao migrant workers prefer to come through irregular channels of migration.<sup>120</sup> However, Lao PDR migrant workers already in Thailand as domestic workers in 2004 were able to go through the registration process. Under the MOU, starting from 2004, a few work permits were issued. Therefore, Thailand had repeatedly extended the work permit. In 2006, 22,848 Lao PDR migrant workers were registered in Thailand, and 21,653 had obtained work permits.<sup>121</sup>

In 2003, Thailand and Myanmar signed an MOU to establish legal channels for Myanmar migrant workers to work in Thailand. In 2006,

Thailand and Myanmar agreed to work in close coordination to verify nationality of the Myanmar migrant workers who had cards and passports. By 2008, approximately 10,000 verification forms were sent by Thailand to Myanmar, and 9,000 were recognised as Myanmar nationals eligible to Myanmar passports. However, the slow implementation of the MOU on migrant workers compels the migrant workers to pick illegal channels to reach Thailand. The irregular movements between the two countries makes it difficult to manage migration flow, and provide migrant workers with training and basic health and social services.<sup>122</sup>

Thailand envisaged setting up a system of work permits through mutual exchanges with the origin countries, in which, work permits had to be issued before workers leave for Thailand. For this purpose, Thailand had signed MOUs on labour migration with Lao PDR in 2002, Cambodia in 2003 and Myanmar in 2003.<sup>123</sup>

In 2003, Thailand and Cambodia had also signed an MOU on the Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking. The MOU was viewed to be the first of its kind in the world. It was implemented through a plan of action which calls for close coordination and cooperation on a range of issues linked to law enforcement, prosecution and protection of migrant workers.

In 2004, the six GMS countries (i.e., Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam) penned an MOU to establish a detailed framework of cooperation on combating human trafficking in person among

119 Ibid.

120 Ibid.

121 Ibid.

122 Ibid.

123 Ibid.



the countries. The MOU had 34 main paragraphs on key issues: “(1) policy and cooperation; (2) legal frameworks, law enforcement and justice; (3) protection, recovery and reintegration; (4) preventive measures and (5) mechanisms for implementation, monitoring and evaluation of the MOU” (p.115). Also, an associated sub-regional action plan was developed and those sketched out country-specific, bilateral and sub-regional level areas of activities including annual meetings of senior officials.<sup>124</sup>

Concerning trafficking in persons, MOUs were signed by the GMS countries to return the victims through a process. Cambodia signed MOUs with Thailand and Viet Nam, whereas Lao PDR penned one with Thailand. China and Viet Nam also signed an MOU to cooperate on combating crimes covering trafficking in women and children. Under the MOU, working-level agreements or approved procedures were in place for all other important return channels in the GMS.<sup>125</sup>

Table 10. Bilateral agreement or MOU signed between ASEAN member countries and between ASEAN countries with non-ASEAN countries

ASEAN Country signed MOU	With ASEAN Country	With Non-ASEAN Country
Brunei		The Republic of Korea
Malaysia	Thailand, Viet Nam and Indonesia	Bangladesh, China, Sri Lanka, Pakistan, India, Nepal
Thailand	Lao PDR, Cambodia, Myanmar, and Vietnam	The Republic of Korea
Cambodia	Thailand (2003); Vietnam (on trafficking (2005))	The Republic of Korea
Indonesia	Malaysia (domestic workers (2006))	Jordan (2001; 2009); Republic of Korea (2010); United Arab Emirates (2007; 2010); Qatar (2008); Taiwan (2004, 2008); Saudi Arabia (on domestic workers (2014))
Lao PDR	Thailand (2002); Vietnam (on trafficking (2010))	
Myanmar	Thailand (2003, 2009 (on trafficking))	The Republic of Korea
Philippines	Indonesia	Bahrain (on health workers (2007)); Jordan (1981, 1988, 2010); Japan (2003); Lao PDR (2005); Lebanon (2012); Libya (2006); Rep. of Korea (2004, 2005, 2006, 2009; 2011); Kuwait (1997); Qatar (1997; 2008); Taiwan (2003); UAE (2007), Saudi Arabia (on domestic workers (2013))
Vietnam	Thailand (2015)	The Republic of Korea, UAE
Timor-Leste		The Republic of Korea, UAE

Source: Migrant Forum Asia, Policy Brief No. 10

124 Ibid.

125 Ibid.

Table 11. Memoranda of Understanding signed by the AMS from 2016-2018

MoU between	Year	The Issue/topic
Cambodia and Saudi Arabia	Feb. 2016	Recruitment of domestic workers and general workers
Cambodia and Hong Kong (China)	2017	Trial programme for sending domestic workers to Hong Kong
Cambodia and Bangladesh	2017	Concerning the cooperation in the field of Labour and Vocational Training
Cambodia and Vietnam	2017	Concerning the Cooperation in the Field of Labour
Cambodia and Timor-Leste	2016	Concerning the Cooperation in the Field of Labour
Cambodia and the Philippines	2016	Concerning the Cooperation in the Field of Labour
Indonesia and Macau (China)	Feb. 2016	The facilitation and protection of Indonesian overseas workers in Macau
Lao PDR and the Republic of Korea	Sep. 2016	Sending migrant workers to Korea
Myanmar and Japan	Apr. 2018	Memorandum of Cooperation (MOC) on the Technical Intern Training Programme
The Philippines and Kuwait	May 2018	Protection of OFWs in Kuwait
The Philippines and the United Arab Emirates	Sep. 2017	Mutual cooperation on the recruitment and employment of migrant workers
Thailand and Myanmar	June 2016	MOU covering labour cooperation
Thailand and Lao PDR	June 2016	MOU covering labour cooperation
Vietnam and the Republic of Korea	May 2016	MOU on supplying and receiving Vietnamese workers to the Republic of Korea under the Employment Permit System (EPS)
Vietnam and Japan	June 2017	MOC on the Technical Intern Training Programme
Vietnam and the Republic of Korea	Mar 2018	MOU on supplying and receiving Vietnamese workers to the Republic of Korea under the Employment Permit System (EPS)

Source: ILO, *Implementation of recommendations*.

In the ASEAN region, the Philippines is known as a migrant labour origin country. It has signed the most bilateral agreements (13), which include 12 agreements with labour destination countries, and one with labour origin country (Indonesia).<sup>126</sup>

126 “Bilateral agreements,” ILO.

### 3.4. Best Practices at the Regional Level

#### The Cebu Declaration

The 2007 Cebu Declaration is known to be one the best regional practices that demand all countries of destination and origin within ASEAN to guarantee the dignity, self-respect and fundamental rights of migrant workers. For this, the Cebu Declaration outlines countries' obligations in the following areas:

- » Protection of migrant workers from abuse, exploitation, discrimination, and violence;
- » Ensure mechanisms and systems are in place for labour migration governance; and;
- » Combating trafficking in persons.

#### The ASEAN Forum on Migrant Workers (AFML)

In September 2008, the first meeting of the ACMW was held in Singapore. The meeting had a Work Plan in which one of the recommended activities was the convening of the AFML. Also, in March 2009, the ASCC Blueprint was adopted by the ASEAN Leaders. One of the ASCC Blueprint Strategic Objectives was to "institutionalise and convene regularly the ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ACMW". Later, in the same month, the first meeting of SLOM-WG took place in Bangkok. The meeting consented the AFML as a routine annual activity under the ACMW Work Plan.<sup>128</sup>

Right after the Cebu Declaration, a Committee on the Implementation of the ACMW was established to take measures in the areas of concerns. On the ACMW's recommendations, each year, ASEAN organises AFML. The AFML is conceived to be an open platform for assessing, discussing and exchanging ideas and the best practices by ASEAN member countries and also social partners - workers and employers, and NGOs on serious issues faced by migrant workers in the ASEAN region. The AFML often comes up with a list of recommendations to support the implementation of the labour standards.<sup>127</sup>

AFML is one of the good practices at the regional level. It is an open forum for reviewing, discussing and exchanging best ideas and good practices at any level within the region to promote and protect the rights of migrant workers. AFML offers a great opportunity to the concerned stakeholders to share and exchange their activities to be implemented or already implemented. It also put forward recommendations to implement articles in the Cebu Declaration.<sup>129</sup>

#### The ILMS Database for ASEAN

With the support of the Canadian government, the ILO has initiated the ASEAN TRIANGLE. The ILMS Database for ASEAN countries is part of the project. The ILMS are collected from official government sources on the flow and stocks of migrant workers within the region, and also details of ASEAN nationals working outside of ASEAN. The data is placed in the ILO's central ILOSTAT Database portal. The ILMS aims to provide an exact source of quantitative data to policymakers for making evidence-based policy on international labour migration in ASEAN. It also seeks to outline the existing data sets countries gather that also

includes scope, quality, comprehensiveness, comparability and likely weaknesses, which could be filled in by capacity building of the concerned officials. Additionally, the purpose of the ILMS is to define and explain tabulations related to international labour migration as a source and reference for future data collection and documentation within ASEAN and beyond. The ILMS Database's primary sources of data are population censuses, labour force surveys, official records by ASEAN countries, surveys conducted by others, and official government estimations.<sup>130</sup>

#### Recognition of Skills and Migrant Workers Mobility within ASEAN

Another best practice at the regional level is the recognition of skills and allowing migrant workers mobility within the region. In 2007, during the 12<sup>th</sup> ASEAN Summit, the ASEAN countries had shown their strong commitment to ensure the setting up of the ASEAN Community by 2015 and to change ASEAN into an area with free movement of investments, free flow of capital, goods, services, and skilled labour. The Summit also focused on the development of 'mutually recognised skills framework'. It was

important for securing a region that is free for the skilled and low-skilled workers to move within ASEAN. In 2010, New Zealand, Australia and ASEAN developed a joint task force named as ASEAN Qualifications Reference Framework. It was the main mechanism to fix the national qualification frameworks to compare with other regional standards.<sup>131</sup>

<sup>127</sup> ILO, Implementation of recommendations.

<sup>128</sup> ILO, The ASEAN Forum on Migrant Labour (AFML) (Bangkok: ILO, 2014). <https://www.ilo.org/dyn/migpractice/docs/116/AFML.pdf>.

<sup>129</sup> "Bilateral agreements," ILO.

<sup>130</sup> "Good practices database," ILO.

<sup>131</sup> Ibid.



## 4

## 4. Human Rights and Gender Equality Aspects in Management of Labour Migration in ASEAN Member States

### 4.1. Brunei Darussalam

#### ● 4.1.1. Country Profile and History Related to Labour Migration Management

Brunei is a small nation on the island of Borneo and is surrounded by East Malaysia and the South China Sea. In 2020, the population of Brunei stood at 433,285 and the employed workforce stood at only 218,346.<sup>132</sup> 79.5% of the population live in the country's urban areas of the country and the median age is 32.3 years.<sup>133</sup> Brunei is located on the island of Borneo in Southeast Asia and shares borders with the Malaysian States of Sarawak and the Malaysian Federal Territory of Labuan. It is an oil producing country with a considerable

amount of foreign investment, jobs and income.<sup>134</sup> Since 1929, Brunei started allowing migrant workers to work in the oil industry. Due to the small workforce in the country the government allows private sector employers to employ migrant workers for various categories of jobs. In the earlier years, largely wealthy migrants came to Brunei. During the 1940s and 1950s, migrant workers came to Brunei from South Asian. They worked in the British Malayan Petroleum Company. In 1941 Brunei was occupied by the Japanese who destroyed

<sup>132</sup> "Labour force, total - Brunei Darussalam," World Bank, June 21, 2020, <https://data.worldbank.org/indicator/SL.TLF.TOTL.IN?locations=BN>.

<sup>133</sup> "Brunei Population," Worldometer, accessed 6 October 2020, <https://www.worldometers.info/world-population/brunei-darussalam-population/>.

<sup>134</sup> Peter Teo, Research brief—Migrant worker recruitment costs: Brunei (Singapore: Transient Workers Count Too, 2017).



the oil fields. After the Japanese left the region, Brunei focused on rehabilitation that revived the oilfields and the country focused on infrastructure development and expanded oil exploration.<sup>135</sup> Today, a combination of semi-skilled, low skilled, and expatriates migrate for work to Brunei. Currently, migrant workers from Malaysia, the Philippines, Thailand, Indonesia and South Asia (Bangladesh, Nepal and India) make up more than one- third of Brunei's total labour force.

Brunei became a member country of ASEAN in 1984. Among ASEAN countries Brunei has the highest percentage of migrant workers in the workforce.<sup>136</sup>

Table 12. Estimated labour requirement in selected years between 1991 and 2011.

Variable	1991	1996	2001	2006	2011
Labour Force Requirement	110,583	135,000	162,000	191,000	222,000
Local Worker	65,408	78,000	92,000	107,000	123,000
Migrant Worker	45,175	57,000	70,000	84,000	99,000
Migrant Worker as % of Total	40.9	42.2	43.2	44.0	44.6

Source: Ministry of Finance, Demographic Situation and Population Projection 1991 - 2011.

In 2019, the total working age population aged 15 years and above was 369,837. Of this total, 237,944 were in the labour force as compared to 220,965 persons in 2018. In 2019, the rate of labour force participation was 64.3 percent. In 2019, 221,711 persons were employed which includes 85,900 females (38.7 percent) and 135,800 males (61.3 percent). Of the total, local workers comprised 66.5 percent (147,400 persons) and 33.5 percent (74,300 persons) were foreigners including migrant workers.<sup>137</sup> According to the ILO, nearly half the workforce is employed in the public sector, while migrant workers tend to work in the private sector.<sup>138</sup> Migrant workers work mostly as cleaners and domestic workers, in crafts and trades, as industrial workers and machine

operators, and in skilled agriculture and fishery industries. Cleaners and labourers account for more than 80% of female migrant workers.<sup>139</sup>

Information related to migrant worker's access to transport, technology, and communications is limited, and largely unavailable. Insights may be gathered based on studies of workers from their countries of origin. A study conducted of Filipino migrant workers in Brunei highlighted the relationship between access to technology and employer-set working conditions. At 75%, respondents reported that their access to technology was determined by access to electronics given by the employer, as well as the responsibility to maintain said electronics.

## 4.1.2. Policies, Regulations, and Legislations Related to Labour Migration

The employment of migrant workers is managed through provisions under the Employment Order, 2009. It governs the minimum terms and conditions of employment in Brunei. It covers all persons who are employed under a contract of service, which maybe written or implied but excludes seamen, domestic workers, and any person employed in a managerial, executive or confidential position.

The Employment Order, 2009 also specifies the penalties for violations of its provisions especially on the part of employers. Some provisions in the Employment Orders, 2009 shall apply to Domestic Workers as cited in the Employment (Domestic Workers) Regulations, 2009. Such provisions are contracts of service, payment of salaries, truck system, health, accommodation and medical care, immigrant employees, repatriation, inspection, complaints and inquiries.

The legislation relevant to migrant workers are as follows:

1. Employment Order, 2009;
2. Employment (Domestic Workers) Regulations, 2009;
3. Immigration Act (Cap.17);
4. National Registration Act (Cap.19);
5. Workmen's Compensation Act (Cap.74);
6. Employment Agencies Order, 2004;
7. Employment Information Act (Cap.99);
8. Trade Union Act (Cap.128);
9. Trade Dispute Act (Cap.129);
10. Workplace Safety and Health Order, 2009;
11. Prevention of People Smuggling Act (Cap.229);
12. Anti-Trafficking In Persons Act (Cap.230).

The Department of Labour has conducted online public awareness campaigns on TIP and on safe labour migration in multiple languages (Bangladesh, India, Philippines, Thai and Malay). It has also printed and distributed leaflets containing information on the consequences of labour law violations; it is also provided on the DOL's main website. In addition, the establishment of the Working Committee Group on TIP ensures effectiveness and efficiency in handling TIP cases in Brunei. It consists of members from Government Agencies which include the Prime Minister's Office, Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Health, Attorney General's General Chambers, Royal Customs and Excise Department, Department of Immigration and National Registration, Department of Labour, Department of Community Development and the Royal Brunei Police Force. Department of Labour is a lead agency for Public Awareness Program on Anti Trafficking in Person (ATIP) Taskforce which was established in September 2020.

Brunei Darussalam has introduced the Workplace Safety and Health Order 2009 which govern the health and safety of migrant workers in the workplace which is consistent with the relevant ILO standards. Brunei provides access to the ILO to the updated information on the ILO international labour standards on occupation health and safety. For instance, there are reporting requirements and comments received from the ILO's supervisory bodies. According to the ILO, Brunei has shown seriousness in implementing laws relating to occupational health and safety. The main law is the Workplace Safety and Health Order 2009.

Brunei has more in-migrants predominantly

137 Ministry of Finance and Economy Brunei Darussalam. Labour Force Survey 2019 (Ministry of Finance and Economy Brunei Darussalam, 2019).

138 "Brunei Darussalam", International Labour Organization, accessed 7 October 2020, <http://www.ilo.org/asia/countries/brunei-darussalam/lang--en/index.htm>.

139 UN Women, Managing Labour Migration in ASEAN: Concerns for Women Migrant Workers (2013), [https://mumi.org/attachments/26\\_1.pdf](https://mumi.org/attachments/26_1.pdf).



from other ASEAN countries than out-migrants. In Brunei only citizens and permanent residents have access to supportive social security. However, the government has legislated for various conditions and obligations to be provided by employers to ensure that migrant employees have access to welfare protection. Brunei has made the COVID-19 vaccine available to all migrant workers at no cost.

All private sector employers in Brunei who intend to recruit and employ foreign workers must apply for a foreign worker license – that must be applied for and approved by DOL. The objectives of this license are to ensure:

### 1) Efficiency

- » To improve and increase the quality of service towards the public
- » To support the intention of the country towards a pro-business environment

### 2) Local prioritization

- » Towards the policy of 'Bruneianisation' i.e., positions in the industrial sector held by foreign workers are to be filled by local workers in stages

### 3) Balance

- » To strike a 'right balance' between pro-business needs and also the needs to protect the security and interests of the country

### 4) Regulatory

- » To ensure the recruitment and the use of workers are organised and in line with the requirements of the laws of the country and labour regulations.

Private sector employers are required to engage the services of registered employment agencies to facilitate the above recruitment process – including the sourcing of foreign workers in sending countries, the application procedure and appropriate compensation for any issues that may arise in the provision of their services to their customers. The DOL is the central agency for registration of employment agencies and monitors the activities and genuineness of registered agencies.

## 4.1.3 Governmental Institutions Related to Labour Migration Management

In Brunei, the Department of Labour works under the MOHA and is mandated to govern and manage migrant workers through granting licenses to the REs. It also helps with work permits and acts as a facilitator to work seekers to be guided through to the private sector. The department of Labour was established in 1955. The department of labour has an enforcement

division to ensure implementation of the laws, rules and regulations. The division is also responsible for resolving disputes between workers and employers. The division is also mandated to prevent and take actions against the abuse of migrant workers and misuse of recruitment licenses.<sup>140</sup>

<sup>140</sup> "Introduction," Department of Labour, the Ministry of Home Affairs, accessed 7 October 2020, <http://www.labour.gov.bn/SitePages/Introduction.aspx>.

Aside the DOL, other authorities and bodies responsible for governing migrant workers are: Department of Immigration and National Registration, SHENA, the Department of Health Services, and the Ministry of Development.<sup>141</sup> The monitoring of all aspects of foreigners entering the country for employment in the private sector, either skilled and unskilled workers are under the responsibility of the DOL and the Department of Immigration and National Registration. In addition, the administration of Employment Order and its subsidiary legislations<sup>142</sup> comes under the jurisdiction of the DOL. The entry and recruitment of migrant workers in Brunei are strictly regulated.

Labour (or employment) agents operate formally as registered bodies and are subject to government rules and regulations. Local and overseas labour agents act as intermediary suppliers of mostly unskilled but some skilled migrant workers, to some companies in Brunei. Although the Brunei authority acknowledges the presence of irregular migrant workers, it does not verify the number of undocumented migrant workers in the country.

One of the functions of The Labour Department is to manage the Foreign Workers' Licence. The process for this licence will

takes only 7 to 14 working days. A mandatory requirement needed along with the licence is to make a deposit either by using JITPA, Cash Deposit or Bank Guarantee. Employer must also purchase insurance for both medical and workmen compensation.

In order to make sure the employee is protected: -

1. Deposit of JITPA, Depositing Money or Bank Guarantee act as a protection to the workers if there is an issue with the employer and it will be used to purchase a ticket return for the workers.
2. Medical insurance and workmen compensation are part of protection to the workers for any medical treatment and work injury.
3. Contract agreement act as a binding agreement between employer and employee.
4. In order to ensure the safety and welfare of the employee, post inspection will be conducted by this department to make sure the employer does not violate the law especially in providing accommodation and place of work for this employee.

## 4.1.4. Non-State Actors Related to Labour Migration Management

There are no restrictions on NGOs registering and working in Brunei. There are a few NGOs working to protect and promote the rights of migrant workers. A couple of NGOs

are working in different areas especially in the area of domestic violence and free legal aid for the local communities. NGOs are involved in labour issues largely issues of the local

<sup>141</sup> "Occupational safety and health country profile: Brunei Darussalam," International Labour Organization (ILO), accessed 26 October 2020, <https://www.ilo.org/safework/countries/asia/brunei-darussalam/lang--en/index.htm>.

<sup>142</sup> Such as Labour Act 1954, Workmen's Compensation Act, 1957, Trade Union Act, 1961, and Employment Information Act, 1973. State of Brunei Darussalam, Labour Department Annual Report (1984), p73-74.

labourers linked to wages, working conditions and contracts. However, these NGOs operated openly in support of the relevant government agencies, and take a more harmonious shoulder to shoulder approach whilst working with the government.<sup>143</sup>

### 4.1.5 Remittance

In 2009, Brunei saw the payment of personal remittances at just below USD 450 million, an estimation based on IMF balance of payments data.<sup>144</sup> However, no further data is reported after that. While acknowledged as a major destination for migrant workers from Asia, Brunei is inevitably excluded from regional and international studies of remittance flows. We may get a glimpse of remittance behaviour in Brunei through regional studies such as in *The Case of Migration of Domestic Workers from Indonesia and the Philippines in Brunei Darussalam*<sup>145</sup> and *foreign labour migration and the remittance economy of Nepal*.<sup>146</sup> However, these studies engage with remittance channels in the destination country of the respective remitters, and thereby do not allow for a comprehensive understanding of Brunei's own remittance channels.

Brunei has in place the Money-Changing and Remittance Businesses Act (Cap.174) that

covers the key area of licensing for remittance service providers.<sup>147</sup> Based on a survey of digitally accessible resources, it is noted that remittance providers appear to include public banks, commercial banks, and money transfer operators (MTOs). In order to qualify as eligible to access these services, remitters are required to hold a valid work/study visa, and be over the age of 18, alongside other qualifications at the provider's discretion.<sup>148</sup> Services provided vary greatly as some remittance providers partner with foreign MTOs to facilitate methods such as Cash to Cash, Realtime account Credit, and Door Delivery.<sup>149</sup>

Considering the unavailability of data on remittance, more study of Brunei's formal and informal channels is needed, as well as the remittance behaviour of migrant workers within Brunei.

### 4.1.6. Best Practices in Labour Migration Management

Compared to other ASEAN countries, in Brunei a greater number of women migrant workers are engaged in highly skilled jobs. In Brunei, policies, laws and mechanisms are in place for the promotion and protection of the rights of female migrant workers.<sup>150</sup>

In the 5<sup>th</sup> and 7<sup>th</sup> AFML, recommendations were given to the ASEAN countries to promote the development of hotlines. These hotlines are established in all ASEAN countries. Brunei has developed a hotline within the Labour Department.<sup>151</sup>

The MKM has established a Legal Advice and Advisory Clinic to provide free information and support to vulnerable groups that also include migrant workers. The Clinic also offers free legal advice and legal services on a pro bono basis and at the lowest rates.

Recruitment agencies, alongside Government enforcement agencies, play an important role in ensuring proper migration for work and it is imperative that such recruitment agencies not only be familiar with relevant legislation but also that there is mutual understanding between themselves and their counterparts in sending countries in the safe and humane recruitment of migrant workers.

While not a direct part of most national labour migration regimes, foreign Missions and Consulates are encouraged to play an active role in issues that may arise due to errant recruitment practices especially in instances when such issues occur across borders and where national enforcement agencies have limited jurisdiction.

### 4.1.7. Conclusion

The difficulty confronted by Brunei in its development is that it faces challenges in the diversification of the country's economy, partly because of the limited supply of domestic labour, at all levels - top level occupations, skilled and unskilled. With limited domestic labour both in terms of numbers and skill sets led to an increasing reliance on migrant workers. Migrant workers have contributed to addressing the country's labour shortages.

However, the reliance on migrant workers in Brunei has been higher than its other ASEAN counterparts.<sup>152</sup> Its prevailing labour policies have resulted in a relationship between economic development and labour migration. It is generally argued that labour migration is a normal process of economic development.<sup>153</sup> Indeed, in the labour-short countries of ASEAN<sup>154</sup> such as Brunei, labour in-migration is an inevitable prerequisite for its development.

143 State of Brunei Darussalam, Brunei 2016 Human Rights Report (2019), <https://www.state.gov/wp-content/uploads/2019/01/Brunei.pdf>.

144 P. Vasconcelos, *Sending Money Home to Asia: Trends and opportunities in the world's largest remittance marketplace* (Rome: International Fund for Agricultural Development, 2013), <https://www.ifad.org/documents/38714170/40194108/Sending+Money+Home+to+Asia.pdf/b54ba6b3-efaa-421f-9e00-1ada4fad3b2a>.

145 Southeast Asia Women's Caucus on the ASEAN, *Compliance with Women's Rights Standards: The Case of Migration of Domestic Workers from Indonesia and the Philippines in Brunei Darussalam* (2014), [https://womenscaucusean.files.wordpress.com/2014/01/compliance-with-womens-rights-standards\\_domestic-workers-from-indonesia-and-the-philippines-in-brunei-2.pdf](https://womenscaucusean.files.wordpress.com/2014/01/compliance-with-womens-rights-standards_domestic-workers-from-indonesia-and-the-philippines-in-brunei-2.pdf).

146 David Seddon, Ganesh Gurung, and Jagannath Adhikari, "Foreign labour migration and the remittance economy of Nepal," *Himalaya, the Journal of the Association for Nepal and Himalayan Studies* 18 No. 2 (1998): 7.

147 State of Brunei Darussalam, *Laws of Brunei*, Chapter 174: Money-Changing and Remittance Businesses (1995).

148 "Remittances," Bank Islam Brunei Darussalam Berhad, accessed 7 December 2020, <http://www.bibd.com.bn/personal/bank-services/remittances/>.

149 "Services," Boza Remittance, accessed 7 December 2020, <https://www.bozaremittances.com/>.

150 UN Women, "Women Migrant Workers in the ASEAN Economic Community."

151 [http://apmigration.ilo.org/resources/implementation-of-recommendations-from-the-3rd-to-10th-asean-forum-on-migrant-labour-afml/at\\_download/file1](http://apmigration.ilo.org/resources/implementation-of-recommendations-from-the-3rd-to-10th-asean-forum-on-migrant-labour-afml/at_download/file1)

152 Manolo I. Abella, "Asian Labour Migration: Past, Present and Future", *ASEAN Economic Bulletin* 12, No. 2 (1995): 191-200.

153 Ibid.

154 Kavita Pandit, "Labour and Employment under the NIC Model of Development: Recent Evidence from Mauritius", *Singapore Journal of Tropical Geography* 16, No. 2 (1995): 158-178.



In Brunei, quotas and work permits exist to regulate the inflow and recruitment of migrant workers whilst existing labour laws and regulations ensure protection of the rights of workers (local and migrant) and maintenance of their welfare. The main rationale is that the country's economic diversification, development and upkeep of services generally require an increasing number of migrant

workers, the government also tries to ensure that local workers are prioritized in employment opportunities.

There is a need to build up stronger NGOs and CSOs networks nationally and internationally. This is an important first step towards stronger partnership of migrant NGOs.

## 4.2. Cambodia

### 4.2.1. Country Profile and History Related to Labour Migration Management

Khmer Rouge (1975-1979) has marked the era when Cambodia experienced its first mass exodus. Although the exodus was mainly internal, more than 35% of Cambodians were reported to depart from their place of origin. The political, social, and economic condition under Pol Pot had pushed Cambodians to move out of their place of origin and work in rural areas.<sup>155</sup> During this period of crisis, many were forced to move and be separated from their families.<sup>156</sup> It is reported that more than 97% of Cambodians who lived in urban areas were forced to migrate.<sup>157</sup> Since then, the migration of Cambodians has continued to occur.

The aftermath of the fall of Khmer Rouge in 1979 has encouraged many Cambodians to repatriate with their families.<sup>158</sup> The pattern of migration in Cambodia has evolved since then. The migration which was once driven by the political crisis has now mainly been driven by factors other than politics. The migration which was forced has now evolved to be a more voluntary one through the scheme of labour migration. Cambodia's position in the labour migration scheme is mainly as an origin country. The push factors are poverty and inadequate employment opportunities while the main pull factors are higher wages and networks.

155 International Organization of Migration, Country Profile: Cambodia, 1, accessed 28 August 2020, [https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/country\\_profile\\_cambodia.pdf](https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/country_profile_cambodia.pdf).

156 Zachary Zimmer et al., "The Impact of past Conflicts and Social Disruption on the Elderly in Cambodia," *Population and Development Review* 32, No. 2 (2006): 342. <https://www.jstor.org/stable/20058878>.

157 Ibid, 356.

158 Ibid, 335.

With more than 16 million citizens living in Cambodia, 12.9% of the population are reported to be living below the national poverty line (2018).<sup>159</sup> This number has slightly decreased, compared to the 2014 data which showed that out of 15 million Cambodians, 13.5% were under the national poverty line.<sup>160</sup> Although the number has slightly decreased, poverty can be one of the popular push factors that drive people to migrate in the hope for a better income and quality of life. Moreover, migration is a common phenomenon in the rural areas, as it is reported that during 2010-2016, 35% of households in rural areas have one of their members migrating.<sup>161</sup> The poverty factor is also mentioned explicitly by the Cambodian government itself in the Sub-Decree No. 190, Article 2 which states that the goal of the sub-decree is to contribute towards the attempt of the government in reducing poverty.

Aside from poverty, another push factor is inadequate employment opportunities. This issue is mentioned explicitly in the Sub-Decree No. 190 on the Management of the Sending of Cambodian Workers Abroad through PRAs. In article 2, the Sub-Decree stated that it has a goal to "find the market and provide Cambodian workers with overseas jobs". This

article has indicated the awareness of the Cambodian government regarding the lack of employment opportunities in their country. Hence, the government issued a decree to regulate Cambodians who wish to seek jobs abroad.<sup>162</sup>

For higher wages and a promise of a better quality of life, Cambodians are pulled out of their home country to work abroad. The wages in other countries can be multiple or even triple of the wages in Cambodia.<sup>163</sup> For an instance, workers can be paid to approximately USD 300 per month in Thailand and USD 790 per month in Korea, while only USD 140 in Cambodia.<sup>164</sup> With such promising results, Cambodians are encouraged and decided to migrate. In September 2019, more than 8% of the total Cambodian labour forces are migrant workers. The most popular destination country for Cambodian migrant workers is Thailand, with more than 90% of Cambodians working in Thailand.<sup>165</sup> A recent study done by the World Food Programme of the United Nations shows that 30% of Cambodians in Thailand work in the construction field, 25% work in agriculture and fishing, and 16% are in the factory work (see Table 13 for more information).<sup>166</sup>

159 "Poverty Data: Cambodia," Asian Development Bank, accessed 28 August 2020. <https://www.adb.org/countries/cambodia/poverty#:~:text=The%20latest%20statistical%20data%20on,Cambodia%20is%200.7%25%20in%202019.>

160 "The World Bank in Indonesia: Overview," World Bank, accessed 28 August 2020. <https://www.worldbank.org/en/country/cambodia/overview>.

161 World Food Programme (WFP), *Vulnerability and Migration in Cambodia (Cambodia: 2019)*, 8. <https://docs.wfp.org/api/documents/WFP-0000105976/download/>.

162 Chan Sopha, "Review of labour migration management, policies and legal framework in Cambodia," ILO Asia-Pacific Working Paper Series (Thailand: 2009), 6. [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_106497.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_106497.pdf)

163 WFP, *Vulnerability and Migration*, 18.

164 Organisation for Economic Cooperation and Development (OECD), "Cambodia's migration landscape," in *Interrelations between Public Policies, Migration and Development in Cambodia* (Paris: OECD Publishing, 2017), 42. <https://doi.org/10.1787/9789264273634-en>.

165 "Cambodia (July-September 2019)," International Organization of Migration, accessed 28 August 2020, 2. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614380.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614380.pdf).

166 WFP, *Vulnerability and Migration*, 12.

Table 13. Types of work of Thai migrant workers

Types of Work	Thailand
Construction	30%
Factory work	16%
Agriculture and Fishing	25%
Hotel/restaurant/service industry	8%
Handicraft production or sales	8%
Domestic work	4%
Education	3%
Other	6%

Source: World Food Programme, *Vulnerability and Migration in Cambodia* (2019), p. 12

Many migrant workers from Cambodia are encouraged by their friends or families. They are pulled by their friends and families to work abroad by informing them employment opportunities with higher income. Around 78% of migrants are reported to get information to work abroad from their friends, families, and other word-of-mouth.<sup>167</sup> In other words, the network has been a significant factor to influence workers to be a migrant worker.

Although forced migration is not common anymore, it appears to still exist in Cambodia through the debt-based scheme. Such scheme is reported to be commonly exercised by the owner of brick kilns industry.<sup>168</sup> Many rural farmers are vulnerable targets to such schemes as the conditions of their farms are unpredictable due to climate change.<sup>169</sup> This condition then pushes farmers to take large

loans in order to protect their farms; brick kiln owners see the hardship of the farmers as an opportunity for free labour. It is reported that almost 100% of the labour working in the brick kilns indicated a forced working condition due to the debt bondage.<sup>170</sup> Nonetheless, the MOLVT as one of the main state actors in migration management is reported to make an effort to reduce debt bondage by 2025 by raising awareness, providing legal action, and cooperation with civil societies.<sup>171</sup>

Before the 21<sup>st</sup> century, the management of Cambodian migrant workers were mainly regulated under the Sub-Decree No. 57 on the Export of Khmer Labour to Work Overseas. However, the regulation has been renewed and updated under the Sub-Decree No. 190 on the Management of the Sending of Cambodian Workers Abroad Through PRAs. As mentioned in both Sub-Decree No. 57 and its replacement, Sub-Decree No. 190, the labour migration management generally involves two main parties, the MOLVT and the REs.

The accommodation, communication, and transportation means are exercised by REs under the supervision of MOLVT according to the two main Sub-Decrees mentioned previously. Such function is applicable during the pre-departure training, the placement of migrant workers, as well as up on their repatriation; as mentioned in the Sub-Decree No. 190. However, an issue may arise during the placement of the migrant workers. The

<sup>167</sup> WFP, *Vulnerability and Migration*, 19.

<sup>168</sup> Brick kiln industry often refers to a “hidden” industry where bricks are made. As it is “hidden”, the industry is often unregulated and has an extremely poor working environment. See “Brick Kilns: a Hidden Industry,” The Brooke, accessed 28 August 2020. <https://www.thebrooke.org/our-work/exploitative-industries/brick-kilns-a-hidden-industry>.

<sup>169</sup> Department of State of the United States of America, *Trafficking in Persons Report 2019* (United States of America: United States Department of State Publication, 2019), 129-130. <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

<sup>170</sup> Ibid.

<sup>171</sup> Ibid.

Asia Foundation uses the story of Sopheap, a Cambodian woman recruited to work in Malaysia, to illustrate how an issue may arise in terms of communication. It is stated that the employer of Sopheap prohibits any access for Sopheap to the outside world, from her passport to her mobile phone.<sup>172</sup> It may be safe to say that the circumstances each migrant worker faces will be different from one to another. Such differing circumstances may lead migrant workers to a different situation in the context of communication; whether they are allowed to communicate or not. In terms of transportation, Sopheap was not charged. However, the REs would deduct the expense of transportation from Sopheap’s salary.<sup>173</sup> Such practice may sometimes raise the issue of trafficking, as the migrant workers themselves may not understand whether the transportation is legal or illegal. Nonetheless, it should be remembered that the REs shall be responsible to ensure that migrant workers are provided with adequate accommodation, including the communication and transportation means.

Aside from coordinating migrant workers’ mobility, the REs are responsible for providing pre-departure training for the migrant workers.

Although the responsibilities are at the hand of the REs, they are obliged to cooperate with MOLVT and other relevant institutions as mentioned in the article 23 of Sub- Decree No. 190. Furthermore, Cambodia has a specific document that regulates the mobility of migrant workers in Malaysia under the Recruitment Procedures for Cambodian National for Employment in Malaysia that was established in 1999. Mentioned in article 2.4, this document specifically obliges employers to pay for migrant workers’ transportation costs from their origin to the expected work place in Malaysia.<sup>174</sup>

The mobilisation of migrant workers are dangerous and migrant workers are vulnerable to unlawful and irregular mobility. In order to protect the commencement of sending migrant workers who seek to work abroad, the Kingdom of Cambodia has also established a Law on the Suppression of Human Trafficking and Sexual Exploitation (LSHTSE) on 2008. Particularly on article 18 of LSHTSE, the Cambodian government has provided measures and penalties to tackle and address the possibility of irregular transport of migrants.

#### 4.2.2. Policies, Regulations, and Legislations Related to Labour Migration

As an origin country in the labour migration scheme, the legal instruments made by the Kingdom of Cambodia are mainly regulations that accommodate and enable migrant workers to work abroad. Cambodia also has several documents that regulate foreigners who work in Cambodia. This part seeks to understand the migration documents Cambodia has established to manage its migration.

<sup>172</sup> The Asia Foundation, *Cambodia’s Labour Migration: Analysis of the legal framework* (Phnom Penh: The Asia Foundation, 2011), 36.

<sup>173</sup> Ibid, 11.

<sup>174</sup> Ibid, 40.



The first and primary document that regulates the sending of Cambodian to work abroad is the Sub-Decree No. 57 that was enacted in 1995. However, the document is not available in English. In resemblance with the Sub-Decree No. 57, Cambodia enacted the Sub-Decree No. 190 in 2011 regarding the Management of the Sending of Cambodian Workers Abroad Through PRAs. The Sub-Decree No. 190 is made to govern migrant workers to work abroad. According to article 2, the document aims to find the market and provide Cambodian workers with overseas jobs, improve the living conditions of the Cambodian people, ensure safety of Cambodian workers who work abroad, contribute to the development of human resources, and contribute to the implementation of the Royal Government of Cambodia's policy on poverty reduction.

Before the Sub-Decree No. 57 was renewed, the Kingdom of Cambodia issued a Sub-Decree No. 70 (2006) on the Creation of the Manpower Training and Overseas Sending Board (MTOSB). This document covers the establishment of MTOSB. It also performs as a guide for MTOSB as a public agency to recruit, send, train, and manage migrant workers who seek to work abroad. After the establishment of MTOSB, Cambodia developed Prakas<sup>175</sup> No. 12 (2007) on Migration Taskforce. This Prakas aims to develop and implement policies and action plans under the Labour Migration Section of the MOLVT.

Aside from regulating the recruitment and training for migrant workers, Cambodia has also shown efforts to protect the human rights of Cambodian migrant workers as well as

ensuring the gender equality aspect within the labour migration scheme. These efforts are shown under several documents, namely the Constitution of the Kingdom of Cambodia on 1997, Prakas No. 108 (2006) on Education of HIV/AIDS, Safe Migration, and Labour Rights for Cambodian Workers Abroad, Royal Kram No. NS/RK/0208/005 regarding the LSHTSE, Labour Migration Policy for Cambodia (2010-2014, 2015-2018, and 2019-2023), and The Social Protection Policy Framework (SPPF) 2016-2025. These documents generally stipulate the protection of the rights of migrant workers and are in accordance with the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers.

Cambodia has also established bilateral agreement through the MOU regarding labour migration with several destination countries such as Thailand (2003), Republic of Korea (2006), Kuwait (2009), and Malaysia (2015). There is also a multilateral agreement among Cambodia, China, Lao PDR, Myanmar, Thailand, and Vietnam for the GMS. Other documents that are also relevant in Sending Cambodian migrant workers abroad are as follow:

- ◇ Sub-decree No. 39 on Granting Normal Passport to Cambodian Labourers to Legally Working Abroad
- ◇ Letter No. 2647 on National Guidelines for PRAs in Cambodia
- ◇ National Employment Policy
- ◇ 8 Prakas was also adopted on 2013 in relevance to the Sub-Decree No. 190<sup>176</sup>:
  1. Prakas No 045/13 on defining the key terms used in Sub-Decree 190
  2. Prakas No 046/13 on the minimum

<sup>175</sup> Prakas is a regulation issued by a Minister or by the Governor of the National Bank of Cambodia.

<sup>176</sup> Kingdom of Cambodia, Policy on Labour Migration for Cambodia (Phnom Penh: Ministry of Labour and Vocational Training, 2014).

standards and legal basis for PRAs

2. regarding the recruitment and pre-departure process prior to the sending of migrant workers
3. Prakas No 047/13 on the requirements for PRAs as a legal entity recognised by the MOLVT
4. Prakas No 249 on the complaint mechanism process for migrant workers
5. Prakas No 250 on the inspections of PRAs
6. Prakas No 251 on the penalty and rewards for the PRAs during the inspection to continue
7. Prakas No 252 on the service from the PRAs in the destination countries
8. Prakas No 253 on the arrangement for the minimum standards of job placement services

The regulations above show how the government of Cambodia has made efforts to regulate the process of labour migration for its citizens. Protection seems to be one

of the objectives which can be seen from the stipulation of contracts and guarantee of labour migrant rights.

Although Cambodia is an origin country in the labour migration scheme, it has also evidently received foreigners working in Cambodia. The Royal Kram CS/RK/0397/01 on Labour Law which was established in 1997 has provided a legal framework applicable to employment contracts covering work carried out in Cambodia, which included the foreigners who work in Cambodia as well. Cambodia also protects the rights of foreign workers under the Royal Kram No. NS/RK/0208/005 regarding the Law on the Suppression of Human Trafficking and Sexual Exploitation which was already mentioned in the previous paragraph. The National Employment Policy has also indicated the protection of rights of foreign workers.

### 4.2.3. Governmental Institutions Related to Labour Migration Management

Aside from policies and regulations, governmental institutions play a crucial role in exercising the policies of sending migrant workers abroad. There are 3 key state actors in Cambodia that are responsible for the management of migrant workers. The primary state actor is the MOLVT. The MOLVT is generally responsible within the labour sector and the vocational training sector. There is no specific document that states the function

of MOLVT in the labour migration scheme. However, from the data gathered from several resources, it can be concluded that the MOLVT has several functions as follow:

- ◇ Establish norms and procedures in sending migrant workers, including the recruitment, education, and training;
- ◇ Ensure the health and safety of migrant workers<sup>177</sup>;

<sup>177</sup> Royal Government of Cambodia, Sub-Decree No. 190 on the Management of Sending Cambodian Workers Abroad Through Private Recruitment Agencies, 2011, article 5.

- ◇ Manage the sending of Cambodian migrant workers and prevent the sending of child labour<sup>178</sup>;
- ◇ Provide vocational training programs for migrant workers to enhance their skills<sup>179</sup>;
- ◇ License and authorise REs according to Sub-Decree No. 190 and Prakas
- ◇ No. 47 (documents are unavailable in English)

The second actor is the Ministry of Interior (MOI). In relation to labour migration, the MOI is responsible in issuing passport<sup>180</sup> and to receive complaints from migrant workers. The MOI, particularly the Department of Anti-Human Trafficking and Juvenile Protection, has the power to conduct arrests regarding trafficking and forced labour issues.<sup>181</sup> The third actor is the MOFA that is responsible

for monitoring Cambodian migrant workers abroad.<sup>182</sup> Besides monitoring, the MOFA is also obliged to collaborate with MOI and MOLVT in exercising other policies concerning labour migration.

There is no special agency that is assigned to address the issue of labour migration. However, to ensure smooth collaboration and cooperation between the ministries, Cambodia has established an Inter-Ministerial Committee. Aside from the three main state actors, other ministries such as Ministry of Justice, Ministry of Social Affairs, Veterans, and Youth Rehabilitation, Ministry of Women Affairs, Ministry of Health, Royal Government of Cambodia, and Cambodian Parliament are also involved indirectly within the labour migration management.

#### 4.2.4. Non-State Actors Related to Labour Migration Management

Several regulations in Cambodia enable the involvement of non-state actors in labour migration management. In general, such involvement is guaranteed under the Constitution of the Kingdom of Cambodia, particularly in Article 42 which ensures the freedom for Khmer citizens to participate in organisation for mutual assistance and in Article 46 which stipulates the responsibility of Khmer Citizens to care for women, especially the underprivileged ones. Under such general

rights and responsibilities, some regulations stipulate the rights and responsibilities of non-state actors in relations with migration management. For example, Prakas No. 108 on Education of HIV/AIDS, Safe Migration, and Labour Rights for Cambodian Workers Abroad states the responsibility of REs to cooperate with government institutions in providing education on HIV/AIDS to migrant workers. Moreover, REs are also expected to submit pre-departure training reports, data, and other

<sup>178</sup> Ibid.

<sup>179</sup> Kingdom of Cambodia, Policy on Labour Migration (2014), 48.

<sup>180</sup> Ibid, 21.

<sup>181</sup> International Labour Organization, Assessment of the complaints mechanism for Cambodian migrant workers (Phnom Penh: ILO, 2016), 16. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_466494.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_466494.pdf).

<sup>182</sup> International Labour Organization, Labour Migration from Cambodia: A Fact Sheet, [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_160944.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_160944.pdf).

necessary documents of the migrant workers to the government. Besides, the importance of civil society organisation in supporting migration management is also mentioned within some Prakas such as the Prakas on Implementation of The Guidelines on Forms and Procedures for Preliminary Identification of Victims of Human Trafficking for Appropriate Service Provision which states the importance of civil society organisation in supporting the identification and protection of victims of human trafficking.

Considering that the national regulations explicitly state the role of non-state actors in migration management, there are several non-state actors which are actively involved in migration management in Cambodia. The first is Cambodia Development Resource Institute (CDRI). CDRI is recognised by the government under the Royal Sub Decree No. 94 (2000) on the establishment of CDRI as a private and non-profit institute. CDRI provides research and policy services to enhance the skills of government officials in developing policies. There are two main activities conducted by CDRI which are to train human resources for the Cambodian government and to develop the capacity and ability of government officials to manage and utilise international aid. CDRI is not exclusively focused on labour migration but labour migration is one of its research and policy focus. CDRI contributes in recommending policies and strategies taken by the Cambodian government. For example, in 2017 it launched the report on 'Interrelations between Public Policies, Migration and Development (IPPM) in Cambodia' which was hosted by the Ministry of Interior of Cambodia with the presence of other ministries.<sup>183</sup>

Furthermore, CDRI seems to work closely with the government of Cambodia. It is reflected by its board of directors which consist of 2 senior government officials namely the Governor of the National Bank of Cambodia and the Secretary of State, Ministry of Commerce of Cambodia.

The second is Legal Support for Children and Women (LSCW). LCSW is an NGO based in Phnom Penh which focuses on legal aid. LCSW provides free legal advice for women and children victims of human trafficking in Cambodia. Another NGO that provides legal aid is Centre for Alliance of Labour and Human Rights (CENTRAL). CENTRAL has continuously supported Cambodian migrant workers around the world to pursue a transparent and accountable governance for labour and human rights.

Another NGO that is involved in the labour migration sector is the Phnom Srey Association for Development (PSAD). The PSAD is focused on the field of advocacy. One of its activities in the field of Advocacy, Networking and Partnership Program is the Community-based Information on Safe Migration Project. The project is to provide information regarding the safe migration and to give the candidate a consideration before deciding to migrate. Aside from that, there is also an association of manpower in Cambodia called Manpower Association of Cambodia (MAC). MAC was established by 12 REs in 2015. It aims to provide members with legal protections, policy advocacy, and help members in facing complicated procedures during the recruitment process.

<sup>183</sup> "Cambodia needs to integrate migration into sectoral and national development strategies, says new joint OECD Development Centre – CDRI report," Organization for Economic Cooperation and Development, accessed 28 August 2020, <https://www.oecd.org/dev/migration-development/cambodianeedstointegratemigrationintosectoralandnationaldevelopmentstrategiessaysnewjointoecddevelopmentcentrecdrireport.htm>.



The business sector which is represented by the REs also plays a crucial role in the labour migration. The REs are companies which deal with the process of sending Cambodian migrant workers abroad. They are generally responsible to recruit migrant workers, provide pre-departure training, as well as ensure the safety of the workplace offered to the migrant workers. Every RA must be authorised by the MOLVT and their responsibilities are specifically regulated within the Sub- Decree No. 190, which are:

- ◇ Recruit and send migrant workers abroad, including application forms and health check-up
- ◇ Provide information on the contact of Cambodian embassy or representative
- ◇ Give pre-departure training/orientation, including language training
- ◇ Establish a contract with MOLVT regarding the procedures of migrant workers' job placement
- ◇ Ensure the working and living conditions such as types of work, workplace, working hours, skills, salary, benefits, health

### ● 4.2.5. Remittance

Remittance is one of the means utilised by the government of Cambodia in addressing the issue of poverty and vis a vis promoting economic growth. Although there is no specific regulation on the sending of remittance, the government of Cambodia has included the goal for a safe, efficient, and cheap remittance for Cambodian migrant workers within the Labour Migration Policy (2015-2018) framework.<sup>184</sup> According to a study

insurance, accommodation, transport, security and safety within the working and accommodation areas

- ◇ Develop and submit a clear report regarding the condition of labour migrant
- ◇ Record information and data on the migrant workers

In their activities of sending Cambodian migrant workers abroad, any REs which fails to fulfil its responsibility as stated by the Sub-Decree is subject to be punished by the law and has its permit revoked. This authorisation and sanction mechanism is created in order to ensure that while maximising profit in the labour market industry, the REs will also ensure the rights fulfilment and protection of the migrant workers. Moreover, the REs are also supported by brokers to recruit potential migrant workers from rural areas. As the representative of the REs, these brokers also have the same responsibility as the REs and hence, any exploitative or forgery activities done by the brokers during the labour migration process is also subject to be punished by law.

conducted by Tangtipongkul and Khiev, most of Cambodian migrants are irregular. Thus, most of Cambodian migrants are unable to access official or formal financial services to send their remittances back home.<sup>185</sup>

The most frequent instrument utilised by Cambodian migrant workers is through informal agents. Deelen and Vasuprasat reported more than 60% Cambodian migrant workers

send their money through informal agents.<sup>186</sup> Other channels include through a relative, a friend, bank, employer, or the migrant workers bring home the remittance by themselves. In addition, Sophal also delivered similar findings that the utilisation of formal financial services such as banks is relatively low. the middlemen using telephone, middlemen who will travel directly, and fellow trustworthy migrant workers. Sophal further added that the instrument used by Cambodian migrant workers to transfer their remittances is contingent on where they work.<sup>187</sup> In a survey accounting of 526 households in six villages conducted by the CDRI, it is found that the majority of Cambodian migrant workers residing in Thailand (84%) remit their money through the middlemen using telephone as the extension for migrants to their families. They are expected to pay an additional charge, around 4 to 5% of the remittances to the middlemen.<sup>188</sup> Meanwhile the majority of Cambodian migrant workers in Malaysia (75%) use the middlemen who travel directly to their home country to send their money. Subsequently, the rest of Cambodian migrant workers rely on their fellow trusted migrant workers to bring their money home.<sup>189</sup>

However, the majority of Cambodian migrant workers actually have no preference to utilise the channels they usually use. They keep using the channels they regularly use as they thought there are no other options.<sup>190</sup> They

actually prefer to remit their money through banks to which they are unable to access the service. Nonetheless, as the majority of Cambodian migrant workers are irregular, it can be understood that they are unable to access the service. For instance, banks required proper documentation from migrant workers to be able to remit their money. Such documentation will then provide migrant workers with adequate receipt as well.<sup>191</sup> Whereas through informal agents, middlemen, and employer, documentation is not a necessary requirement and subsequently, the receipt is not usually provided.<sup>192</sup> On the other hand, a more informal channel such as friend or relative generally do not require any documentation yet they occasionally provide receipt.<sup>193</sup> Such findings may suggest the degree of credentials of the channel which may hinder or facilitate the remittance of migrant workers. Channels with higher credentials require more proper and sufficient documentation, with the assurance of the remittances received by the families through the provided receipt; and vice versa.

Although banks may be a more trustworthy channel to remit money, Deelen and Vasuprasat added that the service fee from informal agents is usually cheaper than the banks. If Cambodian migrant workers in Thailand should pay around 300 baht to a relative and 210 to a friend, it takes around 690 baht to bank in order for the remittance to be transferred.<sup>194</sup>

186 Linda Deelen and Pracha Vasuprasat, Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices (Bangkok: International Labour Organization, 2010), 13.

187 Chan Sophal, "Economic costs and benefits of labour migration: Case of Cambodia," in Costs and Benefits of Cross-country Labour Migration in the GMS, ed. H. Jalilian (Singapore: ISEAS-Yusof Ishak Institute, 2012), 155.

188 Ibid.

189 Ibid.

190 Deelen and Vasuprasat, Migrant workers' remittances, 14.

191 Ibid, 16.

192 Ibid.

193 Ibid.

194 Ibid, 19.

184 Kingdom of Cambodia, Policy on Labour Migration for Cambodia (2014), 10.

185 Kaewkwan Tangtipongkul and Virak Khiev, "The Effect of Remittance on Economic Growth in Cambodia," Journal of Population and Social Studies 27, No. 3 (2019): 239.

It is three times more expensive than to a relative or friend. Deelen and Vasuprasat also stated that although the remittance transferred by the bank will be received in local currency in a fair exchange rate, it is claimed that the conversion rate includes another additional

charge.<sup>195</sup> Cambodian migrant workers are therefore dilemmatic whether to use the cheap yet risky channels or expensive yet trustworthy channels. However, it is proven that to date, Cambodian migrant workers mostly choose the informal channels to remit their money.

#### 4.2.6. Best Practices in Labour Migration Management

In ensuring the protection of labour migrant rights, Cambodia has gradually established policies and other measures such as The Constitution of the Kingdom of Cambodia in 1997 article 32 mentions that every Cambodian citizen abroad shall receive protection from the state. Also, the Prakas No. 108 specifically addresses the needs to constantly evaluate gender issues within the labour migration scheme, as mentioned in Article 5 “...There shall also be evaluation of working conditions, livelihood rights of the workers, gender issues, sex discrimination, and solutions to relevant issues related to labour disputes at least once per year in the countries accepting the workers.” Meanwhile, the Royal Kram No. NS/RK/0208/005 regarding the Law on the Suppression of Human Trafficking and Sexual Exploitation seeks to protect migrant workers from exploitation such as sexual abuse, human smuggling, forced labour, and other means of exploitations. The document does not only protect Cambodian migrant workers, but it also aspires to protect foreigners who work in Cambodia. To ensure the protection and empowerment of migrant workers who became a victim in the case of Trafficking in Persons (TIP), Cambodia has also established an Agreement on Guidelines for Practices and Cooperation between relevant government institutions and victim support in cases of TIP in 2007.

Moreover, the guidance for the implementation of labour migration management, Labour Migration Policy for Cambodia (2010-2014) has the following objectives:

1. Provide better governance of labour migration through a stronger legal, regulatory, and institutional framework for migration
2. Develop protection and empowerment of migrant workers through the supervision of recruitment and placement, standards setting, and provision of support services
3. Harness the potential of labour migration for development by maximising remittances and investments, and providing greater assistance in the return and reintegration of migrant workers.

Since 2010, the policy has become one of the main guidelines for Cambodia in sending Cambodian abroad. In 2015, the policy was updated for another 3 years. The objectives of the policy (2015-2018) are similar to the previous document with a minor advancement in its framework which is to provide and implement rights-based and gender-sensitive policies to ensure the rights of migrant workers.<sup>196</sup> The

<sup>195</sup> Ibid.

<sup>196</sup> Kingdom of Cambodia, Policy on Labour Migration for Cambodia (2014), 8.

policy was then renewed again in 2019, with one of its focus is to increase the opportunities for female migrant workers.<sup>197</sup>

Another crucial policy is the SPPF 2016-2025 that was established in 2017. The policy is significant for Cambodian migrant workers as it performs as a security guarantee and empowerment for vulnerable groups such as migrant workers and their families. The SPPF covers two main duties, the social assistance and social insurance. In terms of social assistance, there are four components that will be covered, which are the emergency responses, human capital development, vocational training, and social welfare for vulnerable people. On the other hand, social insurance will cover five components which are pension, health insurance, employment injury, unemployment, and disability.

Furthermore, there are other efforts made by Cambodia to enhance the migration management, particularly through the lens of human rights and gender equality which is the establishment of Code of Conduct for Cambodian PRAs. This initiative is a joint collaboration with Association of Cambodian Recruitment Agencies (ACRA) and the MAC which was also assisted by TRIANGLE in ASEAN.<sup>198</sup> The Code of Conduct (COC) generally regulates the PRAs in ensuring a safe migration for migrant workers.

Other than that, ACRA reported a significant increase of pre-departure orientation done by the REs that cooperate with MOLVT and other relevant institutions.<sup>199</sup> In 2016, the IOM reported that around 87.5% Cambodians migrated with a passport and assisted by a licensed RE. It is reported that migrants who migrated under such schemes are less likely to experience abuse and exploitation from their workplace. Migrants who migrate without a passport and without a licensed RE, are five times more vulnerable to experience exploitation and abuse.<sup>200</sup> The report also shows that migrants with complete regular documentation are more likely to receive fair and just wages.

Different report provided by the US Department of State also shows that more than 400 cases regarding trafficking issues were prosecuted in 2019 (compared to 207 cases in 2017).<sup>201</sup> This indicated that the effort made by the Cambodian government has yielded a promising result, assuming that LSHTSE is working. Aside from the LSHTSE, the government of Cambodia has also shown their serious attempt to protect women migrant workers through the establishment of MRC, Pre-departure Orientation Training Curriculum for workers to Thailand and Malaysia, Standard of Employment Contract and Job Placement Service Contract, and “Work Smart - Travel Smart” guide book for potential Cambodian migrant workers.<sup>202</sup>

<sup>197</sup> “ILO supports Cambodia’s new policy and guidelines for enhanced labour migration governance and access to justice,” International Labour Organization, accessed 28 August 2020. [https://www.ilo.org/asia/media-centre/news/WCMS\\_654639/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_654639/lang-en/index.htm).

<sup>198</sup> “Launch of the Code of Conduct for Private Recruitment Agencies in Cambodia,” International Labour Organization, accessed 29 August 2020. [https://www.ilo.org/asia/events/WCMS\\_735805/lang-en/index.htm](https://www.ilo.org/asia/events/WCMS_735805/lang-en/index.htm). <sup>199</sup> Ibid.

<sup>200</sup> B. Dickson and A. Koenig, Assessment Report: Profile of Returned Cambodian Migrant Workers (Phnom Penh: International Organization for Migration (IOM), 2016), 15. <https://www.iom.int/sites/default/files/country/docs/IOM-AssessmentReportReturnedMigrants2016.pdf>.

<sup>201</sup> Department of State, Trafficking in Persons, 126.

<sup>202</sup> Ouk Ravuth, Roundtable on Labour Migration in Asia Them: Innovative Approaches for the Effective Management of Labour Migration in Asia, Ministry of Labour and Vocational Training, presented at the 9th ADBI-OECD-ILO on January 24-25, 2019 at Tokyo, Japan.



The sustainability of the medium-term Cambodian Labour Migration Policy has also indicated the success of its implementation as it is renewed and updated regularly after the duration of the previous policy is completed. In terms of complaint mechanism, the government of Cambodia has also regulated such measures in addressing the complaint of migrant workers through the Prakas No. 249, as already mentioned in the previous section. Furthermore, Cambodia has also facilitated the remittances of migrant workers through the help from the government in opening a bank account in their destination country.<sup>203</sup>

### ● 4.2.7. Conclusion

The infrastructure of migration in Cambodia mostly supports the mobilisation of labour from Cambodia to foreign countries given that Cambodia plays more role as an origin country rather than a destination country. Such infrastructure is dominated by the regulatory, humanitarian, and commercial dimension. First, the regulatory dimension consists several regulations which protect Cambodian migrant workers abroad through finding suitable labour market abroad, regulating recruitment, pre-departure trainings and sending process, providing social assistance and health insurance, as well as protecting Cambodian labours from illegal activities such as forced labour, sexual abuse, and human trafficking. Since Cambodia's regulations on labour migration do not specifically address gender specific issues, the issues are addressed in Cambodia's constitution and policies on human trafficking. Cambodia also established several MOU with other countries to enhance the protection of Cambodian labours working abroad. As a destination country, Cambodia

These arrangements have ensured the fulfilment of several specific rights of migrant workers as stipulated in the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers namely the access to information, right to hold passports, freedom of movement, right to be issued an employment contract, fair treatment in workplace, adequate or reasonable accommodation, fair and appropriate remuneration and benefits regardless of gender, right to transfer their earnings and savings, file complaints and make representation, and right to appeal.

has fewer regulations which protect foreign labours from possible exploitation at workplace, human trafficking, and sexual exploitation.

In exercising its regulatory role, governmental institutions, particularly the MOLVT, the Ministry of Interior, and MOFA have the leading roles. While the MOLVT focuses on giving proper training, regulating REs, and ensuring health, administrative, and safety of Cambodian migrant workers going abroad the MOI protects the migrant workers through issuing passports and ensuring their safety against illicit activities. Lastly, the MOFA through its representative offices in destination countries directly monitor and ensure the safety of Cambodian migrant workers in their destination countries.

The second dimension is the humanitarian dimension which consists of several NGOs which support and influence labour migration management. Their activities include policy advocacy through provision of policy and

<sup>203</sup> Ibid.

strategy recommendations for labour migration management, legal advocacy by providing legal support, and advocacy for safe migration through provision of information.

Third, the commercial dimension which focuses on business aspects of labour migration is represented by REs as companies which deal with the process of sending Cambodian migrant workers abroad. The REs must be licensed by the government through

MoLVT and hence, they must abide by the role and responsibilities of REs as regulated by the government. Within this dimension, the REs become government's support, not only to increase the demand for Cambodian labours in the international market, but to also ensure a safe migration process of the labours. The REs are responsible for recording administrative paper works of the migrants, conducting pre-departure training, giving clear procedures on job

## 4.3. Indonesia

### ● 4.3.1. Country Profile and History Related to Labour Migration Management

International migration in Indonesia rooted back to when Indonesia was colonised by the Netherlands. Under the government of Dutch Indies in 1890, Indonesian workers were sent to Suriname to work in the plantation field. Most of the workers came from Java due to the frequent explosion of Mount Merapi and the dense population in Java, followed by some from people of Madura, Batak, and Sunda.<sup>204</sup> Such mobilisation was implemented until the year 1939, accounting for 32,986 Indonesian citizens.<sup>205</sup> Under such circumstances, it could be concluded that the migration pattern was mainly forced in consequence of disaster and colonialism.

Two years after the independence of Indonesia, an institution was established under the name MOL to address the issue of labour. The establishment of the MOL was based on the Indonesian Government regulation No. 3 Year 1947. The name was changed to the Department of Labour, Transmigration, and Cooperation at the beginning of the New Order, with the Cooperation was later established as its own department.<sup>206</sup> Although an institutional framework had been established, the mobilisation of Indonesian citizens abroad was poorly regulated. The management was traditionally executed; individually or through family or friends. Aside from the traditional

<sup>204</sup> "Profil BP2MI: Sejarah BP2MI," Badan Pelindungan Pekerja Migran Indonesia (BP2MI), <https://bp2mi.go.id/profil-sejarah>.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

management, the private travel agencies were also involved in the sending of Indonesian migrant workers to work abroad.<sup>207</sup> Two main destinations for workers were Malaysia and Saudi Arabia. Without the existence of an official document regulating the movement of Indonesians who work abroad, the paperwork was not well-organised and many workers had been working irregularly without carrying legal paperwork.<sup>208</sup>

Realising the potential of labour migration and the need to manage the mobility of Indonesians to work abroad, the government finally decided to issue the Indonesian Government Regulation No. 4 Year 1970 through the implementation of Program Antar Kerja Antar Negara (AKAN). Since then, Indonesian government has been actively involved and collaborated with the PRAs in sending Indonesian migrant workers abroad.<sup>209</sup> However, the program was later dispersed and changed into the establishment of an official body within the government, the Directorate General of Placement and Protection of Migrant Workers Overseas (PPTKLN). PPTKLN is a sub-division under the division of Directorate General of Manpower Placement and Employment Opportunity Expansion (Binapenta & PKK) of the Ministry of Manpower and Transmigration (now Ministry of Manpower). To further foster the protection and placement of Indonesian migrant workers, the government established the National Board for the Placement and Protection of Indonesian Migrant Workers (BNP2TKI) in 2004 which was

recently transformed into National Board for the Protection of Indonesian Migrant Workers (BP2MI).

The number of international labour migration from Indonesia has increased exponentially since the 1960s. This can be seen through the increasing amount of personal remittances sent by Indonesian Migrant Workers (IMWs) abroad. In 1983 (with the total population of 158 million), the amount of personal remittances admitted to Indonesia was around US\$10,000,000. Meanwhile in 2019 (with the total population of 265 million), the amount of personal remittances received has reached more than US\$11,000 billion.<sup>210</sup>

After Indonesia's independence, the pattern of labour migration has shifted and tended to be voluntary. There are several factors that drive Indonesians to migrate abroad which are unemployment, poverty, limited job opportunities, and high wage disparities. These elements are interrelated, whereas insufficient job opportunities have created unemployment that further promote poverty. Labour migration has been considered as an effort to solve unemployment issues. It is also often seen as one of the means—if not the only means—to escape poverty.<sup>211</sup> Indonesian migrant workers would often seek temporary work overseas to save money which would be transferred home in order to fulfill certain needs. In 2019 alone, around 276,533 IMWs decided to seek employment opportunities abroad.<sup>212</sup>

207 Ibid.

208 Ibid.

209 Ibid.

210 "Personal remittances, received (current US\$) - Indonesia," World Bank, accessed 23 September 2020. <https://data.worldbank.org/indicator/bx.trf.pwkr.cd.dt?view=chart&locations=D>.

211 International Organization for Migration (IOM), *Labour Migration from Indonesia: An Overview of Indonesian Migration to Selected Destinations in Asia and the Middle East* (Jakarta: IOM, 2010), 10.

212 BNP2TKI, *Data Penempatan dan Perlindungan Pekerja Migran Indonesia (PMI) Tahun 2019* (Jakarta: BNP2TKI, 2020), 1. [https://bp2mi.go.id/uploads/statistik/images/data\\_19-02-2020\\_Laporan\\_Pengolahan\\_Data\\_BNP2TKI\\_\\_\\_\\_2019\(2\).pdf](https://bp2mi.go.id/uploads/statistik/images/data_19-02-2020_Laporan_Pengolahan_Data_BNP2TKI____2019(2).pdf).

The sending of migrant workers from Indonesia is dominated by low-skilled labour, mainly working in the area of domestic work. In 2019, around 86,407 out of 276,553 documented workers (31.2%) were employed as domestic workers.<sup>213</sup> The number of Indonesian migrant workers abroad is predominantly women. At least, since 2011 until 2018 the number of women migrant workers has outnumbered the number of men migrant workers. Women migrant workers always account for more than 50% of the total migrant workers; and conversely, men migrant workers were below 50% until 2018.<sup>214</sup> Meanwhile, the top destinations for Indonesian migrant workers are provided in the table below:

Table 14. Top 15 receiving destinations for Indonesian workers, 2017-2019

Destination	2017	2018	2019
Malaysia	88,991	90,671	79,663
Taiwan	62,823	72,373	79,574
Hong Kong	68,103	56,033	70,840
Singapore	13,379	16,660	19,354
Saudi Arabia	6,471	5,894	7,018
South Korea	3,728	6,905	6,193
Brunei D.	6,623	5,707	5,639
Italy	1,010	1,204	1,349
Papua New Guinea	225	132	1,034
Kuwait	1,162	1,172	782

Source: BNP2TKI, *Data Penempatan dan Perlindungan Pekerja Migran Indonesia (PMI) Tahun 2019* (Jakarta: BNP2TKI, 2020), 6, document available online.

Although Indonesia is an origin country in the labour migration scheme, Indonesia has also received foreign migrant workers. On the contrary to Indonesian migrant workers abroad, the foreign migrant workers employed in Indonesia are usually high-skilled labour.<sup>215</sup> They usually work as English teachers, managers, and other professional roles that need certain qualifications and skills. Throughout the years, the number of foreign migrant workers employed in Indonesia has increased exponentially. From 2012 to 2016, the number of foreign migrant workers from China alone has increased 27.1%.<sup>216</sup> In the table below, a collection of data on the number of foreign migrant workers in Indonesia is provided:

213 Ibid, 7.

214 Ibid, 2.

215 Antje Missbach and Wayne Palmer, "Indonesia: A Country Grappling with Migrant Protection at Home and Abroad," Migration Policy Institute, September 19, 2018. <https://www.migrationpolicy.org/article/indonesia-country-grappling-migrant-protection-home-and-abroad>.

216 Government of Indonesia, *Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Pursuant to the Simplified Reporting Procedure* (Jakarta: Government of Indonesia, 2017), 62. [https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW\\_C\\_IDN\\_1\\_6902\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW_C_IDN_1_6902_E.pdf).

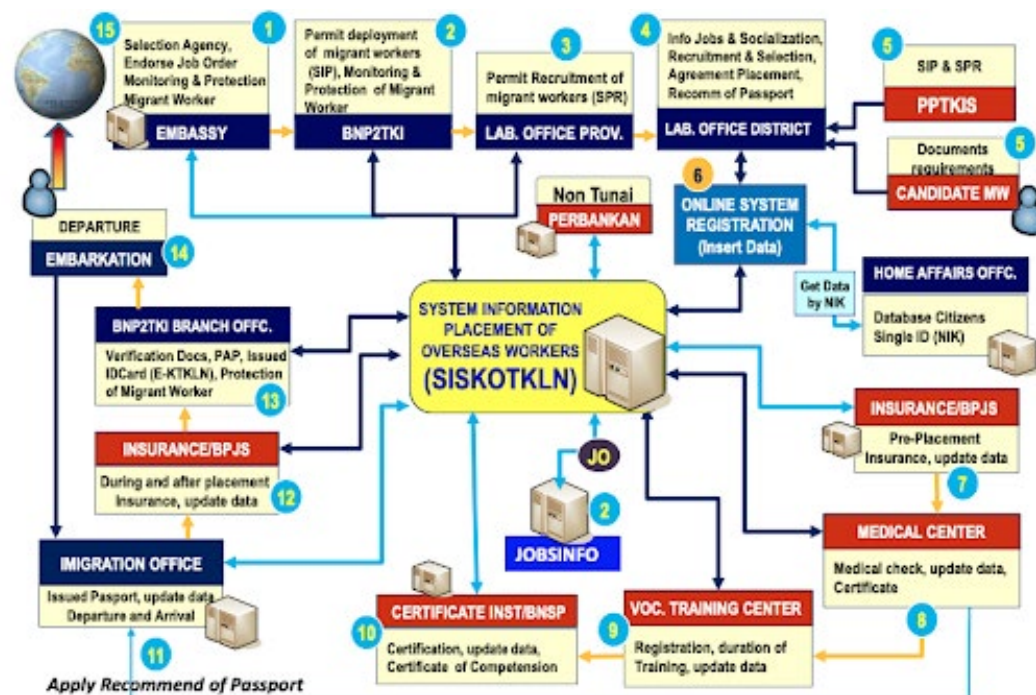


Table 15. Top origin countries of foreign migrant workers in Indonesia, 2012- 2016

Destination	2012	2013	2014	2015	2016
China	16,731	14,371	16,328	17,515	21,271
South Korea	8,190	9,075	8,172	7,590	8,424
India	5,923	6,047	4,981	5,900	5,059
Malaysia	5,330	4,962	4,022	4,305	4,138
United States of America	4,644	2,197	2,658	3,731	2,812
Thailand	4,146	1,841	1,002	3,557	2,394
Australia	3,644	3,376	2,664	3,069	2,483
Philippines	3,588	2,601	2,670	3,126	3,428
United Kingdom	3,292	2,631	2,227	2,531	2,252
Singapore	1,039	1,814	1,835	1,245	1,748
United Kingdom	3,097	8,961	11,365	3,803	7,684

In implementing the placement of Indonesian migrant workers overseas, Indonesia has established an integrated system called System Information Placement of Overseas Workers (SISKOTKLN). There are at least 14 steps to be followed in the placement of migrant workers overseas which will be explained in the following figure.

Figure 1. The process of sending Indonesian migrant workers abroad



Source: BNP2TKI, Data Collection: Placement and Protection of Indonesian Overseas Worker, 2019, [https://www.unescap.org/sites/default/files/3 Session 7 Country presentation Indonesia.pdf](https://www.unescap.org/sites/default/files/3%20Session%207%20Country%20presentation%20Indonesia.pdf)

The simplification of the procedures in sending IMWs abroad through an integrated system of information may give clarity for IMWs before, during, and after their placement abroad. In an evaluation conducted by BNP2TKI in 2015, it is found that the use of the system has been perceived positively and has been helping related institutions within the migration management.<sup>217</sup> SISKOTKLN collects the personal information of IMWs and incorporates all of the stakeholders involved

in the migration process. Such integration is crucial in ensuring that the IMWs follow the procedures in order to obtain the Overseas Manpower Card (KTKLN). KTKLN is an identity card for IMWs as a protection.<sup>218</sup> Although KTKLN is not mentioned in the new Indonesian Law No. 18 Year 2017 and it has been announced as non-mandatory by BNP2TKI<sup>219</sup>, the Indonesian Constitutional Court claimed that KTKLN is important for the protection of IMWs.<sup>220</sup>

### 4.3.2. Policies, Regulations, and Legislations Related to Labour Migration

At the national level, Indonesia has approximately 70 official documents intended for the management of migration, both as an origin and destination country. These regulations have generally covered all the migration infrastructure within the labour migration scheme. From technicalities, recruitment, communication, to social aspects are mentioned within these 70 legislations.

Before the integrated migration management policy was established, Indonesia regulated the migration under a program called AKA or Work Placement Between Countries in 1970. During this program, the government took full responsibilities to implement the placement of Indonesian Migrant Workers (IMWs) with the help from PRAs.<sup>221</sup> Despite the government's

attempt to make efforts in managing IMWs, many NGOs and human rights groups claimed that such an arrangement was merely regulating the remittance and failed to acknowledge the human rights aspect of IMWs.<sup>222</sup> Years after the critics, the then Minister of Manpower, Fahmi Idris, decided to issue the Decision of Ministry of Manpower No. KEP204/MEN/1999 as an alternative to address the issue of unemployment and inadequate job opportunities in Indonesia, as well as to increase the foreign exchange. The decision was issued to provide a structured and integrated international migration scheme for Indonesian workers that ensure the safety and protection of IMWs overseas in order to tackle the said issues.

217 BNP2TKI, Studi Implementasi SISKOTKLN Kabupaten/Kota (Jakarta: Pusat Penelitian, Pengembangan dan Informasi BNP2TKI, 2015), 157. <http://portal.bnptki.go.id/read/13904/EVALUASI-IMPLEMENTASI-SISTEM-ONLINE-SISKOTKLN-DI-INDONESIA.html>.

218 "Selamat Datang di SISKOTKLN," SISKOTKLN BP2MI, accessed 23 September 2020. <http://siskotkln.bp2mi.go.id/>.

219 "BNP2TKI Tegaskan TKI Tidak Wajib Memiliki KTKLN," detikNews, April 12, 2017. <https://news.detik.com/adv-nhl-detikcom/d-3472843/bnp2tki-tegaskan-tki-tidak-wajib-memiliki-ktkln>

220 "MK: Demi Perlindungan, TKI Wajib Miliki KTKLN," Mahkamah Konstitusi Republik Indonesia, August 4, 2016. <https://mkri.id/index.php?page=web.Berita&id=13251&menu=2>.

221 "Profil BP2MI," BP2MI.

222 Michael Ford, "Migrant Worker Organizing in Indonesia," Asian and Pacific Migration Journal 15, No. 3 (2006): 315.

The very first policy that regulates the movement of migrant workers from Indonesia was the Indonesian Law No. 39 Year 2004 on the Placement and Protection of Indonesian Migrant Workers Overseas. In 2017, the government dispersed the Indonesian Law No. 39 Year 2004 and changed the policy to the Indonesian Law No. 18 Year 2017 on the Protection of Indonesian Migrant Workers. The difference between the 2004 and 2017 Law is the role of the government and REs. The REs carry more responsibilities under the 2004 Law which is to implement the placement as well as to recruit the IMWs. Whilst under the 2017 Law, the government carries more responsibilities and ministries are directed to collaborate together; the REs are only responsible to implement the placement of the IMWs. Since the passing of the Indonesian Law No. 18 Year 2017, the government refers to the said law in the implementation of sending IMWs abroad.

Law No. 18 Year 2017 was finally passed after years of advocacy from the civil society and critics toward the previous law for not providing adequate protection for migrant workers and for not accommodating the principles of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Therefore, the main objective of the Indonesian Law No. 18 Year 2017 is to protect IMWs before their departure, during their work abroad, and after their repatriation. In the effort to provide social protection for IMWs, migrant workers advocates have been resorting to other related policy/legal instruments such as the Law No. 21 Year 2007 on the Eradication of the Criminal Act of Trafficking in Person. With the absence of stipulations that can address the criminal act

of trafficking in the labour migration process in the main law on labour migration, migrant workers advocate frequently use this law as a basis for their case or legal advocacy.

Another law which is frequently used is the Indonesian Law No. 24 Year 2011 on the Social Security Agency. This policy initiated the establishment of the Social Security Agency that will further regulate the social protection of IMWs and foreign workers residing in Indonesia. It is stated that every Indonesian worker who has regularly paid for dues shall receive social protection from the Social Protection Program, including foreign workers that work in Indonesia for a minimum period of six months.<sup>223</sup>

Other related policy instruments include a ministerial-level policy that regulates the insurance of IMWs under the Ministry of Manpower, the Ministry of Manpower Regulation No. PER-07/MEN/V/2010 on Insurance of Indonesian Migrant Workers. This policy was issued in 2010 on the risk guarantee that might be encountered by IMWs. Indonesia also has its national regulation regarding employment under the Indonesian Law No. 13 Year 2003 on Employment. This policy seeks to protect the universal rights of Indonesian workers. To enable more protection towards IMWs, Indonesia has also issued a regulation on the establishment of labour union in 2000, under the Indonesian Law No. 21 Year 2000 on Trade Union. It is expected that the safety and welfare of Indonesian migrant workers can be one of the concerns of trade unions, too. Although this might not be the case.

<sup>223</sup> President of Republic of Indonesia, Indonesian Law No. 24 Year 2011 on the Social Security Agency, Article 14.

Indonesia has also ratified and adopted several international documents into the national policies, namely:

- ◇ International Convention on the Elimination of All Forms of Racial Discrimination 1965, adopted in 1999 under the Indonesian Law No. 29
- ◇ ILO Convention No. 81 Concerning Manpower Inspection in Industry and Commerce, adopted in 2003 under the Indonesian Law No. 21
- ◇ ILO Convention No. 88 Concerning Organization of the Employment Service, adopted in 2002 under the Decree of President of the Republic of Indonesia No. 36
- ◇ Convention No. 111 of the ILO Concerning Discrimination in Respect of Employment and Occupation, adopted in 1999 under the Indonesian Law No. 21

◇ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in 2012 under the Indonesian Law No. 6

Indonesia has also put more effort in protecting IMWs abroad as well as foreign workers in Indonesia by developing an agreement or MOU with several countries.

Those countries are Kuwait (1996), Philippines (2003), Taiwan (2004), Malaysia (2006) with additional Protocol on 2011, United Arab Emirates (2007), Qatar (2008), Republic of Korea (2008), Japan (2008), and Jordan (2009). Generally, the agreements stipulate the agreed terms and conditions for recruitment, contracts, employment, remittance, and labour disputes between both parties.

### 4.3.3. Governmental Institutions Related to Labour Migration Management

Before the establishment of a special institution that is responsible for migration management, the arrangement of the placement of IMWs did not involve the government. The arrangement was carried out solely by the worker on a small scale such as through the arrangement from family or friends.<sup>224</sup> In 1970, with the AKAN Program, the placement of IMWs was regulated by the government. In the process of the placement, the government cooperated with a PRAs, Indonesian Labour Service Company (PJTKI).<sup>225</sup> Seeing the need for a special institution regarding the placement and protection of IMWs, Indonesia established the BNP2TKI in 2006

which was then transformed into the BP2MI in 2019. BP2MI is under the command of the President, through the Ministry of Manpower, in implementing relevant policies regarding migration management. While the Ministry is responsible for policy and regulation, BP2MI is responsible for the implementation.

The initiation of a special institution to manage migration was firstly exercised in 2004 under the Indonesian Law No. 39. Aside from regulating the placement and protection of IMWs, the Indonesian Law No. 39 Year 2004 also initiated the establishment of BNP2TKI, which was further stipulated in the President

<sup>224</sup> "Profil BP2MI," BP2MI.

<sup>225</sup> Ibid.



Regulation No. 81 Year 2006. This institution is comparable to POEA in the Philippines. The responsibilities of BNP2TKI were limited and the role of REs were more salient. According to article 3, BNP2TKI has two main responsibilities which are<sup>226</sup>:

- ◇ to ensure the placement of IMWs based on the written agreement between the government of country of origin and country of destination or employer in destination country that has a legal standing
- ◇ to provide services, to coordinate and supervise throughout the migration process, from pre-, during, to post- migration

In 2019, BNP2TKI was transformed to BP2MI. The transformation was based on the Indonesian President Regulation No. 90 Year 2019 on the National Board for the Protection of Indonesian Migrant Workers. The transformation was claimed to be a revitalisation and optimisation from the previous agency (BNP2TKI). Generally, the responsibilities of BP2MI are similar to BNP2TKI. Nonetheless, as the government is more involved in the labour migration process under the Indonesian Law No. 18 Year 2017, BP2MI bears more responsibilities which are to plan and develop regulations regarding the following items<sup>227</sup>:

- ◇ the standard for working agreement, signature, and verification
- ◇ the cost for the placement of IMWs
- ◇ the requirements needed before the placement of IMWs

The main duties performed by BP2MI are<sup>228</sup>:

- ◇ to implement policies regarding placement and protection of IMWs
- ◇ to assist and protect IMWs
- ◇ to issue and revoke recruitment license of IMWs
- ◇ to assist in the placement process
- ◇ to supervise the implementation of social security service
- ◇ to fulfill and promote the rights of IMWs
- ◇ to verify IMWs' documents
- ◇ to implement a placement of IMWs that is based on a written agreement between legal bodies from both parties
- ◇ to recommend the repeal and extension of the license of IMWs
- ◇ to collaborate with Indonesian representative in the respective country to ensure and implement the protection of IMWs during their work
- ◇ to provide facilitation, rehabilitation and reintegration after the return of IMWs
- ◇ to give social and economic empowerment for IMWs and their families
- ◇ to coordinate for the division and implementation of labour within BP2MI and provide each division within BP2MI with administrative support
- ◇ to give substantive support for all divisions within BP2MI
- ◇ to internally supervise the implementation of duties within BP2MI

226 President of Republic of Indonesia, President Regulation No. 8 Year 2006 on National Board for the Placement and Protection of Indonesian Migrant Workers, Article 3.

227 President of Republic of Indonesia, Regulation of the President of Indonesia No. 90 Year 2019 on the National Board for the Protection of Indonesian Migrant Workers, Article 5

228 Ibid.

The responsibilities of BP2MI are more predominant than its previous function as BNP2TKI, while the REs carry a minor responsibility on migration management. As stated in the explanatory document for Indonesian Law No. 18 Year 2017, the role of REs are now limited to only implement the placement of IMWs (previously, REs had the capacity to recruit). It is also mentioned that the Law expects more contribution from the government instead of the REs.

Other than the BP2MI, the Ministry of Manpower is a crucial actor within the labour migration scheme. Although BP2MI could be considered as the main actor in the protection of IMWs, the Ministry of Manpower is the head in migration management as the policy makers. Based on the Indonesian Law No. 18 Year 2017 on the Protection of IMWs, the Ministry of Manpower has the following duties<sup>229</sup>:

1. Formulate norms and standards regarding:
  - a. The protection of IMWs
  - b. The supervision of the placement implementation
  - c. The stipulation of Social Security administrators
  - d. The fulfillment of the rights of IMW
2. Supervise and evaluate the implementation of IMW Protection policy
3. Implement foreign cooperation to guarantee the fulfillment of rights and protection of IMW through coordination with the related ministry that carries out government affairs in the field of foreign relations
4. Terminate or prohibit the placement of IMW in certain countries or certain position/ profession

229 President of Republic of Indonesia, Indonesian Law No. 18 Year 2017 on the Protection of Indonesian Migrant Workers, Article 45.

230 Department of State, Trafficking in Persons Report, 242.

231 President of Republic of Indonesia, Indonesian President Regulation No. 56 Year 2015 on Ministry of Foreign Affairs, Article 36-37.

5. Issue and revoke SIP3MI (*Surat Izin Perusahaan Penempatan Pekerja Migran Indonesia/Permit for the Company regarding the Placement of IMWs*) at the recommendation of the head of the body, with a maximum of 60 (sixty) calendar days starting from the date of proposal
6. Propose the official labour attaché to the minister of foreign affairs
7. Implement social and economic empowerment for returned IMWs

The Indonesian Supreme Court is also significant in terms of dispute settlement and prosecution. In its annual curriculum for judges, the Supreme Court has incorporated the issue of trafficking. This is to protect specifically female victims of trafficking during the legal process of dispute settlement that takes measures on psychological trauma and to enable video testimony.<sup>230</sup> This indicates that the Indonesian government has made an effort to acknowledge and protect the rights of the workers as well as to put in mind the gender equality aspect in addressing disputes.

Another ministry that is also involved within the migration management is the MOFA. In terms of international migration, MOFA has several functions which are to enhance cooperation with foreign actors, to establish and implement policies on protocol, consular, and diplomatic activities, as well as to supervise and ensure the protection of IMWs abroad.<sup>231</sup> Other significant actors within the labour migration management include Agency for the Service, Placement and Protection of Indonesian Overseas Workers (BP3TKI), Coordinating Ministry for Economic Affairs, the Coordinating Ministry for People's Welfare, Ministry of

Women's Empowerment and Child Protection, Ministry of Social Affairs, Ministry of Justice and Human Rights, Ministry of Education and Culture, Ministry of Transportation, Ministry of Interior Affairs, Ministry of Finance, Ministry of Health, MOHA, Information Commission, Ministry of Marine Affairs and Fisheries, and Ombudsman Indonesia.

#### 4.3.4. Non-State Actors Related to Labour Migration Management

In relation to migration management, there are several notable non-state actors involved. Such involvement is regulated in Manpower Minister Decision No. KEP204/MEN/1999 on Indonesian Migrant Worker Overseas Placement, particularly in article 5 which states that the regulation of placement of IMWs is to be socialised not only by the governmental institutions, but by general society as well in order to ensure that the placement program is conducted according to the regulation. Furthermore, the article 6 states that the role of REs is important in promoting IMWs abroad. The important role of non-state actor is further mentioned in the Indonesian Law No. 18 Year 2017 on Protection of IMW particularly in article 32 which states the role of society to give advice to the government on suspending the sending of IMWs to particular countries by reason of, among others, security and human rights protection of the IMWs. Furthermore, in article 76, it stipulates the role of society to support the government in monitoring the conduct of IMWs' placement and protection. Lastly, in article 43, the regulation states the role of the REs to support the government in conducting pre-departure training.

The licensed REs have been working closely with the government in the recruitment of IMWs. As of 2017, there are 495 REs licensed by the Ministry of Manpower.<sup>232</sup> The work of

these REs have been the target of criticism from migrant workers advocates. One of the main arguments is how the lobby of these REs toward policy makers and authorities have been quite strong, allowing them to continue the malpractices in the migration management process.

Assuming that IMWs are part of the bigger group of workers in general, trade unions should be one of the main actors in labour migration management with the function of promoting and ensuring the rights of IMWs within the grassroots society. As mentioned in the second section, the establishment of trade unions in Indonesia is regulated under the Indonesian Law No. 21 Year 2000 on Trade Union. The establishment of trade unions is regulated and integrated under the supervision of the staff from the Ministry of Manpower. However, it has been argued that IMWs have not been the primary concerns of Indonesian trade unions, most probably due to factors such as the physical location, the fact that the migrant workers are not gathered in one employer in a significant number, or in short due to the much different characteristics of their employment.

Nevertheless, IMWs have their own form of union, known as the Indonesian Migrant Workers Union (*Serikat Buruh Migran Indonesia/SBMI*). SBMI was established in

2003 to promote the rights and welfare of IMWs as well as solidarity among IMWs. Before being acknowledged as a trade union, SBMI was a non-governmental organisation that is consorted by the Indonesian Migrant Worker Network (*Jaringan Buruh Migran Indonesia/JBMI*).<sup>233</sup> SBMI works in the area of policy advocacy, organizing, education, economic empowerment, and campaign. In exercising their function as a trade union, SBMI implements activities as follow:

- ◇ Assist migrant workers/their families in filing complaint before, during, and/or after the placement
- ◇ Organise migrant workers and their families in Indonesia or abroad to promote the position of migrant workers
- ◇ Provide pre-departure training regarding safe migration, prevention and service for TIPs victims, organisational, paralegal, human rights, gender, financial management, et cetera
- ◇ Prepare reintegration and empowerment program, collaborating with other potential state or non-state actors
- ◇ Disseminate important information to increase migrant workers' knowledge and awareness on safe migration

In pursuing the legal justice for IMWs that experience a particular case on dispute, the Legal Aid Institution (*Lembaga Bantuan Hukum/LBH*) performs as an NGO that provides pro bono legal aid for vulnerable and/or marginalised groups. LBH was established in 1970 by Indonesian Advocates Association Congress with the support from the government of Jakarta. Until 2006, LBH has

helped more than 90 thousand Indonesians in the settlement of their disputes.<sup>234</sup> LBH does not specifically and solely address the issue of international migration. Nonetheless, disputes in the scheme of labour migration have been one of LBH's focus to be addressed and tackled. Aside from providing pro bono legal aid, LBH also performs as the policy advocacy. Recently, LBH produced an article that criticizes the government regarding their current policy, Circular Letter No. M/3HK.04/II/2020 on the Protection of Workers/Labourers and Business Continuity in the Context of Prevention and Countermeasures of Covid-19. LBH evaluated that the policy is defected as the government is passive and tends to cast loose in the safety and remuneration of workers. Moreover, LBH also claimed that the letter is against the Indonesian Law on Employment.<sup>235</sup>

Interestingly, the issues faced by IMWs and the related policies have been advocated by NGOs concerned with the issues. Women Solidarity (*Solidaritas Perempuan/SP*) which was established in 1990 with the aim to pursue a democratic and egalitarian society, for example. Although SP's focus has been generally women, they have conducted substantial works in the form of advocacies and campaigns for issues faced by Indonesian women migrant workers. Migrant Care is another NGO that is actively involved in promoting and defending the rights of IMWs. Migrant Care works in two main areas, legal aid and campaign and advocacy. Established in 2004 with a strong basis to pursue the rights of IMWs, Migrant Care has the vision to strengthen migrant activism for global

<sup>233</sup> "Tentang SBMI," SBMI, accessed 24 September 2020. <https://sbmi.or.id/tentang-sbmi/>.

<sup>234</sup> "Tentang Kami," LBH Jakarta, accessed 24 September 2020. <https://www.bantuanhukum.or.id/web/tentang-kami/>.

<sup>235</sup> "Pemerintah lepas tangan dalam melindungi buruh/pekerja di tengah pandemik COVID-19," LBH Jakarta, March 20, 2020. <https://www.bantuanhukum.or.id/web/pemerintah-lepas-tangan-dalam-melindungi-buruh-pekerja-di-tengah-pandemik-covid-19/>.

<sup>232</sup> Government of Indonesia, Initial Report, 22.



justice.<sup>236</sup> In order to attain such vision, Migrant Care has developed the following missions<sup>237</sup>:

- ◇ To promote the life of IMWs and their families based on dignity and respect, and to be sovereign in terms of ideology, politics, economy, social, and culture
- ◇ To foster global justice
- ◇ To enhance IMWs' awareness regarding their rights as a worker and citizen
- ◇ To strengthen the networks with other actors in order to promote migrant-centric policies
- ◇ To provide legal aid for IMWs who experience abuse, violation, and other means of harassment and torture
- ◇ To strengthen the capability of Migrant Care in order to ensure the sustainability of Migrant Care

Migrant Care has developed their advocacy works to cover all levels in the forms of developing migrant workers village (Desbumi),

advocating local and national policies, participating in regional and international society forums (ASEAN and UN), besides continuously advocating cases and promoting safe migration.

The civil society organisations also make attempts to coordinate their work in networks such as the JBMI (previously Jaringan Advokasi Revisi Undang-Undang Penempatan dan Perlindungan TKI/Advocacy Network for the Revision of Indonesian Law on the Placement and Protection of IMW (JARI – PPTKILN)). JBMI is a network involving 27 organisations, from trade unions to NGOs that focus on migrant rights. The network was established in 2010 and was primarily initiated to oversee the revision of Indonesian Law No. 39 Year 2004. In 2015, JBMI decided to expand their focus to protect and provide assistance for IMWs as well.<sup>238</sup>

### 4.3.5. Remittance

In terms of the transfer of remittances from IMWs abroad, many channels have established their branches in other countries. For example, Western Union that is located in more than 200 countries, accounting over 300,000 agents. MoneyGram also has over 100,000 agents located in 170 countries.<sup>239</sup> With the increasing amount of remittances to Indonesia, the Bank of Indonesia (BI) sees the urgency to formalise the sending of remittances through several

initiatives. One of the primary initiatives is to oblige IMWs to open a bank account.<sup>240</sup> BI also provides training on financial literacy before the departure of IMWs. In addition, BI has also reached out to informal remittance channels and encouraged them to register as a formal body.<sup>241</sup> The frequent channel utilised by IMWs to transfer their remittance is the bank option. Around 52% IMWs use the service from Indonesian State Bank (BNI), 20% IMWs use the

service from People's Bank of Indonesia (BRI), and 17% IMWs use the service from Western Union. While the other 3% is still carrying their money back home by themselves.<sup>242</sup>

In Malaysia for an instance, the intensity of transfer of remittances is relatively high. Every month, around 33% of IMWs transfer their money back home.<sup>243</sup> The channels that are frequently used by IMWs in Malaysia are banks, informal agents, and self-carried. The choice of which channels opted by the IMWs is based on several determinants, among them trustworthiness, geographical proximities, accessibility of beneficiaries, good service, and best exchange rate.<sup>244</sup> However, when IMWs are asked spontaneously, safety, convenience, cheap price, and speedy service are the top criteria when selecting remittance channels.<sup>245</sup>

By using channels to transfer their money, it is very common that the channel will add an additional charge to the remittance service. However, it is surprising that only 15% of IMWs are aware of the charges incurred when they transfer their money. Regardless, their knowledge is limited as they only write 'service charge' without providing any details on what kind of service has been provided that needs to be charged.<sup>246</sup> It is then possible to presume that the channels—both formal and informal—might make more profit from the IMWs' remittance without getting noticed by the IMWs as their knowledge is limited.

Nevertheless, the choice of channel chosen by the IMWs is claimed to be insignificant in terms of its influence towards the remittance.<sup>247</sup> Moreover, the existence of irregular migration from Indonesia has challenged the function of formal channels to transfer remittance. The phenomenon of irregular migration has further encouraged the establishment of informal remittance channels for they do not require any proper documentation or identification, which eases the process of remittance transfer from irregular IMWs.<sup>248</sup>

Despite the difficulties and challenges, both formal and informal channels have shown efforts to facilitate IMWs in sending their remittance back to their home. For instance, BRI, as one of the major channels in providing services on an efficient remittance transfer, has prepared other financial services for the IMWs and their families by improving their financial literacy and access as well as knowledge towards banking technology.<sup>249</sup> Seeing the common financial issues faced by IMWs, BNP2TKI, IOM, and TIFA Foundation in collaboration with Microfinance Innovation Centre for Resources and Alternatives (MICRA), a microfinance capacity development, established a financial literacy program to improve the financial literacy of IMWs. A training module was developed in order to train IMWs and their families.<sup>250</sup> Such initiatives are crucial in promoting IMWs' capacity for better knowledge and capability in choosing the right channel.

<sup>244</sup> Ibid, 89.

<sup>245</sup> Ibid, 87.

<sup>246</sup> Ibid, 82.

<sup>247</sup> Ibid, 3.

<sup>248</sup> Ibid, 69.

<sup>249</sup> International Organization for Migration (IOM). International Migration and Migrant Workers' Remittances in Indonesia (Makati City: IOM, 2010). [https://publications.iom.int/system/files/pdf/indonesia\\_remittances.pdf](https://publications.iom.int/system/files/pdf/indonesia_remittances.pdf), 27.

<sup>250</sup> Ibid, 29.

<sup>236</sup> "Visi & Misi," Migrant Care, accessed 24 September 2020. <https://migrantcare.net/profil/visi-misi/>.

<sup>237</sup> Ibid.

<sup>238</sup> "Tentang JBM," Jaringan Buruh Migran, accessed 24 September 2020. <http://www.jaringanburuhmigran.org/p/tentang-jbm.html>.

<sup>239</sup> Md Mizanur Rahman, Gender Dimensions of Remittances: A Study of Indonesian Domestic Workers in East and Southeast Asia (Bangkok: United Nations Development Fund for Women (UNIFEM), 2011), 10.

<sup>240</sup> International Organization for Migration (IOM), International Migration and Migrant Workers' Remittances in Indonesia (Makati: IOM, 2010), 1.

<sup>241</sup> Ibid, 2.

### 4.3.6. Best Practices in Labour Migration Management

The national policies have reflected the effort from the government to protect migrant workers in the perspective of human rights and gender equality. For instance, the Law No. 18 Year 2017 has encompassed the value of human rights and gender equality significantly. It is as mentioned within the second article that *“The placement and protection of IMW candidate is based on the principles of integration, equal rights, democracy, social justice, gender equality and equity, anti-discrimination, and anti-human trafficking.”*<sup>251</sup> It is argued that while the previous Law No. 39 year 2004 focused more on social and legal protection, the current law also includes economic protection. Furthermore, the new law has included the family of migrant workers in its stipulations. Meanwhile, the Law No. 21 Year 2007 has been the source of TIPs victims in combating the act of TIPs.

In addition to that, the concern of the government regarding the rights of labour migrants, especially women, is reflected in 2 foundational legal documents namely the President Regulation No. 18 Year 2020 on Medium-term National Development Plan 2020-2024 (Rencana Pembangunan Jangka Menengah Nasional 2020- 2024/RPJMN 2020-2024) and Indonesian President Regulation No. 53 Year 2021 on National Human Rights Action Plan for Year 2021-2025. First, RPJMN 2020- 2024 rules that there are 7 national development plan agenda to be fulfilled until 2024 and one of them is increasing the quality

and competitiveness of human resources in Indonesia.<sup>252</sup> In order to fulfill such plan, several policy orientation and strategies are described, including increasing the quality of children, women, and youth through increasing the protection of women migrant workers from the danger of violence against women and human trafficking.<sup>253</sup> The increased quality of protection includes socialization, strengthening policy and regulation implementation, increasing the capacity of law enforcement, strengthening institutional capacity of women protection agency, developing integrated data and service system for violence against women and human trafficking, strengthening multi-sectoral networks and cooperation form women protection, and developing innovation to fight violence against women and human trafficking. Second, the National Human Rights Action Plan for Year 2021-2025 further elaborates the strategies to protect the rights of women migrant workers by ensuring that women migrant workers are registered in an integrated database to fulfill their basic rights of citizenship, health, and education.<sup>254</sup>

Local authorities have funded the establishment of local integrated service centres for women and children (P2TP2A) in order to provide recovery services for victims of TIPs. The services of P2TP2A include medical care, shelter, counseling, and training are accessible throughout Indonesia.<sup>255</sup> Such arrangements have ensured the protection of human rights and the equal treatment among

<sup>251</sup> President of Republic of Indonesia, Indonesian Law No. 18 Year 2017, Article 2.

<sup>252</sup> President of Republic of Indonesia, President Regulation No. 18 Year 2020 on Medium-term National Development Plan 2020-2024, Attachment 1, p. 1-12.

<sup>253</sup> Ibid, p. IV.31.

<sup>254</sup> President of Republic of Indonesia, President Regulation No. 53 Year 2021 on National Human Rights Action Plan for Year 2021-2025, Attachment 2.

<sup>255</sup> Department of State, Trafficking in Persons, 241.

migrant workers. Additionally, the collaboration between BNP2TKI, IOM, and TIFA Foundation, and MICRA in providing a microfinance capacity development is worth mentioning. Although the program was outdated, such practice is essential to be continued as it empowers migrant workers in managing their finance.

Furthermore, Indonesia has a systematic and integrated management system for the placement and protection of IMWs. BP2MI provides a comprehensive report regarding the placement and protection towards IMWs monthly and annually. Despite critics toward the accuracy and coverage of this data, which tend to look over the undocumented migrant labours, this data should be seen as an attempt to support policy making. Aside from that, the Indonesian Ministry of Foreign Affairs has also produced a platform called “e-protection”. This platform is used by MOFA to disseminate information for Indonesians across the world regarding the protection of IMWs including information on certain legal assistance for certain issues.<sup>256</sup> This has shown good practice from the government in providing a transparent and accountable system for IMWs.

In terms of complaint mechanism, BP2MI has established a crisis centre that can be accessed 24 hours per day, 7 days per week; directly, through email, text message, telephone, social media, and other means of available communication. There are many causes of why IMWs file a complaint to the crisis centre, among them are related to the rights of migrant workers such as unpaid salary, violation of working agreement, fraud,

human trafficking, violence against IMWs, and other abuses related to human rights.<sup>257</sup> The data set from 2017-2019 below shows an increment of dispute settlements performed by the BP2MI through the crisis centre.

Table 16. Amount of complaints, 2017-2019

	2017	2018	2019
Amount of Disputes	4.349	4.779	9.377

Source: BNP2TKI, Data Penempatan dan Perlindungan Pekerja Migran Indonesia (PMI) Tahun 2019, 24, [https://bp2mi.go.id/uploads/statistik/images/data\\_19-02-2020\\_Laporan\\_Pengolahan\\_Data\\_BNP2TKI\\_\\_\\_\\_2019\(2\).pdf](https://bp2mi.go.id/uploads/statistik/images/data_19-02-2020_Laporan_Pengolahan_Data_BNP2TKI____2019(2).pdf).

Table 17. Status of complaints, 2017-2019

Status of Dispute	2017	2018	2019
New Complaints	20	107	49
Validation	48	22	0
Distribution	84	23	0
Processed by BNP2TKI/BP2MI	189	6	0
Processed outside BNP2TKI/BP2MI	166	14	0
Resolved	3,842	4,607	9,328
TOTAL	4,349	4,779	9,377

Source: BNP2TKI, Data Penempatan dan Perlindungan Pekerja Migran Indonesia (PMI) Tahun 2019, 24.

<sup>256</sup> BNP2TKI, Data Penempatan dan Perlindungan, 69

<sup>257</sup> Ibid, 29.



Through the data set shown above, the number of resolved complaint cases are increasing. This indicates that the government is taking serious measures to protect the rights of IMWs. Moreover, the increasing number of new cases could indicate the attempt from the government to extend its reach towards the IMWs.

Other than that, the government of Indonesia has also developed programs to assist the returning migrant workers (TKI Purna) and the families of the workers, through the “Migrant Workers/Migration-friendly Villages” program. Such initiative is motored by the local government itself to collect important data, as well as to provide supervision towards migrant workers’ children, and to ensure the implementation of training after the workers have repatriated.<sup>258</sup> Several villages or districts that have executed the program are Wonosobo, Jember, Lembata, and Kebumen. This initiative has also involved non-state actors in order to assist the local authorities in stipulating bylaws to address migration issues. An example of bylaws that have been stipulated by local government is The District Government of Kebumen bylaws No. 5/2014 on the Placement and Protection of Indonesian Migrant Workers, from the local authorities of Kebumen.<sup>259</sup>

In terms of the repatriation of IMWs, Indonesia has also initiated a business capital program aiming to empower former IMWs in the business sector. The program was called “Business Empowerment for Former Indonesian Migrant Workers” which was mainly implemented by the Ministry of Manpower. The program provides assistance and training for

IMWs to kickstart entrepreneurship activities after their return.<sup>260</sup> BNP2TKI also encourages initiatives from local authorities to be involved in the welfare promotion of repatriated IMWs. Such practice was well implemented in the District of Semarang where the local authorities successfully collaborated with regional banks to provide assistance in business capital. Around IDR 500 million (USD 54,800) was raised for the assistance program and another IDR 1 billion (USD 109,601) was raised for business credit.<sup>261</sup>

Such policies, programs, and initiatives have generated the protection of the human rights of migrant workers as well as indicated the gender equality aspects in the labour migration management. It could be important to note that while the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers was enacted in 2017, the national policies, programs, and initiatives to foster the protection and placement of IMWs have emerged long before the Consensus. These arrangements have ensured the fulfilment of several specific rights of migrant workers as stipulated in the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers namely the access to information, right to hold passports, freedom of movement, right to be issued an employment contract, fair treatment in workplace, adequate or reasonable accommodation, fair and appropriate remuneration and benefits regardless of gender, right to transfer their earnings and savings, file complaints and make representation, right to appeal, and right to join trade unions.

### 4.3.7. Conclusion

The case of Indonesia shows that the activity of labour migration has a long history since the colonial era. However, while the migration from Indonesia during the colonialism era was caused by disaster or forced migration under colonial rule, the pattern of labour migration after the independence is characterised by voluntary migration due to inadequate job opportunities in Indonesia and desire for higher income and in some cases, to escape poverty. It is also interesting to note that while IMWs are low-skilled labour, Indonesia also acts as a receiving state due to demand for high-skilled labours. These high-skilled labours are needed to support the economic development, which recently focuses on infrastructural development. In this case, the migration infrastructure is mostly dominated by regulatory and humanitarian dimensions with support from technological dimensions.

First, the regulatory dimension consists of more than 70 regulations which give responsibility to several government institutions, mainly BP2MI and Ministry of Manpower, in dealing with labour migration activities. The Indonesian Law No. 18 Year 2017 is the cornerstone regulation of human rights protection for IMWs. It aims to protect IMWs during the recruitment process and preparation for departure, during working abroad, and until they come back to Indonesia. This regulation encompasses human rights values, including gender equality aspects, which are explicitly mentioned and elaborated in its chapters. Furthermore, this regulation also takes away the authority of REs during the recruitment process which now is handled solely by the government in order to protect the potential migrant workers from possible exploitation during recruitment. Other regulations exist to protect the rights of the IMWs in the form of

social protection program, protection against human trafficking and illicit activities, as well as recovery service for victims of trafficking, especially for women and children. Several international conventions on migrant workers are ratified and some bilateral MoUs are enacted as well in order to further protect the rights of IMWs working abroad.

The second dimension is the humanitarian dimension which is represented by some non-state actors such as Labour Union, LBH, SP, and Migrant Care. Among various labour unions in Indonesia, SBMI is the labour union which focuses their activities on migrant workers. Its activity ranges from policy advocacy, educating migrant workers, economic empowerment, to campaigning for the rights of migrant workers. Other than SBMI, LBH focuses its activities on legal assistance for IMWs who face legal dispute regarding their works, including experiences of discrimination, violence, and oppression during their migration activities. SP is another non-state actor whose works influence the migration infrastructure in Indonesia. Although its main focus is on women in general, it actively advocates the oppression and injustice faced by women IMWs during their migration activities. Lastly, there is Migrant Care which advocates the rights of IMWs at various levels, including ASEAN and the United Nations. All these non-state actors often cooperate together to create bigger pressure in influencing governmental decisions related to the rights protection and rights fulfilment of IMWs. They constantly scrutinise regulations which they deem discriminatory or harm the interests and rights of IMWs.

The last is the technology dimension which offers support to the regulatory dimension, mainly in terms of organising and monitoring

258 Government of Indonesia, Initial Report, 68 259 Ibid.

260 Ibid, 35.

261 Ibid, 36.

the labour migration activities. This dimension consists of an integrated system to oversee Indonesian labour migration process called System Information Placement of Overseas Workers (SISKOTKLN). Through this system, administrative requirements for Indonesian labour mobilization can easily be organised and monitored from the recruitment process until the departure of migrant workers to destination states. With such ease of monitoring and data collection, the protection and fulfilment of the rights of IMWs will be enhanced as well.

#### 4.4. Lao PDR

##### 4.4.1. Country Profile and History Related to Labour Migration Management

The current population of the Lao People's Democratic Republic (Lao PDR) is 7,324,166.<sup>262</sup> The total labour force in 2020 is 3,885,842. The labour force participation rate is 78.47 percent.<sup>263</sup> It is estimated that in 2025 the growth of the labour force in Lao PDR will be relatively sustained.<sup>264</sup> Lao PDR is one of the six net-origin countries in ASEAN.<sup>265</sup> In 2010 around 90,000 migrant workers in Thailand were from Lao PDR and were predominantly irregular/undocumented migrant workers. It was estimated that, in Thailand, around 45 percent of low skilled migrant workers are women from Lao PDR. In 2014, in Thailand, of the total 1,085,698 registered migrant workers five percent were from Lao PDR. On the other hand, 213,689 were irregular migrants from Lao PDR.<sup>266</sup> In 2019, Thai Labour Ministry claimed that in the beginning of the year, there

were 207,561 legal migrant workers and 30,000 irregular workers from Lao PDR in Thailand.<sup>267</sup>

Lao PDR and Thailand share a border that is considered one of the major pull factors. Udon Thani province's capital city also named as Udon Thani which is located in the northeast of Thailand has witnessed industrial and infrastructural growth over the last couple of decades. The city of Udon Thani is 70 Kilometers away from Vientiane which is the capital of Lao PDR. Every day, international bus services shuttle passengers travelling between Vientiane and Udon Thani. These two cities have cultural similarities in traditions and languages. Thus, Lao PDR migrant workers are attracted to work in Thailand especially the city of Udon Thani. This appeal is not only because of higher wages in Thailand but also the

262 "Laos Population," Worldometers, accessed 13 December 2020, <https://www.worldometers.info/world-population/laos-population/>.

263 "Laos: Labour force participation," The Global Economy, accessed 12 October 2020, [https://www.theglobaleconomy.com/Laos/labor\\_force\\_participation/](https://www.theglobaleconomy.com/Laos/labor_force_participation/).

264 Arisman and Jaya, Protection of Human Rights and Labour Migration.

265 ILO, Implementation of recommendations.

266 Arisman and Jaya, Protection of Human Rights and Labour Migration.

267 Max Avary and Richard Finney, "Laos: Migrant workers brave exploitation & unsafe working conditions in Thailand," August 31, 2019. <https://www.business-humanrights.org/en/latest-news/laos-migrant-workers-brave-exploitation-unsafe-working-conditions-in-thailand/>.

similarities in culture and language (2018).<sup>268</sup> In addition, Lao PDR and Thailand have quite similar language and culture with a long history of cultural and social interaction between their peoples. Thus, the social network of Lao PDR people in Thailand such as relatives and friends are important in contributing to the number of migrant workers from Lao PDR to Thailand.<sup>269</sup> Moreover, the accessibility of the transportation, communication, information and media linkages between ASEAN countries in the Greater Mekong Subregion are significant factors for labour migration, mainly for socioeconomic projects, trade, tourism, services and others.<sup>270</sup>

Lao PDR's economy is growing especially foreign direct investment has increased; however, poverty reduction is slower as compared to other ASEAN countries. In the last one decade, GDP growth rate has remained at an average of seven percent and it largely depends on the use of natural resources. Therefore, labour migration and remittance are major sources of livelihoods, which largely attracts Lao women.<sup>271</sup> It is calculated that around 0.9 million people from Lao PDR live in other countries, of these 56 percent are women.<sup>272</sup>

Studies suggest that in Lao PDR, patterns of migration are complex, including both outbound

and inbound flows of migrant workers. For Lao PDR workers, Thailand is the main destination country because of the variance in the minimum wage in both countries which makes it attractive to work in Thailand. In Lao PDR, monthly minimum wage is LAK900,000 (around US\$110) and in Thailand, the minimum wage is about double this amount. Migrant workers from Lao are largely employed in construction, domestic work, agriculture, manufacturing, and entertainment work in neighbouring border provinces and larger cities in Thailand. It is estimated that Laos received US\$254 million in remittances in 2019.<sup>273</sup>

The number of Lao PDR workers in Thailand have increased and there are reports that they are being exploited and are working in unsafe work conditions. Brokers play a role in helping Lao PDR people enter Thailand irregularly. It is also being reported that Lao PDR girls are given for money to entertainment outlets, factories and restaurants, for which the employers pay about \$500 to the second broker/middleman. The employers keep deducting this money from their monthly wages until the money paid to the broker is fully paid up. Many Lao PDR migrant workers remain trapped in debt to their employers in Thailand. These conditions often lead to physical and sexual exploitation of women and girls. There are also complaints that Thai employers use undocumented Lao

268 Thanapauge Chamaratana and Thawatchai Sangseema, "Moving on the Chain: Push-Pull Factors Affecting the Migration of Lao Workers to Udon Thani, Thailand," *European Journal of Social Science Education and Research* 5, No. 2 (2018): 99-105.

269 Inthasone Phetsiriseng, Gender Concerns in Migration in Lao PDR, Migration Mapping Study: A review of Trends, Policy and Programme Initiatives (Vientiane: UNIFEM, 2007).

270 Kabmanivanh Phouxay, Patterns of Migration and Socio-Economic Change in Lao PDR, PhD Dissertation (Sweden: Department of Social and Economic Geography, Umea University, 2010).

271 United Nations, Department of Economic and Social Affairs, Population Division, International Migration 2019: Report (ST/ESA/SER.A/438) (New York: UNDESA, 2019). [https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/International\\_Migration2019\\_Report.pdf](https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/International_Migration2019_Report.pdf).

272 Ibid.

273 "TRIANGLE in ASEAN – Lao People's Democratic Republic," International Labour Organization, accessed 12 October 2020. [https://www.ilo.org/asia/projects/WCMS\\_622431/lang-en/index.htm](https://www.ilo.org/asia/projects/WCMS_622431/lang-en/index.htm).



PDR migrant workers and pay them small wages. They threaten the worker if they lodge a complaint to the police.<sup>274</sup> Majority of migrants cross the border with a border pass and/or passport on visitor or tourist visa, overstay and work there without work permit. Some take the risk of irregular migration through informal brokers. Those migrants face the risk of exploitation, oppression, violence and human trafficking especially women and girls.<sup>275</sup>

Studies of migrant workers access to technology, conducted on regional levels, has reported the popularity of social networking apps as channels of communication, especially with those back home. Mobile phones account for the majority of migrant worker's access to technology. However, digital divides and low media literacy challenge the capacity of

technological access, in addition to attitudes towards migrants encountered in the media accessed.

The MOLSW has also participated in technological facilitation of migrant processes. In 2016, a computer system was established to serve as a database for migrant workers. This database serves functions related to recruitment, issuance of permits, and connecting relevant agencies. Literature on migrant's access to communication methods operate under the assumption of responsibility belonging to employers and recruitment agencies. The need for addressing technological access and utilisation is recognised and cited often in recommendations such as in IOM's 2016 report on assessing potential migration patterns.

#### 4.4.2. Policies, Regulations, and Legislations Related to Labour Migration

In accordance with the Lao PDR Constitution, the National Assembly enacted the revised labour law in 2007 regarding labour management comprising the protection of female migrant workers in the country and abroad. These are supported with the following decrees: from the Office of the President, No. 05/PO on the implementation of the labour law; Prime Minister Office Degrees: No 68/PMO on dispatching Laotian workers abroad; No 036/PMO on labour skills development and No 232/PMO on adopting the National Strategic Plan on Social Welfare Development from 011-2020

and No 236/PMO on adopting the National Strategic Plan on skilled labour development from 2011-2020.<sup>276</sup> In 2013, it enacted the revised Labour Law. Under Article 130, it defined three categories of migrant workers: migrating within the country, existing the country and returning to the country. Article 132 defines migrant workers existing the country as those who migrate from Lao PDR to another country for work and that worker's rights and obligation as a migrant worker would be in accordance with the employment contract and the rules of the destination country.<sup>277</sup>

274 Avary and Finney, "Laos: Migrant workers."

275 MOLSW, Presentation in a seminar 6-7 of June 2011 by Mr Phouvanh Chanthavong, Head of Labour Skills Development Department and Mr Khamkeng Deputy Head of Social Welfare department.

276 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Lao People's Democratic Republic Addendum, Information provided by the Lao People's Democratic Republic in follow-up to the concluding observations (2013), 19.

277 Lao PDR National Assembly, Labor Law (Amended) No. 43/NA, adopted on 24 December 2013, [https://www.ilo.org/dyn/hatlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369\\_Eng.pdf](https://www.ilo.org/dyn/hatlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369_Eng.pdf).

Lao PDR Policy Repository on Migrant Workers' Legislation and Practices of AMS:

- ◇ Labour Law of 2006
- ◇ MOU on Labour Cooperation between Lao PDR and Thailand (in Laotian)
- ◇ Decree of the President of the Lao People's Democratic Republic on the Promulgation of the Law on Social Security (in Laotian)
- ◇ Law on Lao PDR Trade Unions
- ◇ Labour Law (Amended)
- ◇ The Penal Law of 2005
- ◇ Law on the Protection of the Rights and Interests of Children
- ◇ Law on Development and Protection of Women
- ◇ MOU between Governments of Lao PDR and the Kingdom of Thailand on Labour Cooperation
- ◇ MOU between the Government of the Lao PDR and the Government of the Kingdom of Thailand on Cooperation to Combat Trafficking in Persons, Especially Women and Children
- ◇ Lao PDR also has regulation on passport issuance

In addition, the MOLSW has issued the following agreements: No. 043/MOLSW on the establishment and management of employment recruitment service enterprises or agencies; No 5523/MOLSW on the establishment and the activities of the monitoring committee; Regulation No. 3824/MOLSW (2002) provides a set of limitations regarding the recruitment of Lao PDR workers abroad. Part 2 of document lists three categories of jobs that are excluded from labour migration: (1) unskilled workers such as cleaners, domestic workers, porters, etc; (2) jobs that are inappropriate and incompatible with the Lao PDR tradition, culture and law, such as work in prostitution, drug and narcotics and illegal political activities; (3) dangerous occupations such as open-sea fishing, exposure to radio-active radiation, etc. Furthermore, there is Decree No 5418/MOLSW on the import of migrant workers to Lao PDR, and Note 1450/MOLSW on a minimum wage improvement dated 3 April 2009.<sup>278</sup>

The revised Labour Law (2013) has a specific policy concerning women workers in section V, on Child and Women Employment. Articles 46 and 50 specify the rights, benefits and protection for Lao PDR citizens who are living abroad and foreigners in Lao PDR, they are both "men and women".<sup>279</sup>

#### 4.4.3. Governmental Institutions Related to Labour Migration Management

In Lao PDR, Lao PDR MOLSW is in charge of migrant workers' legal and practical issues. Under this ministry is the Labour Management Department that is responsible to monitor the implementation of laws. The list of relevant government and non-government agencies involved in

278 MOLSW, Strategy Plan on Labour Development from 2011-2020 (2010).

279 Lao PDR, Ministry of Labour and Social Welfare, Labour management department.

workers' welfare and protection include:

- ◇ Provincial Department of Labour and Social Welfare (DLSW);
- ◇ Provincial Federation of Trade Unions (FTU);
- ◇ Local Chamber of Commerce & Industry Province (LCCI);
- ◇ Provincial Public Health Department (PHD);
- ◇ Provincial Industrial and Trade Department (ITD);
- ◇ Provincial Public Work and Transportation Department (PWTD);
- ◇ Provincial Energy and Mine Department (PEMD);
- ◇ Provincial Education Department (ED);
- ◇ Committee's Office, Provincial Labour Protection Section.<sup>280</sup>

In Lao PDR, for the management and protection of potential workers willing to migrate to other countries, three ministries are directly involved in the process: MOLSW, MOFA, and MOPS.<sup>281</sup>

The Lao PDR Government has explored ways to assist and protect the rights of migrant workers, particularly those who are deported and repatriated to Lao PDR. An MOU between the Lao and Thai governments was signed in 2002 that signified the cooperation of the two countries in resolving issues of Lao PDR migrant workers in Thailand by changing their status from being undocumented migrants' to documented workers. In addition, the Lao government has been assisting and protecting the rights of migrant workers, evaluating local employment opportunities annually and resolving problems of undocumented migrant

workers in Thailand under the existing MOU on migrant workers between the Lao PDR and Thai governments. Every year, the two governments take turns to host the meeting to evaluate and improve the MOU implementation.<sup>282</sup> Moreover, Lao PDR, also has cooperation with the International Labour Organization (ILO). It also liaises with IOM who assist migrant workers who return to the country by providing shelter, counselling, skills training, and provide some fund and job upon returning to their family and local community.

From 2009 and 2010, Lao PDR continued its implementation of the bilateral MOU with its neighbouring countries, particularly with Thailand, on Employment Cooperation. The MOU identified the MOLSW, MOFA, and Ministry of Public Security (MOPS) as the core agencies for the implementation of the nationality verification and issuance of the working visa at destination (Thailand) where they are registered by the Thai Labour Administration. The government continued to strengthen the capacity of the employment services enterprises; issued booklets and brochures on working safely abroad, on how to process the formal legal documents prior to departure and how to contact the Lao PDR consulate and the host authorities concerned when the workers are already at the foreign countries. To date, the number of employment services enterprises increased from 9 Units in 2006 to 12 Units in 2011, and have extended their activities from 6 provinces in 2006 to 17 provinces at present. These facilitated the workers recruitment for both domestic and foreign demands and attracted workers to use the legal channel for employment. These

280 MOLSW, 2nd National Occupational Safety and Health (OSH) Programme year 2011 - 2015 (MOLSW, 2011), [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/policy/wcms\\_208356.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/policy/wcms_208356.pdf).

281 Ibid.

282 Committee on the Elimination of Discrimination against Women, Concluding observations on the combined sixth and seventh periodic reports of the Lao People's Democratic Republic Addendum, 19.

employment enterprises provide services at reduced services fees, minimised documentation procedures, reduced the dispatching time and process to the workplaces/or to their formal employers and provided appropriate training prior to their departure.<sup>283</sup>

#### 4.4.4. Non-State Actors Related to Labour Migration Management

In countries like Lao, it has often been observed and reported that pre-departure training of migrant workers is the responsibility of the PRAs.<sup>284</sup> It is largely because government lacks adequate human resources as well as capacity to monitor the migration process and ensure protection of the workers. In 2018, with the help of the ILO, an MRC was established in Lao PDR to provide information to the potential migrant workers, migrant workers' families and communities about their rights and support services within the country and destination countries. It provides them information about how to access legal counselling and seek support on different matters related to wages, contract and frauds.<sup>285</sup>

The MRC provides services to those in need of help in partnership with and also through government agencies and NGOs. The MRC in Lao PDR also could bring workers to the centre to meet officials and ask questions related to

migration and could also lodge complaints. The MRC in Lao PDR also has counselling service through meetings, outreach activities and online or telephones. The MRC also spreads information through local radio and televisions, seminars and job fairs related to safe migration. The MRC also spreads information in schools, vocational training centres and the communities.<sup>286</sup>

Unfortunately, in the informal sector, employers role in protecting migrant workers have not been emphasized. Employers often avoid taking strict measures to protect migrant workers rights; they also avoid providing social security.<sup>287</sup> However, overall life for local and international NGOs is not comfortable because of the state's strict regulations.<sup>288</sup> Thus, pointing out discrepancies in government policies, laws and structures related to processes of migration to other countries is a perilous matter.<sup>289</sup>

283 Ibid, 21.

284 UNDP, The Right to Health.

285 "New Migrant Worker Resource Centre opens in Lao PDR," International Labour Organization, August 9, 2018. [https://www.ilo.org/asia/media-centre/news/WCMS\\_637320/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_637320/lang-en/index.htm).

286 "Migrant Worker Resource Centres," International Labour Organization, accessed 12 October 2020. [https://www.ilo.org/asia/projects/WCMS\\_629153/lang-en/index.htm](https://www.ilo.org/asia/projects/WCMS_629153/lang-en/index.htm).

287 Olivier, Social protection for migrant workers in ASEAN.

288 "Laos is not a cozy place for NGOs," Deutsche-Welle, accessed 12 October 2020. <https://www.dw.com/en/laos-is-not-a-cozy-place-for-ngos/a-18063886>.

289 Asian Development Bank (ADB), Civil Society Brief: Lao People's Democratic Republic (Vientiane: ADB, 2011). <https://reliefweb.int/sites/reliefweb.int/files/resources/csb-lao.pdf>



#### 4.4.5. Remittance

Remittance flows in Lao PDR have been subject to fluctuating growth over the past decade. In 2016, World Bank reported Lao PDR remittance flow at \$100 million USD. Remittances constitute 1.3% of national GDP.<sup>290</sup> The ILO reported that 93% of migrant workers sent regular remittances home. Laos has the highest rural presence of banks at 56% and the highest rural participation of banks in South- East Asia. Payer networks in the country number 170, with 44% of payers using banks for remittances and the majority using non-banking channels.<sup>291</sup> Available data on remittance transfer between Lao PDR and Thailand, the most predominant route for remittance exchanges, reveal a range from 2.54% to 24.64%; MTO has harboured rates below 4%.<sup>292</sup> Notably, Lao PDR's drafting of an AML/Counter Financing Terrorism Law (FATF) is cited as a significant factor in the country's remittance structures.<sup>293</sup>

The presence of foreign banks like those from the ASEAN region, like Cambodia, Malaysia, Thailand, and Vietnam, as well banks from Australia, China, and France, does not necessarily equate to reliance on formal channels of remittance. Informal money transfer agents emerge as a heavily used channel by 82% of remittance recipients in Lao PDR. The major channels of remittance are reported to be middlemen, foreign ATM withdrawal, and MTOs.<sup>294</sup> The advantages cited by users of middlemen including access to their village and documentation not needed, which other formal channels require. Besides that, they are eased by the higher costs of the formal channels and risks to their security. The United Nations Committee for Development Policy (UNCDP) Mobile Money for The Poor report of January 2015 explored the market and the potential for developing digital remittance channels drawing on remitters and recipients' preferences of accessibility and ease, mirroring the direction of Malaysian mobile remittance efforts.

#### 4.4.6. Best Practices in Labour Migration Management

Three ministries in Lao PDR (MOLSW, MOFA, and MOPS) have developed operational manuals on the safe and protective management of migrant workers. These ministries also work in coordination with each other and ILO to ensure the migration process is safe for the migrant workers.<sup>295</sup>

<sup>290</sup> Vasconcelos, Sending Money Home to Asia.

<sup>291</sup> Tomoko Nishimoto, "Why we need to recognize migrant domestic workers' contribution to our economies," International Labour Organization, June 16, 2018. [https://www.ilo.org/asia/media-centre/news/WCMS\\_632454/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_632454/lang-en/index.htm).

<sup>292</sup> "Remittance Prices Worldwide," World Bank, accessed 7 December 2020. <https://remittanceprices.worldbank.org/en/corridor/Thailand/Laos>.

<sup>293</sup> Vasconcelos, Sending Money Home to Asia; "Laos - Commercial Guide," International Trade Administration, US Department of Commerce, accessed 7 December 2020. <https://www.trade.gov/country-commercial-guides/laos-trade-financing>.

<sup>294</sup> Microsave, Digital Financial Services in Lao PDR: Market Insights on Product Needs and Channel Management (UN Capital Development Fund (UNCDF), 2015).

<sup>295</sup> MoLSW, 2nd National Occupational Safety and Health (OSH).

Lao PDR has established a hotline for the migrant workers with the Federation of Trade Unions.<sup>296</sup> With regard to providing information to potential migrant workers, Lao PDR has delivered training to local officers to improve their ability to offer safe migration information to potential migrant workers and their families. In collaboration with the IOM and the Lao PDR Youth Union, the Lao PDR MOLSW had delivered training on the migration process to local officers.<sup>297</sup>

#### 4.4.7. Conclusion

It is observed that the legal framework governing labour migration from Lao PDR is still unclear. The recent MOU signed between Lao PDR and Thailand in 2016 aims to broaden a previous agreement on labour governance that includes cooperation on skills development, and social security. Regrettably a small number of migrant workers went to Thailand under the MOU agreement between the two countries and the process was slow, the fees to facilitate the migration for work is high and the procedures were complex.<sup>298</sup> Specific costs for migration are not known by potential migrant workers, which is a vital area for ongoing work to ensure migrant workers are able to accurately predict costs of regular migration, and make decisions accordingly.

### 4.5. Malaysia

#### 4.5.1. Country Profile and History Related to Labour Migration Management

In Malaysia, population growth rate has been declining and in 2019 the growth rate was at 1.34%. However, Malaysia is a rapidly growing country and has witnessed rapid urbanisation. 78.4 % of the population is urban (25,361,963 people in 2020) and the median age in Malaysia is 30.3 years.<sup>299</sup> Malaysia, an upper middle-income country and is

amongst the nations in ASEAN with one of the highest life-expectancy. The segment of its population aged above 60 years has more than doubled from about 1 million to 2.2 million from 1991 to 2010 and is estimated to increase to approximately 7 million or 17.6% of the projected population of 40 million by 2040.<sup>300</sup> Currently, 2.8 million or 9% of Malaysia's overall

<sup>296</sup> ILO, Implementation of recommendations.

<sup>297</sup> ILO, Implementation of recommendations.

<sup>298</sup> "TRIANGLE in ASEAN," International Labour Organization.

<sup>299</sup> "Malaysia Population," Worldometers, accessed 8 October 2020. <https://www.worldometers.info/world-population/malaysia-population/>.

<sup>300</sup> Department of Statistics Malaysia, Population Demographics, <https://www.dosm.gov.my/> (2018); United Nations, World population prospects: The 2015 revision, Working Paper No. 241 (2015).

population of 31.7 million consists of senior citizens aged above 60 with further projections from the United Nation, that 15% of Malaysia's total population<sup>301</sup> will comprise of the elderly and thereby Malaysia will become an ageing nation by the year 2030. According to Wan Ibrahim and Ismail, Malaysia is showing clear signs of moving towards becoming an aging population.<sup>302</sup> Currently, the population of Malaysia is still relatively young but changes in the age structure are becoming evident and therefore, the need for migrant workers in the workforce is inevitable. Malaysia's working age population will shrink in the coming decades. This will create employment openings for migrants from countries with younger population.

It is estimated that around 3 to 4 million migrant workers are engaged in various sectors in Malaysia.<sup>303</sup> In 2016, Malaysia hosted a large number of documented migrant workers (2,235,400) with 29 per cent being women migrant workers.<sup>304</sup> Between 2010 and 2017, the number of documented migrant workers in Malaysia increased from 1.7 million to 2.2 million and as of the end of 2018, there are an estimated 2 to 4 million

additional undocumented migrant workers in Malaysia.<sup>305</sup> Major countries of origin of migrant workers are Indonesia, Nepal, Bangladesh, India and Myanmar. Malaysia is one of the few developing countries that has become a major destination for migrant workers.<sup>306</sup> ASEAN has become a very- interconnected region, where intraregional migration increased in the last 3 decades. Malaysia has also become a regional hub for migration. Largely Indonesians migrate to Malaysia for construction, agricultural and domestic work. In Malaysia, wages for low skilled workers are low. Thus, cheaper migrant workers result in lower production costs, which leads to increases in profits and therefore the need to increase production that, in turn, creates more low skilled employment. However, Malaysia's average monthly wage is three times more than what a worker gets in Indonesia, the Philippines, and Vietnam. It is also being suggested that low skilled migrant workers do not have any negative impact on Malaysian society and economy and evidence suggests that migrants have played a role to upgrade the local skills.<sup>307</sup> Figure 2 below shows the number of migrant workers by country of origin in 2018:

301 R. Jacob, 2016. Aging and Current Trends in Malaysia, International Journal of Social Work and Human Services Practice, Vol.4. No.3 July, 2016, 57-61.

302 Ibrahim W. A. and Ismail Z., 2014. Some demographic aspects of population aging in Malaysia, in: World Applied Sciences Journal 30, No. 7, 891-894.

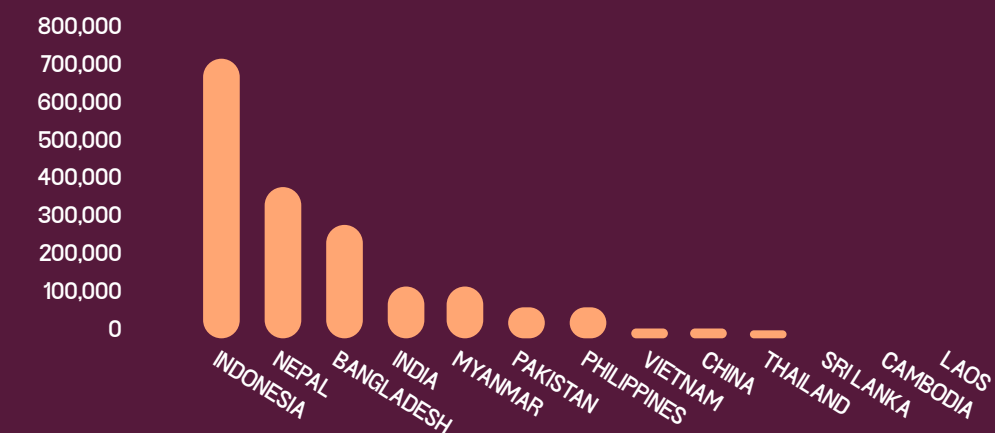
303 Benjamin Harkins, Review of labour migration policy in Malaysia (Bangkok: ILO, 2016). 304 ILO, 2018

305 "Malaysia," International Organization for Migration, accessed 8 October 2020. <https://www.iom.int/countries/malaysia>.

306 Testaverde et al., Migrating to Opportunity Overcoming Barriers to Labor Mobility in Southeast Asia (Washington, D.C.: World Bank, 2017).

307 Testaverde et al., Migrating to Opportunity.

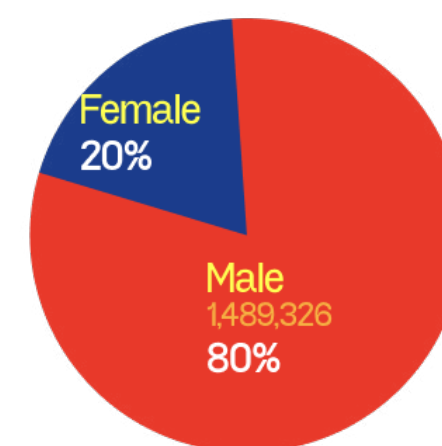
Figure 2. Number of migrant workers by country of origin  
(number of migrant workers, 2018)



Source: Wei San Loh et al., Malaysia: Estimating the Number of Foreign Workers (Washington D.C.: World Bank, 2019).

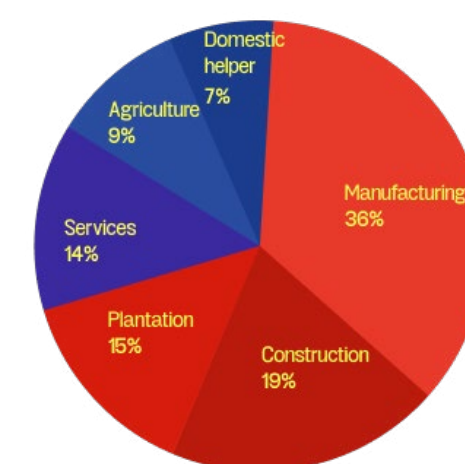
Figure 2 above shows Indonesians make up 40 percent of Malaysia's total migrant worker population, followed by Nepalese (22 percent) and Bangladeshis (14 percent). Females account for only 20 percent (Figure 3). Figure 4 shows migrant domestic helpers account for only 7 percent of the total migrant worker population and most migrant workers tend to have elementary jobs or machine operating occupations and are concentrated in the manufacturing (36 percent), construction (19 percent), plantation (15 percent), and services (14 percent) sectors and sub-sectors.<sup>308</sup>

Figure 3. The majority of migrant workers are male  
(gender distribution, 2016)



Source: Wei San Loh et al., Malaysia: Estimating the Number.

Figure 4. Sectoral distribution of migrant workers,  
percent, 2018



Source: Source: Wei San Loh et al., Malaysia: Estimating the Number.

308 Wei San Loh et al., Malaysia: Estimating the Number of Foreign Workers (Washington D.C.: World Bank, 2019), 20.



However, Malaysians also migrate to other countries for work. Singapore is a desired destination for work, and majority commute on a daily basis through the causeway over the narrow Straits of Johor.<sup>309</sup> In Malaysia, significant migration flows out of Malaysia have concurred with increasing educational attainment.<sup>310</sup> About 350,000 Malaysians cross the Johor–Singapore Causeway daily for work and school in the city-state.<sup>311</sup>

Malaysia needs both low and high-skilled migrants to fill shortages of workers in various sectors. However, policy makers are careful of skeptical public attitudes towards migrant workers. However, employers continue to use migrant workers to fill the shortages to maximise their profits.<sup>312</sup> The shortage lists enable the employers to go away from the requirement to advertise opportunities locally. Malaysia's critical occupations list enables the authorities to know sought-after, hard-to-fill, and strategic occupations by each sector. The list is used to update immigration and human resource development policies. In Malaysia, the majority of ASEAN country migrant workers come from Indonesia and Myanmar. In Singapore, 85 percent of ASEAN migrant workers are from Malaysia.<sup>313</sup>

Most migrant workers in Malaysia are low-skilled with 45 percent of them with just basic education in 2015. Malaysia receives significant numbers of undocumented migrant workers because it shares a long border with Indonesia. In 2012, there were reported to be 2 million undocumented migrant workers in Malaysia.<sup>314</sup> Approximately, 49 percent of the undocumented migrants are from Indonesia. Borders are porous between the Philippines and the Malaysian state of Sabah, which causes informal flows of workers. Most migrant workers from the Philippines in Malaysia are irregular.<sup>315</sup>

In 2016, in Malaysia, a total of 2,235,400 migrant workers were recorded; of these 649,700 were women. However, the share of female migrant workers has declined by 4 percent in Malaysia.<sup>316</sup> For managing in-migration, Malaysia had signed the first of MOU referred to as the Medan Agreement with Indonesia in 1984.<sup>317</sup>

There has been allegations of forced labour in palm oil producing companies.<sup>318</sup> There are also indication of abuse and exploitation of migrant workers in the informal sector. There was allegation that their wages were not paid

309 Testaverde et al., *Migrating to Opportunity*.

310 Ibid, 42-43.

311 Justin Ong and Amir Yusof, "Clearing the Causeway," Channel News Asia, June 9, 2018. <https://infographics.channelnewsasia.com/interactive/causewayjam/index.html>.

312 Testaverde et al., *Migrating to Opportunity*.

313 Ibid, 43.

314 World Bank, *Malaysia Economic Monitor: Immigrant Labour*. (Washington, DC: World Bank, 2015).

315 Testaverde et al., *Migrating to Opportunity*.

316 Ibid.

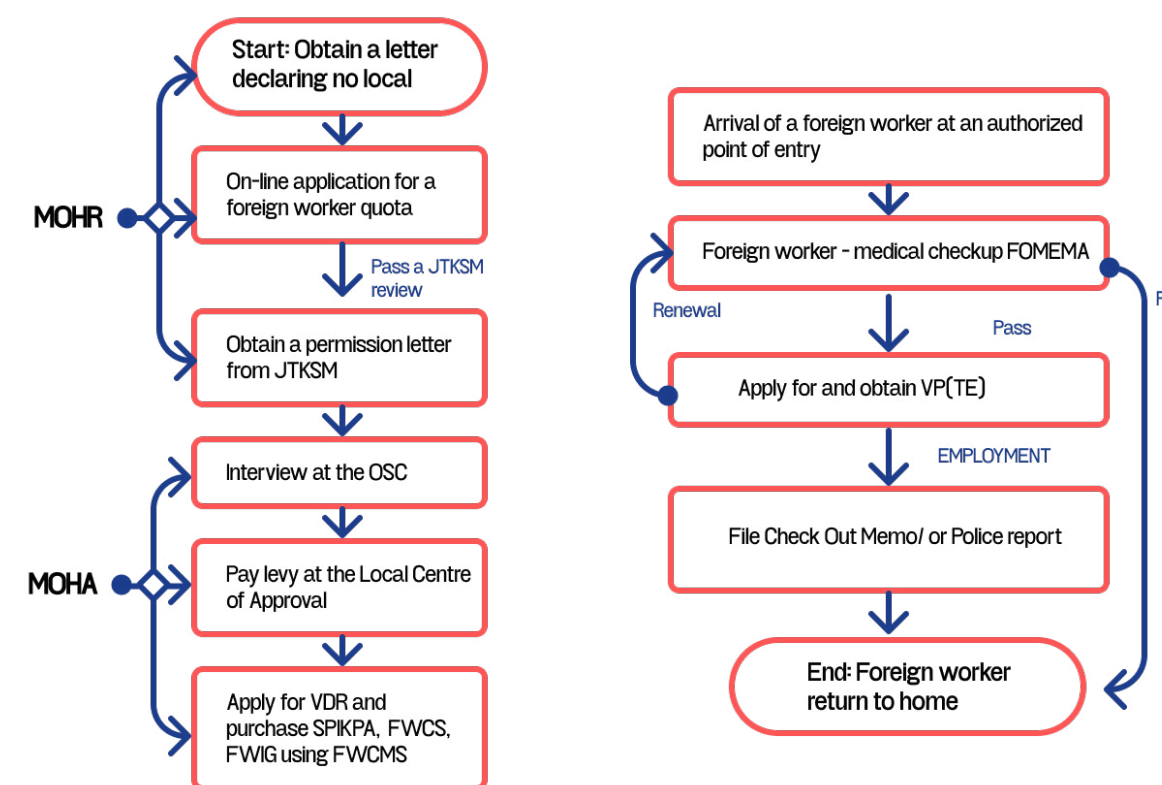
317 Evelyn Devadason and Wai Meng Chen, "Policies and Laws Regulating Migrant Workers in Malaysia: A Critical Appraisal," *Journal of Contemporary Asia* 44, No. 1 (2014).

318 Alima Joned, "Act fast to quash smears against palm oil industry," *New Straits Time*, August 29, 2020, accessed 17 November 2021, <https://www.nst.com.my/opinion/columnists/2020/08/620448/act-fast-quash-smears-against-palm-oil-industry>.

and their passports were withheld. In the '2021 Trafficking in Persons Report: Malaysia', Malaysia was down-graded to Tier 3 because the government had not completely fulfilled the minimum standards for the elimination of human trafficking and were alleged for not taking significant steps to do so, especially with the impact of the COVID-19 pandemic on its anti-trafficking capacity. The report said that despite its lack of serious measures, the government has taken certain steps to combat human trafficking and it had prosecuted and convicted some traffickers, implemented victim identification SOPs, continued to identify and

provide some protection services to trafficking victims, and made public the findings of a survey it funded on the prevalence of forced and child labour in the palm oil industry.<sup>319</sup> The '2021 Trafficking in Persons Report: Malaysia' also reported that Malaysian did not indicate looking in to the formal complaint filed in August 2019 alleging forced labour on a Malaysian palm oil company's plantation. In addition, the government did not acknowledge investigating or prosecuting charges from 2018 that multiple rubber-product firms exploited migrant workers, including through forced labour tactics, as trafficking crimes.<sup>320</sup>

Figure 5. Process to hire migrant workers from the employer's perspective



Source: Wei San Loh et al., *Malaysia: Estimating the Number*, 10

319 Department of State, *Trafficking in Persons Report*.

320 Ibid.

Migrant workers arrive in Malaysia with a job in hand after incurring significant migration cost.<sup>321</sup> Employers frequently recruit migrant workers through intermediations by Private Employment Agencies (PEAs). For example, 95 percent of Vietnamese low-skilled workers in the manufacturing sector were recruited by PEAs and only 2 percent were directly hired by employers.<sup>322</sup>

Furthermore, Malaysia has also linked country of origin to sectors in which they are allowed to be employed and sectors they are restricted from as shown in the Table 18 below:

Table 18. Approved source countries and sectors for migrant workers in Malaysia

Country	Domestic helper sector	Sectoral/ occupation restrictions
Cambodia	✓	No restriction
Indonesia	✓	• Males allowed for all sectors except Manufacturing. • Females allowed for all sectors.
Lao PDR	✓	No restriction
Myanmar	✗	No restriction
Philippines	✓	• Females not allowed in all sectors except the domestic helper segment. • No restrictions for males
Thailand	✓	No restriction
Vietnam	✓	No restriction

Source: Immigration Department of Malaysia (<https://www.imi.gov.my/index.php/en/foreign-worker.html>).

The ILO reports that migrant workers predominantly access information through their mobile phones.<sup>323</sup> A 2015 Neilsen survey found that 92% of migrant workers in Malaysia owned mobile phones, and 61% of those mobile phones being smartphones.<sup>324</sup> The extent of mobile phone use is influenced by gender as well as sector of work. The report cites domestic workers as an example with supporting evidence from an ILO study where less than 50% of employers claimed to allow domestic workers to use their mobile phones.<sup>325</sup> Several surveys of women returning from working in Malaysia found that the platforms most accessed were Facebook and YouTube. Social networking was cited as the foremost desired purpose, and access to information came second.<sup>326</sup>

321 Employers incur the cost to hire migrant workers as well but have ways to recoup the cost – such as through salary deductions.

322 Sonnhwa Yi, Kershia Tan Wei, and Wei San Loh, Malaysia - Estimating the Number of Foreign Workers: A Report from the Labor Market Data for Monetary Policy Task (English) (Washington, D.C.: World Bank Group, 2015).. <http://documents.worldbank.org/curated/en/953091562223517841/Malaysia-Estimating-the-Number-of-Foreign-Workers-A-Report-from-the-Labor-Market-Data-for-Monetary-Policy-Task>

323 International Labour Organization (ILO), Digitalization to promote decent work for migrant workers in ASEAN (Thailand: ILO, 2019). [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_713546.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_713546.pdf).

324 International Labour Organization (ILO), Mobile women and mobile phones: Women migrant workers' use of information and communication technologies in ASEAN (Thailand: ILO, 2019). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_732253.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_732253.pdf).

325 Bassina Farbenblum, Laurie Berg, and Angela Kintominas, Transformative Technology for Migrant Workers: Opportunities, Challenges and Risks (New York: Open Society Foundations, 2018).

326 ILO, Mobile women and mobile phones.

Global and regional initiatives that aim to help migrant workers utilise technology to access information and support exist in the region. The ITUC Recruitment Adviser Platform is designed for employment reviews and offers insight into thousands of employment agencies in Malaysia among other countries. Labour Solutions is another tool developed for better communication between employers and workers, but that includes a helpline called Labourline, allowing workers to receive guidance on their concerns, similar to, Microcoaching, a program geared towards worker wellbeing.<sup>327</sup> In 2019, the Ethical Trading Initiative (ETI) launched a programme that sought to develop technological tools to support communication between migrant communities as a way of holding employers accountable.<sup>328</sup>

Accessibility to transportation is assumed frequently in existing scholarship, but rarely addressed directly. Transportation is referenced mostly in the context of employers and REs, and there is a need for further study on migrant workers access and agency in utilising transportation as well as transportation behaviours. The barriers to access of transport have been most commonly analysed in migrant workers access to healthcare such as Loganathan's study published in 2019, Breaking down the barriers: Understanding migrant workers' access to healthcare in Malaysia.<sup>329</sup> The Covid-19 pandemic has

sparked a rise in publications concerned with the barriers faced by migrants regarding healthcare and the areas of transportation, technology, and communication, linger as they are provoked to no avail.

In 2008, a study by FIDH and Suaram found that Malaysian law especially the Immigration Act 1959/63 (Act 155) forms the foundation of the immigration system. The study found that overall, Malaysian laws do not ensure assistance to migrants with important legal difficulties such as in the case of employer mistreatment and unpaid wages. Other legal remedies or proceedings, such as employment tribunals and civil law actions, are available to migrants in an attempt to gain restitution, but there are major impediments to access justice and financial restraints that make this extremely difficult in practise. 330 Ethical Trade Initiatives stated that in Malaysia, migrant workers are often denied the ability to join a trade union. Grievance policies, if they exist, were frequently written in a language that workers did not understand.<sup>331</sup>

The '2021 Trafficking in Persons Report: Malaysia' states that Malaysia did not pay enough attention to the identification of forced labour victims. Officials said that rather than proactive screening efforts, the government depended on reports of abuse from embassies representing foreign employees or workers' complaints of non-payment of wages and other

327 Farbenblum, Berg, and Kintominas, Transformative Technology for Migrant Workers.

328 Lindsay Wright, "Giving a voice to migrant workers in Malaysia," Ethical Trading Initiative, July 17, 2019. <https://www.ethicaltrade.org/blog/giving-voice-to-migrant-workers-malaysia>.

329 Tharani Loganathan et al., "Breaking down the barriers: Understanding migrant workers' access to healthcare in Malaysia," PLoS One 14, No. 7 (2019): e0218669.

330 FIDH and SUARAM, Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination (2008), <https://www.fidh.org/en/region/asia/malaysia/Undocumented-migrants-and-refugees>.

331 Wright, "Giving a voice to migrant workers in Malaysia."



breaches to identify labour trafficking victims. Despite the adoption of victim identification SOPs, NGOs reported that during large-scale operations to detect undocumented migrants, police and immigration officers applied victim identification procedures inconsistently, preventing some foreign victims from being identified as victims and receiving protection services.<sup>332</sup>

## 4.5.2. Policies, Regulations, and Legislations Related to Labour Migration

Malaysia: Chronology of Policies Related to Migrant Workers, 1980-2010<sup>333</sup>:

S. No	Year	Law/policy
1	1982	Formation of Committee for the Recruitment of Migrant Workers
2	1984	Medan Agreement with Indonesia – for Agri-plantation and domestic workers
3	1985-86	Signing of the MoU between Malaysia and the Philippines – for domestic workers; Permission given for employers to recruit workers from Bangladesh and Thailand for the plantation and construction sectors.
4	1987	Legalised the use of Indonesian workers in the plantation sector.
5	1989	Regularisation programme
6	Jan-90	Freeze on labour importation from Indonesia.
7	1991	Formation of Cabinet Committee on Migrant Workers
8	Oct-91	Introduction of an annual migrant-worker levy, which varies by sector and skill category (general, semi-skilled and unskilled). Agriculture (RM360, RM540 and RM720); Construction (RM420, RM600 and RM900); Manufacturing (RM420, RM600 and RM900); Services (RM360, RM540 and RM720).
9	Dec-91	Launching of Ops Nyah I (Operation Expunge I - to stop illegal infiltration). Launching of Ops Nyah II (Operation Expunge II - to weed out irregular immigrants)
10	Jun-92	Permission given for employers to recruit workers from Indonesia, Thailand, Philippines,
11	Jul-92	Bangladesh and Pakistan for manufacturing and services
12	Apr-93 - Jan-94	Ban on unskilled worker recruitment. Ban lifted for manufacturing sector. Ban reimplemented on unskilled and semi-skilled workers for all sectors
13	Oct-95	Special Task Force on Migrant Workers (the sole agency for recruitment - a one-stop-agency to deal with the processing of immigrants).
14	Dec-95	All levies increased by 100% except for agriculture and domestic service. It was raised to RM1200 for construction and manufacturing and RM720 for services

<sup>332</sup> Devadason and Chen, "Policies and Laws Regulating Migrant Workers in Malaysia," 5-6; Harkins, Review of labour migration policy in Malaysia.

<sup>333</sup> Ibid.

15	Jan-96	Freeze on the importation of skilled and unskilled labour except for critical sectors in manufacturing and recreation/ tourist industries.
16	Apr-96	Hari Raya Amnesty for Indonesian irregular workers.
17	Aug-96 – Jan-97	Freeze on labour importation (employers were instructed to recruit directly from the immigration detention depots) – eventually cancelled the exercise due to the lukewarm response from employers.
18	Mac-97	Task Force disbanded – functions taken over by the Foreign Workers Division of the Immigration Department.
19	Aug-97	Ban on new recruitment on migrant workers due to the AFC. Second regularisation exercise for irregular migrants from Indonesia, Thailand, the Philippines, Bangladesh and Pakistan
20	Jan-98	Annual levy per worker raised to RM1500 for the construction, manufacturing and services sector. It was maintained at RM360 for the plantation and domestic services sector. Mandatory contribution to EPF (12% and 11% of monthly wages
21	Jul-98	Ban on the renewal of work permits for the services sector lifted.
22	Oct-98	Ban on new recruitment lifted – 120,000 new work permits approved for migrant workers in plantation and construction sectors
23	Nov-Dec-98	Freeze on the importation of migrant workers lifted.
24	Feb-99	Levies are lowered for all categories (from RM1500 to RM1200), except domestic workers. New hiring of mostly Indonesian workers.
25	Oct-99	Recruitment of Sri Lankans in the manufacturing sector
26	2001	Mandatory contribution to EPF revoked.
27	May-01	Ban on intake of Bangladeshis – following clashes with locals.
28	Oct-01	Maximum limit of temporary work pass limited from 5 years to 3 years.
29	Feb-02	Maximum work permit extended to a 3+1+1 ruling (except for domestic services). Ban on new recruitment of Indonesian workers in all sectors, except for domestic services.
30	Mac-Jul-02	Amnesty programme.
31	Jul-02	Recruitment of Cambodians in the agri-plantation, manufacturing and construction sectors
32	Jan-03	Restrictions lifted on Indonesian workers in the manufacturing and construction sectors.
33	Apr-03	Freeze on hiring of migrant workers from SARs related countries
34	Sep-03	Signing of MoU between Malaysia and China – for workers in ceramics and furniture.
35	Oct-03	Amendment to Immigration Act 2002 – higher penalty for irregular immigration. Mandatory whipping of up to six strokes of the cane for irregular migrants and their employers
36	Dec-03	Signing of the MoU between Malaysia and Vietnam
37	Mac-04	New requirement – migrant workers to attend classes on Malaysian language and culture

38	Oct-04	Irregular workers allowed to return on official permits.
39	2005	Permission granted to migrant workers whose contracts have expired to change employers within the same economic sector as long as their work permits are still valid.
40	Mac-05	Signing of the MoU between Malaysia and Pakistan.
41	Aug-05	(i) RELA, or the People's Volunteer Corps given power to arrest unauthorised migrants until mid-2009 - provided opportunities for extortion. (ii) Levies are revised: RM1200 (RM960) for manufacturing and construction in Peninsular (East Malaysia); RM540 for plantations; and RM1800 (RM1440) for non-domestic services in Peninsular (East Malaysia).
42	2006	(i) MOHA licensed 270 outsourcing companies to recruit mainly South Asian migrants. (ii) Electronic Labour Exchange (ELX) created at the MOHR – mandatory for employers in plantation, construction, manufacturing and services to advertise vacancies in the ELX before they can apply to bring in migrant workers.
43	Nov-06	Signing of the MoU between Malaysia and Indonesia – Malaysian employers are asked to pay RM2,415 to a local agent while the domestic worker has to pay her Indonesia- based agent RM1,228
44	2007	New outsourcing system that does not attach workers permits to a particular employer – dilutes the control of the government
45	Jul-07	Major operation to round up an estimated 500,000 irregular migrants.
46	Oct-07	Ban on the recruitment of Bangladeshi workers because of problems arising from agents (both REs) in their home country and outsourcing companies in Malaysia)
47	Jan-08	Unskilled migrant workers will not have their work permits extended if they have been in the country for five years or more.
48	2009	Freeze on the issuance of new licenses for labour outsourcing companies.
49	Jan-09	Freeze on labour importation to the manufacturing sector.
50	Apr-09	Cost of levy to be borne by employers, instead of workers.
51	Oct-09	Protests by migrant workers that employers continued deducting wages to cover the levy charges.
52	Jul-09	Freeze on the importation of migrant workers lifted for specific industries
53	Nov-10	Compulsory medical insurance policy for migrant workers (excluding domestic maids) effective Jan 2011 - annual premium of RM120 per worker.
54	2016	The Eleventh Malaysia Plan (2016–2020) has stated that a comprehensive immigration and employment policy for migrant workers will be developed, with MOHR assuming the lead role in policy-making
55	2010	Malaysia has become a party to the Trans-Pacific Partnership, which requires states to adopt and implement laws in accordance with the ILO Declaration on Fundamental Principles and Rights at Work
56	2016	A minimum wage law has been enacted that applies to migrant workers (with the exception of domestic workers), setting a basic monthly wage of 900 ringgit (MYR) (US\$210) in Peninsular Malaysia and MYR800 (US\$185) for Sabah, Sarawak and Labuan. A rise in the minimum wage has been announced for the 2016 budget.
57	-	Responsibility for payment of the levy on employment of migrant workers has been shifted from employers to migrants, ranging from MYR410–1,850 (US\$95–425)

58	-	A new regulation on domestic work has been proposed to govern conditions in the sector but has faced criticism for maintaining labour protections that are unequal with other types of work
59	-	The Private Employment Agency Act is expected to be subsumed by the Private Employment Agencies Bill, which will include regulation of recruitment for migrant workers (including domestic workers) within its scope. A policy decision has also been made to phase out the system of outsourcing agencies.
60	-	Trafficking victims have been permitted to move freely and work after a protection order has been issued, as well as to receive payment of due wages in cases of non-conviction. In addition, non-governmental organisations and other parties can provide official protection services to victims
61	-	Research on the government-to-government recruitment process established under the MOU with Bangladesh found that it has reduced worker-paid recruitment costs by 8– 10 times in the plantation sector.
62	-	Problems with upholding international obligations under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) continue to be observed.
63	2015	The Institute of Labour Market Information and Analysis (ILMIA) has been established under MOHR to carry out labour market studies and projections, including estimating labour supply and demand from 2015–2030.

Malaysian Policy Repository on Legislation and Practices that impacts Migrant Workers:

- ◇ Industrial Relations Act of 1967 (Act 177)
- ◇ Immigration Act 1959/63 (Act 155) & Regulations and Orders & Passports Act 1966 (Act 150)
- ◇ Trade Unions Act 1959 (Act 262) & Regulations
- ◇ Workmen's Compensation Act 1952 (Act 273)
- ◇ Occupational Safety and Health Act 1994 (Act 514), Regulations & Orders
- ◇ Employment Act 1955 (Act 265)
- ◇ Anti-Trafficking in Persons Act 2007
- ◇ Employment Information Act 1953
- ◇ Private Employment Agencies Act 1981 (Act 246)
- ◇ Wages Councils Act 1947 (Act 195)
- ◇ Children and Young Persons (Employment) Act 1966 (Act 350)
- ◇ Labour Ordinance (Sabah Cap 67)
- ◇ Labour Ordinance (Sarawak Cap 76)
- ◇ Workers' Minimum Standard of Housing and Amenities Act 1990

- ◇ Social Security Protection 1969
- ◇ Passport Act 1966
- ◇ Immigration Regulation 1963
- ◇ Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (ASEAN, 2016 June 15).

Malaysia categorises migrant's workers into three categories:

- a. Documented migrant workers - Enter legally and hold a temporary valid work visa (TEVP) issued by the Malaysian Department of Immigration; have the right to receive protection and benefits provided by various Malaysian labour laws and regulations; and are usually employed in low level work sectors and are unskilled.
- b. Expatriate workers - Hold a work permit; permitted to bring partner and family to Malaysia; and employed in higher managerial and executive positions and technical employment.
- c. Irregular migrant workers - Violate immigration laws by entering and working in



Malaysia without authorization; do not fulfil the requirements for protection under the law; and are vulnerable to exploitation and mistreatment.<sup>334</sup>

### Amendment of Workers' Minimum Standards of Housing and Amenities Act

Most employers in the construction and manufacturing sectors in Malaysia have not paid much attention to their migrant workers' accommodation and living conditions. The Workers' Minimum Standards of Housing and Amenities Act 1966 (also known as Act 446) by the Ministry of Human Resources requires businesses in the agriculture, plantation, and mining industries to give foreign workers and local estate workers with minimum housing and amenities. The Act of 446 was amended in 1990 to streamline the current law and to integrate several additional worker accommodation standards found in various laws such as the Rump Labour Code. In 2019, the Act was amended to include migrant workers and local workers working in different sectors. Plantation and mining firms were formerly only required to provide basic requirements and housing to their workers under Act 446. Minimum standards in terms of accommodation, basic utilities, hygiene, and safety must be supplied to migrant workers, according to the criteria. Employers must provide a main water supply and electricity to both dormitories and non-dormitories workers. In these locations, there must also be fire safety, secure electrical wiring, and medical aid.<sup>335</sup>

The Act permitted employers to charge each migrant worker RM100 in rent for housing furnished by them (Section 24G, Act 446). Employers could withhold RM50 from each

migrant worker's salary prior to the revisions. Employers who violate the Act 446's conditions could incur a maximum penalty of RM50,000 for each offence (Section 24D, Act 446). Act 446 was set to take effect on June 1, 2020, after the amendment was gazetted (announced) in September 2019. This was then postponed until September 1, 2020, to provide employers a three-month grace time to make the required preparations due to the restriction in movement during the Covid-19 pandemic. During this time, the MOHR educated employers about Act 446's new requirements. Initially, several employers were said to be supportive of the changes. Nonetheless, the Malaysia Employers Federation (MEF) and the Federation of Malaysian Manufacturers (FMM) have requested extra time for employers to embrace the obligatory criteria, requesting at least six to twelve months. They explained that the extension was required because the amended regulations were only published on the Attorney-General's website at the end of August 2020, leaving employers with insufficient time to purchase materials, such as mattresses, in accordance with the specified thickness in order to meet the September deadline.<sup>336</sup>

According to the MOHR, 91.1% of migrant worker lodgings do not fulfil the Employees' Minimum Standards of Housing, Accommodations, and Amenities

<sup>334</sup> Arisman and Jaya, Protection of Human Rights and Labour Migration, 28-29.

<sup>335</sup> Yvonne Khor Gee-Weon, "COVID-19 and housing for migrant workers in Malaysia," MIDEQ, May 26, 2021, <https://www.mideq.org/en/blog/covid-19-and-housing-migrant-workers-malaysia/>.

<sup>336</sup> Ibid.

(Accommodation and Centralized Accommodation) Regulations 2020 as of October 31, 2020. In addition, the Department of Labour stated that just 665 out of 54,000 businesses have applied for accommodation certificates with the ministry. The Building Industry Development Board (CIDB) had assessed 7,704 construction sites around the country as of October 18, 2020. Due to non-compliance with the COVID-19 standard operation standards, 781 construction sites were issued stop orders to work.<sup>337</sup>

### National Action Plan on Anti-Trafficking in Persons (NAPTIP) 2021-2025

In 2021, Malaysia had launched the 3rd National Action Plan on Anti-Trafficking in Persons (NAPTIP) 2021-2025. It was improved by incorporating feedback from a variety of stakeholders, including NGOs and INGOs, in order to align with the government's goal of a whole-of-nation strategy to combating crime. To combat human trafficking in Malaysia, NAPTIP has detailed the programmes and

initiatives that would be executed by the various government agencies under the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO) in collaboration with NGOs, CSOs, and IOs. It provides the strategic direction and focuses efforts toward accomplishing the national goal of preventing and suppressing crime.<sup>338</sup>

### National Action Plan on Forced Labour (NAPFL) 2021-2025

In 2021, MOHR drafted the Malaysian National Action Plan on Forced Labour (NAPFL) 2021-2025 with the aid of the ILO to address the issue of forced labour in the country. The draft was uploaded at the MOHR's website for feedback and comments. The MOHR stated that the NAPFL will be launched by the end of 2021 and will serve as a reference for all parties, including employers, to guarantee that their business or network does not include any elements of forced labour. It further stated

that the NAPFL was created after a series of meetings with several parties, including the Home Ministry, the Malaysian Employers Federation (MEF), the Malaysian Trades Union Congress (MTUC), and Suhakam, that began in 2019. The NAPFL is planned to complement the Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants. MAPO's National Action Plan on Anti-Trafficking in Persons 2021-2025, was launched in March 2021.<sup>339</sup>

<sup>337</sup> Ibid.

<sup>338</sup> Government of Malaysia, National Action Plan On Anti-Trafficking In Persons (2021-2025), [http://mapo.bernama.com/pdf/naptip\\_12may.pdf](http://mapo.bernama.com/pdf/naptip_12may.pdf).

<sup>339</sup> "Malaysia: HR Ministry drafting plan to overcome forced labour issue with ILO assistance," Ethixbase, July 29, 2021, <https://ethixbase.com/malaysia-hr-ministry-drafting-plan-to-overcome-forced-labour-issue-with-ilo-assistance>.

## Ethical and zero cost recruitment

Malaysia is working closely with the countries of origin to implement “zero cost for the workers” in order to eliminate labour abuse by employers and exploitation by agents.<sup>340</sup> It is also important to note that Malaysia has been driven to implement labour reforms in line with the ILO’s norms due to pressure from migrant workers’ home countries, regional requests for migrant protection, and worldwide initiatives. Malaysia has assigned and renegotiated improved MOUs with countries of origin to combat forced labour and human trafficking since 2018. To eliminate agents, improve ethical recruiting, and embrace a zero migration-cost model, the recruitment system is being reformed through

government-to-government agreements. The freshly negotiated MOUs are significant in addressing the issue of irregular migration in three ways: by containing a repatriation clause, switching to the government recruitment approach, and adopting the employer-pays model.<sup>341</sup> Malaysia’s commitment to ethical recruitment was evidenced by the switch to zero-cost and employer-pays recruitment practises, which replaced the prior business model. Intermediaries and intermediaries who charged hidden expenses in the migrant recruitment process must be eliminated by ethical recruitment.

### 4.5.3. Governmental Institutions Related to Labour Migration Management

The main Government ministries involved in formulating and administering labour migration policy in Malaysia are the MOHR and the MOHA. The responsibilities have not been divided between the two government institutions. MOHA has taken the lead in policy-making and implementation. As a result, Malaysia’s labour migration policies are heavily oriented towards safeguarding national security. Therefore, measures to increase or reduce the number of migrant workers in the country and the need to reduce irregular migration have been the primary policy concerns, rather than managing the wider influences of labour migration on

national economic and social development or protecting workers’ rights.<sup>342</sup>

There are indications that labour migration policies are closely associated with national development goals. So, there is a need to provide better protection for workers moving forward. In the Eleventh Malaysia Plan, it is stated that “A *comprehensive immigration and employment policy for foreign workers will be formulated, taking into account the requirements of industry and the welfare of foreign workers.... The MOHR will assume the lead role in policy-making for foreign*

*worker management*”.<sup>343</sup> This is a positive step towards achieving greater coherence on labour migration governance.<sup>344</sup>

The MOHR of Malaysia is mandated with the country’s labour laws that include the employment of local and migrant workers.<sup>345</sup> MOHR is also in charge of negotiating the bilateral agreement, which means they’re involved in establishing cross-border recruitment norms and processes that are not covered by the country’s labour laws. However, Malaysia’s migration policy is under the dominion of the MOHA. It is a department usually managed by the Deputy Prime Minister. However, a number of agencies and institutions have been involved in dealing with different dimensions of the migration process such as the immigration department of Malaysia, and the Malaysian Employers Federations. Malaysia signs MOUs with migrant-origin countries. However, the processes of bringing migrant workers is largely outsourced, which includes inducting, processing and transporting migrants to the destination on behalf of employers. By 2015, around 280 official outsourcing agencies were working as the employers of the migrants. Also, over 1000 private employment institutions act as labour recruiters and brokers solely on behalf of employers.<sup>346</sup> Labour Department or JTK also plays a very important role in labour inspection and enforcement of laws related to migrant workers.<sup>347</sup>

The recruitment sector has proven a major regulatory challenge for the Malaysian Government. Mandatory licensing of REs is required under the provisions of the Private Employment Agencies Act but evidence suggests that compliance with rules and regulations has been far from complete. In August 2017, Malaysia amended the Private Employment Agencies Act of 1981 to cover migrant workers to enable strict monitoring of employment agencies. Through it, the authorities could suspend and revoke agencies’ licenses if these violate the Private Employment Agencies Act of 1981. Moreover, migrant workers are supposed to pay recruitment fees not more than one month of their basic wages. Malaysia also binds the employers to hire migrant workers by signing the Employers Undertaking introduced in January 2018. The undertaking makes it obligatory on employers to provide the full levy at the time of employing a migrant worker. The employers also need to provide an employment contract as per the Employment Act of 1955 and to provide minimum wages as stipulated by the Employment Act to migrant workers.<sup>348</sup> The minimum wage rates specified in the 2020 order do not apply to a ‘domestic servant’ as defined in subsection 2(1) of the Employment Act 1955, subsection 2(1) of the Sabah Labour Ordinance [Cap. 67] or subsection 2(1) of the Sarawak Labour Ordinance [Cap. 76]. The Minimum Wages Order 2018 [P.U.(A)265/2018]

343 Government of Malaysia, Eleventh Malaysia Plan (2015), 5-18.

344 Harkins, Review of labour migration policy in Malaysia.

345 Ethical Trading Initiative (ETI), Human Rights Due Diligence in Malaysia’s Manufacturing Sector (London: ETI, 2019). [https://www.ethicaltrade.org/sites/default/files/shared\\_resources/ETI%20Malaysia%20HRDD.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/ETI%20Malaysia%20HRDD.pdf). 346 Joseph Trawicki Anderson, “Managing labour migration in Malaysia: foreign workers and the challenges of ‘control’ beyond liberal democracies,” *Third World Quarterly* (2020): 1-19.

347 “Home,” Malaysia MOHR, accessed 17 November 2021, <https://www.mohr.gov.my/index.php/en/about-us/9-site-content/76-enquiries>.

348 “ILO supports ASEAN safe migration campaign,” ILO, 13 December 2018, [https://www.ilo.org/asia/media-centre/news/WCMS\\_654571/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_654571/lang-en/index.htm)

340 Thomas Jason, “Kula agrees with more transparent system for Bangladeshi workers,” *Free Malaysia Today*, January 7, 2020, <https://www.freemalaysiatoday.com/category/nation/2020/01/07/kula-agrees-with-more-transparent-system-for-bangladeshi-workers/>.

341 Low Choo Chin, “Migrant Labour Recruitment Reform in Malaysia: Towards Ethical and Zero-Cost Migration,” *Otoritas: Jurnal Ilmu Pemerintahan* 10, no. 2 (2020): 142-164.

342 Harkins, Review of labour migration policy in Malaysia.



which stipulates a minimum monthly wage rate of RM1,050.00 and correspondingly lower daily and hourly wage rates will be revoked when the 2020 Order comes into operation. The increase in the minimum monthly wage under the 2020 Order to RM1,200 per month in major cities in Malaysia was announced during the 2020 Malaysian Budget.<sup>349</sup> In 2020, Malaysia's minimum wage increased to 1,200 ringgit per month from 1100 ringgit in 2019.<sup>350</sup>

Malaysia aims to amend the Employment Act of 1955 to further bring the Act in accordance to international standards and legal framework. One of the proposed amendments includes replacing the term "domestic servants" to "domestic employees". This amendment of terminology viewed as a positive step towards identifying people employed to work at home or household are as domestic workers. The amendment also includes permission for domestic workers to have one day off in a week under section 59(1) of the Act. However, social protections of domestic employees remain unchanged that meant that domestic workers continue to be deprived of various other rights. However, the amendments have not yet been made in the Employment Act 1955.<sup>351</sup> The ILO showed concerns that in many ASEAN countries including in Malaysia domestic workers do not enjoy adequate legal protection as compared to other workers.<sup>352</sup>

In Malaysia, in the Employers Undertaking, it is mandatory on employers to provide migrant workers with written employment contract as per the Employment Act of 1955. It also includes compliance to minimum wage requirements. The ILO suggested that Malaysia has to amend the Workers' Minimum Standards of Housing and Amenities Act of 1990 to urge employers to provide satisfactory housing for migrant workers in all sectors of the economy.<sup>353</sup> The Act has been amended in February 2021 and provides many positive additions that support for providing satisfactory housing to migrant workers.<sup>354</sup>

Malaysia had the Foreign Workers Compensation Scheme. In it, migrant workers were provided with a few benefits which were inadequate as compared to the social security scheme for nationals. This scheme existed despite the fact that Malaysia had ratified the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) that demands Malaysia to provide equal compensation to nationals and migrant workers in equal manner. Therefore, the ILO's Committee of Experts on the Application of Conventions and Recommendations had issued many observations that Malaysia has not been abiding to the Convention No. 19 that it has ratified. Thus, the Committee continued to request Malaysia to review its social protection

349 Siva Kumar Kanagasabai and Selvamalar Alagaratnam, "Malaysia," Lexology, January 13, 2020. <https://www.lexology.com/library/detail.aspx?g=0f998a84-c711-4893-9a6f-c3dae1404873>.

350 Ayman Falak Medina, "Malaysia Increases Minimum Wage," ASEAN Briefing, February 26, 2020. <https://www.aseanbriefing.com/news/malaysia-increases-minimum%20wage/>.

351 "ILO: Social protection coverage has improved in ASEAN, but migrant workers remain among the least protected," ILO, 18 December 2018, Social protection coverage has improved in ASEAN, but migrant workers remain among the least protected. [https://www.ilo.org/asia/media-centre/news/WCMS\\_655163/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_655163/lang--en/index.htm)

352 Ibid.

353 Ibid.

354 Commissioner of Law Revision Malaysia, Act 446 on Employees' Minimum Standards of Housing, Accommodations, and Amenities Act 1990, adopted 1 February 2021, [https://jtkm.mohr.gov.my/images/kluster-warnawarni/akta-borang/akta-peraturan/SENARAI%20AKTA\\_2020/Akta%20Standard%20Minimum%20Perumahan%20dan%20Kemudahan%20Pekerja%20\(Pindaan\)%202019%20\(Akta%201604\)/Akta%20446\\_Feb2021.pdf](https://jtkm.mohr.gov.my/images/kluster-warnawarni/akta-borang/akta-peraturan/SENARAI%20AKTA_2020/Akta%20Standard%20Minimum%20Perumahan%20dan%20Kemudahan%20Pekerja%20(Pindaan)%202019%20(Akta%201604)/Akta%20446_Feb2021.pdf)

legislation. Such are the limitations that exist across ASEAN countries, which indicates that there are various challenges to be addressed before ensuring equitable access to social protection of migrant workers in AMS.<sup>355</sup> Now workers are registered by their employers and they are required to pay for social security under SOCSO.<sup>356</sup>

#### 4.5.4. Non-State Actors Related to Labour Migration Management

Tenaganita a migrant labour rights NGO and the Malaysian Trades Union Congress manage three MRCs in the Malaysian states of Selangor, Johor and Penang to provide support services to migrant workers. Data compiled from the 1,584 migrant workers who resolved grievances through MRC legal assistance reveals that the forms of abuse they endure are often severe and complex in nature. A substantial portion of complainants showed indications of forced labour and 22 per cent (342 migrants) was explicitly identified as such by case managers. This suggests that broader efforts to protect the labour rights of migrant workers are necessary to effectively identify and assist victims of exploitation and abuse, which are needed to complement the criminal justice system's responses.<sup>358</sup>

In Malaysia, hotlines are managed by Migrant Working Group, Tenaganita, North South Initiative, and the Bar Council Legal Aid Centres. In addition, many other organisations are playing their active role in issues related

In addition, the Human Rights Commission of Malaysia (known as SUHAKAM) has been playing an active role in labour migration policy advocacy and reforms. They visit detention centres and raise issues related to the plight of migrant workers, human trafficking of workers, and forced labour.<sup>357</sup>

to migrant workers which include Persatuan Sahabat Wanita, Global Shepherds, Earthworm Foundation, Liber8, Responsible Business Alliance and others. The Migrant Worker Resource Centres officers in Penang, Malaysia, are working with/for migrant workers to support and encourage them to join trade unions. These efforts have resulted in 971 migrant workers joining trade unions. Challenges and issues are faced by MRC officers to organise migrant workers to be recognised and in making them join unions; since, the employers mostly discourage migrant workers from taking part in mobilisation activities. There are also cases where the employment contracts forbid migrant workers from joining an association or union. On this pretext, many migrant workers have been removed from work and repatriated. The government has two times denied registering a domestic workers' association.<sup>359</sup> They are also prohibited to form their own associations.<sup>360</sup> However, the Working for Workers Application was launched by the government to address migrant workers grievances.

355 Ibid.

356 PricewaterhouseCoopers (PWC), Malaysia: Employers required to contribute social security for foreign employees (PWC, 2019), <https://www.pwc.com/gx/en/services/people-organisation/publications/assets/pwc-malaysia-employers-to-pay-social-security-for-foreign-workers.pdf>.

357 "Our Work," SUHAKAM, accessed 17 November 2021, <https://suhakam.org.my/activities/>.

358 Harkins, Review of labour migration policy in Malaysia.

359 "ILO supports ASEAN safe migration campaign," ILO.

360 Ibid.

In 2016, the Malaysian Employers Federation (MEF) launched a Survey on Foreign Workers Employment in the SME Sector in Malaysia. The purpose of the survey is to identify issues and challenges encountered in employing and managing migrant workers in SMEs in Malaysia. The findings of the survey were used to develop practical guidelines for employers on dealing with migrant workers. Additionally, the MEF has produced a survey report on the Management of Foreign Workers. The survey included information on various dimensions of companies' management of migrant workers such as recruitment, location, work, and repatriation. The related findings offered employers with an adequate understanding of changes in official policy and increase of expenditures of hiring migrant workers.<sup>361</sup>

In collaboration with the ILO, the Malaysian Bar Council initiated a series of dialogues with labour attachés and consular officials from

origin countries. The purpose of the dialogues was to develop their skills and knowledge, and establish coordination among them for providing services to migrant workers. This dialogue was also meant to encourage positive and constructive interaction with the concerned host government agencies, employers, and workers' associations.<sup>362</sup>

IOM Malaysia partners with the Government of Malaysia on capacity building initiatives in areas of document security, fraud recognition, impostor detection, and investigative interviewing to counter trafficking in persons, smuggling of migrants and to curb transnational organised crime. As of December 2018, IOM Malaysia had trained more than 1,500 enforcement officials, mostly from the Immigration Department of Malaysia, the Royal Malaysia Police, the Malaysia Maritime Enforcement Agency, the Labour Department and Royal Malaysian Customs.<sup>363</sup>

#### 4.5.5. Remittance

Outflows of remittance in Malaysia have been reported at a steady increase, reaching over RM 29.2 billion in 2018.<sup>364</sup> The connectedness of the ASEAN region is also reflected in the fact that 78% of Malaysia's remittance outflow is received by other ASEAN

ASEAN countries. South-East Asia is known for having the lowest remittance costs across the globe, and Malaysia stands out as part of the lowest cost- corridor, Malaysia to Myanmar. In 2017, Malaysia's remittance costs hovered between 2-3%.<sup>365</sup>

361 Malaysian Employers Federation (MEF), MEF Survey on Management of Foreign Workers (Kuala Lumpur: 2016).

362 ILO, Implementation of recommendations.

363 International Organization for Migration (IOM), Malaysia (Kuala Lumpur: IOM, 2019). [https://www.iom.int/sites/default/files/country/docs/malaysia/iom\\_malaysia\\_infosheet\\_may2019.pdf](https://www.iom.int/sites/default/files/country/docs/malaysia/iom_malaysia_infosheet_may2019.pdf).

364 Department of Statistics Malaysia, Balance of Payments Statistics (Kuala Lumpur: Putrajaya, 2019). [https://www.dosm.gov.my/v1/uploads/files/7\\_Publication/Research\\_Papers/1\\_%20The%20Increasing%20Trend%20of%20Foreign%20Workers%27%20Remittances.pdf](https://www.dosm.gov.my/v1/uploads/files/7_Publication/Research_Papers/1_%20The%20Increasing%20Trend%20of%20Foreign%20Workers%27%20Remittances.pdf).

365 World Bank Group, "Migration and Remittances, April 2018: Recent Developments and Outlook," Migration and Development Brief No. 29 (Washington, DC: World Bank, 2018). <https://openknowledge.worldbank.org/handle/10986/30280>.

Formal channels for remittance encompass common methods like Banks and MTOs, but Malaysia also allows for remittance through the post office, Microfinance Institutions (MFIs), and Mobile Network Operators (MNOs). The most popular formal channel for remittance is Banking. The World Bank reported Malaysia as having the second greatest rural banking participation with a rate of 54%, second to Laos.<sup>366</sup> In this report, 77% of payers used Banks, 12% used Post, and Non-Banking Financial Institutions, Forex, and Others made up the rest. A survey of migrant workers in Sabah revealed a different picture as it was reported that 34% of remitters used Banks while 66% relied on non-banking channels.<sup>367</sup>

Bank Negara Malaysia (BNM – Central Bank of Malaysia) bases measures of remittance flows on transactions conducted through formal means and that information is used in national surveys of migrant populations and relevant statistics.<sup>368</sup> Predominantly categorised as "employee remuneration", the current data does not include remittances conducted through informal remittance channels. Informal remittance channels include the use of physical movement of cash,

ATM withdrawals, courier services, commercial banking, and employment agencies to name a few.<sup>369</sup> A survey of migrant workers returning to Bangladesh suggests a decline in utilisation of "underground banking" with reference to an estimation of 30 - 40%.<sup>370</sup> Buencamino and Corbunov suggested that informal remittances could make up 15 - 80% of the total value of remittances.<sup>371</sup> Remitters consider several criteria when deciding between remittance channels, the most influential being physical access, cost, and institutional access. Formal remittance may pose barriers for migrant workers lacking in legal documentation, particularly affecting irregular migrant workers, and perpetuating lack of awareness as well as lack of trust towards formal remittance channels.<sup>372</sup> If it is assumed that one of the major determinants for the use of bank channels is bank account ownership, it must be noted that these vary greatly for urban workers compared to their plantation counterparts. Ownership is attributed to 55% of the former, and 22% of the latter.<sup>373</sup>

Through Project Greenback 2.0, BNM collaborated with the World Bank to address remittance processes in the cities of Johor

366 Vasconcelos, Sending Money Home to Asia.

367 Isaku Endo, Jose Luna-Martinez, and Dieter de Smet, "Three things to know about migrant workers and remittances in Malaysia," World Bank, June 1, 2017. <https://blogs.worldbank.org/eastasiapacific/three-things-to-know-about-migrant-workers-and-remittances-in-malaysia>.

368 Zainab Binti Ali Ahmad, Kenneth Simler, and Soonhwa Yi, "Using Remittance Transaction Data for Timely Estimation of the Foreign Worker Population in Malaysia," Policy Research Working Paper, No. 9331 (Washington, DC: World Bank, 2020).

369 Raúl Hernández-Coss et al., "The Malaysia-Indonesia remittance corridor: Making formal transfers the best option for women and undocumented migrants," World Bank Working Paper, No. 149 (Washington, DC: World Bank, 2008).

370 Abul Barkat, Asmar Osman, Subhash Kumar Sen Gupta, In the corridors of remittance: Cost and use of remittances in Bangladesh (Dhaka: International Labour Organization (ILO), 2014).

371 L. Buencamino, S. Gorbunov, "Informal money transfer systems: opportunities and challenges for development finance," DESA Discussion Paper No. 26 (New York: UNDESA, 2002).

372 Hernández-Coss et al., "The Malaysia-Indonesia remittance corridor."

373 Endo, Luna-Martinez, and de Smet, "Three things to know about migrant workers."



Bahru<sup>374</sup> and Kota Kinabalu.<sup>375</sup> In Johor, the aim of the project was to decrease the cost of remittance as well as to increase use of formal remittance channels. The project was successful in its first aim, bringing remittance costs down to 2%. Nation-wide, there has been a push for Electronic Know-Your Customer (e-KYC) systems of identification to mediate remittance transactions. On June 30, 2020, BNM issued an official policy on e-KYC after Project Greenback 2.0 saw finalisation of its guidance.<sup>376</sup> In Sabah, 70% of migrants were found working in remote areas in the agricultural industry. There, Project Greenback 2.0 aimed at digitalisation to address barriers associated with formal remittance channels. Migrant workers were engaged in e-remittance services to accommodate for costly and risky travels. The outcome of this project saw a decrease in remittance cost and increase in

number of digital remittance service providers to 21. In addition, the project is attributed to the 652% increase of e-remittance experienced in Sabah from 2017 to 2019, translating to RM62 million remitted in 2019.<sup>377</sup>

BNM's issuance of the Financial Technology (FinTech) Regulatory Sandbox Framework in 2016 facilitated the burgeoning of digital remittance developments.<sup>378</sup> In most recent news, Instapay Technologies Sdn Bhd launched the "Instapay E-Wallet" in partnership with Mastercard.<sup>379</sup> Supporting nine languages, the app provides users with the ability to send money overseas via bank account or local e-wallet. The functions of the app are made possible by IME-Ria Money, licensed under BNM. Generally, the current dialogues and initiatives surrounding remittance channels in Malaysia are dominated by digitalisation.

### 4.5.6. Best Practices in Labour Migration Management

After the adoption of recommendations on the importance of information campaigns in the 4<sup>th</sup> AFML in 2011, various effective education campaigns focusing on the general public were launched in ASEAN. The campaign migration works in Malaysia known as "Saphan Siang" campaign was successful and the campaign

targeted youth on positive behaviors towards migrant workers.<sup>380</sup>

Recent policy developments in Malaysia include some commendable shifts in the Government's approach to labour migration management. In particular, the commitment to

374 Isaku Endo and Dieter de Smet, Greenback 2.0 Johor Bahru Report: migrant workers' remittances from Malaysia (World Bank Group, 2017).

375 Jessica Chew Cheng Lian, "Deputy Governor's Remarks at the Launch of Project Greenback 2.0 Kota Kinabalu," Bank Negara Malaysia, March 4, 2018. [https://www.bnm.gov.my/index.php?ch=en\\_speech&pg=en\\_speech&ac=791](https://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech&ac=791).

376 Bank Negara Malaysia (BNM). Electronic Know-Your-Customer (e-KYC), BNM/RH/PD 030-10 (Kuala Lumpur: BNM, 2020).

377 "Sabah's e-remittance surged to RM62mil in 2019," The Star, February 15, 2020. <https://www.thestar.com.my/business/business-news/2020/02/15/sabah039s-e-remittance-surged-to-rm62mil-in-2019>.

378 Bank Negara Malaysia (BNM), Financial Technology Regulatory Sandbox Framework, BNM/RH/PD 030-1 (Kuala Lumpur: BNM, 2016).

379 Justhine De Guzman Uy, "Fintech startup to provide greater financial inclusion for Malaysia's migrant workers," AEC News Today, July 25, 2020. <https://aecnewstoday.com/2020/fintech-startup-to-provide-greater-financial-inclusion-for-malaysias-migrant-workers/>.

380 ILO, Implementation of recommendations.

phase out the outsourcing agencies to ensure clearer statutory responsibility of employers, the enactment of a minimum wage law that includes migrant workers, the establishment of the Institute of Labour Market Information and Analysis to better assess labour market needs and the signing of bilateral.

MOUs with countries of origin to limit the fees charged to workers which can be viewed as lessons learned and good practices. Most

of the best practices are linked to countries' MOU and bilateral ties to safeguard and protect migrant workers. Almost all origin (including Lao PDR) and destination countries (including Brunei and Malaysia) in ASEAN have signed MOUs with AMS or non-ASEAN states. Although, most of the ASEAN countries including Brunei, Lao PDR and Malaysia have not signed migrant workers' related treaties but yet extend cooperation to the ILO country offices.

### 4.5.7. Conclusion

There have been a number of policy measures and developments which are widely viewed as roll-backs to progressive labour migration management and governance. The inadequate response to reports of exploitation, on-going human rights concerns related to detention, and deportation, repeated problems with upholding international obligations under the Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), inadequate social dialogue in policy development and the unequal protection afforded to domestic workers are all indications of the need for further development of policy and institutional framework for better

migration management in Malaysia. Generally, Malaysia's labour migration policies continue to be managing migrant workers as a security concern rather than in view of their contribution to the country's economic performance. The agricultural, construction and manufacturing sectors are heavily dependent on low-skilled migrant workers to maintain Malaysia's competitiveness and economic growth. Besides that, migrant domestic workers are also contributing to an increase in female labour force participation rates in Malaysia and not much attention has been given to how this is contributing to economic growth too.

## 4.6. Myanmar 🇲🇲

### 4.6.1. Country Profile and History Related to Labour Migration Management

Since its independence in 1948, international migration in Myanmar has been very limited, with Thailand, India, and China as the main destinations. Considerable outflows of migrant workers first began in the mid- to late 1980s, when economic and political unrest drove many of Myanmar

population to Thailand, at the time when the Thai government was also making efforts to import foreign labour.<sup>381</sup>

The 1988 Uprising saw the military seizing command over the country, reforming the social and economic aspects of the nation.<sup>382</sup> This transformation from command and control-based system into market-oriented one induced an impressive economic growth, but did not provide sufficient jobs due to the fact that most foreign investments went to oil and gas sector rather than the labour-intensive manufacturing sector. The conditions ignited international labour migration, together with the Asia economic crisis in 1997.

Over the course of the 1990s, annual remittance flows to Myanmar rose from about USD 9 million in 1992 into more than USD 121 million in 2000.<sup>383</sup> These numbers slightly differ through the years up until the democratic reforms following the 2008 referendum. However, after the 2010 general election in Myanmar, the number of remittances has rapidly increased. It has increased more than 400% from USD 142 million in 2009 to USD 611 million in 2011.<sup>384</sup> Since then, the number

of remittances kept going high. A series of economic policies including anti-corruption laws, currency exchange rates management, foreign investment implementation, and import relaxations and export taxes abolishment<sup>385</sup> transformed the Myanmar economic structure and created more job opportunities. The Department of Population's 2016 census reported 17% of the 53 million population as internal migrants and 2.9 million Myanmar living abroad.<sup>386</sup> The number of annual remittances flows to Myanmar rocketed from about USD 120 million in 2010 into USD 3 billion in 2015.<sup>387</sup> It reached USD 1,517 million as of October 2019.<sup>388</sup>

According to the 2014 Myanmar Population Census, up to 70% of Myanmar migrants based in Thailand, 15% in Malaysia, 4.6% in China, 3.9% in Singapore, and 1.9% in the United States of America.<sup>389</sup> As of 2016, the IOM estimated as many as 3 million Myanmar migrants were living in Thailand.<sup>390</sup> The 2014 census reported 39% of international migrants as females.

The main push factor for Myanmar to work abroad is the constant armed conflicts that

381 Alex Ma, "Labor Migration from Myanmar: Remittances, Reforms, and Challenges," Migration Policy Institute, January 18, 2017. <https://www.migrationpolicy.org/article/labor-migration-myanmar-remittances-reforms-and-challenges>.

382 James F. Guyot, "Burma in 1988: 'Perestroika' with a Military Face," *Southeast Asian Affairs* (1989): 107-133.

383 Data gathered from the World Bank. "Migration and Remittances Data: Annual Remittances Data (updated as of April 2020)," World Bank, accessed 26 September 2020. <https://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>.

384 Ibid.

385 Ma, "Labour Migration."

386 Department of Population, Ministration of Labour, Thematic Report on Migration and Urbanization (Myanmar: Department of Population, 2016). [http://www.dop.gov.mm/sites/dop.gov.mm/files/publication\\_docs/thematic\\_report\\_on\\_migration\\_and\\_urbanization.pdf](http://www.dop.gov.mm/sites/dop.gov.mm/files/publication_docs/thematic_report_on_migration_and_urbanization.pdf).

387 "Migration and Remittances Data," World Bank.

388 Ibid.

389 "Developing International and Internal Labour migration Governance in Myanmar," International Labour Organization (ILO), accessed 19 September 2020. [https://www.ilo.org/yangon/projects/WCMS\\_563486/lang--en/index.htm](https://www.ilo.org/yangon/projects/WCMS_563486/lang--en/index.htm).

390 "Myanmar," International Organization for Migration (IOM), accessed 19 September 2020. <https://www.iom.int/countries/myanmar>.

happened within the region. In the late 1990s and early 2000s, it is estimated that about 700,000 irregular migrants from Myanmar have been living in Thailand, fleeing away from the conflict zones.<sup>391</sup> Other push factors contributing to international labour migrants include climate change and its consequential phenomena of shortened rainfall rates, Nargis cyclone and severe flooding<sup>392</sup> as well as the failure of economic transformation that has increased the unemployment rate from 0.766 in 2015 to 1.711 as of June 2020.<sup>393</sup>

The pull factors for international labour migration in Myanmar includes higher wages and standard of living and the labour demand in the destination countries. The minimum wage in Myanmar is USD 3.38, while it is at least about three times higher in Thailand, Malaysia, and China (USD 10.53, 9.25, and 11.73 respectively).<sup>394</sup> Furthermore, developed

countries, with their demographic deficits, require low-skilled foreign migrant workers to sustain their growth.

As stated previously, remittances sent by overseas Myanmar workers recorded at USD 3 billion in 2015, accounting for 4% of Myanmar's GDP and contributing to reduce poverty rates from 42.4% in 2009/2010 to 24.8% in 2017 in terms of headcount ratio under the USD 1.90 per day national poverty line.<sup>395</sup> Remittances also promoted domestic household income, being utilised for daily consumption (76.7%), child education (10%), savings (8%), debt payment (3.3%) and healthcare (2%).<sup>396</sup>

Myanmar has developed a quite comprehensive procedural text on the sending of migrant workers abroad which can be seen at the following figure:

Figure 6. Procedure for sending Myanmar workers abroad



Source: Procedures for Sending Workers Abroad, document available online

391 "Thailand To Legalize Illegal Foreign Workers," Migration News, accessed 19 September 2020. <https://migration.ucdavis.edu/mn/more.php?id=1034>.

392 Ibid, 10.

393 "Unemployment, total (% of total labor force) (modeled ILO estimate) - Myanmar," World Bank, accessed 20 September 2020, <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=MM>.

394 Tun Maung, "International Labour," 13.

395 World Bank, Myanmar Living Conditions Survey 2017 (2019), 14. <http://documents1.worldbank.org/curated/en/921021561058201854/pdf/Myanmar-Living-Condition-Survey-2017-Report-3-Poverty-Report.pdf>.

396 Supang Chantavanich and Premjai Vungsiriphal, "Myanmar migrants to Thailand: economic analysis and implications to Myanmar development," in *Economic reforms in Myanmar: Pathways and prospects*, eds. Hank Lim and Yasuhiro Yamada (Bangkok: Bangkok Research Center, 2012), 228.



To provide protection for Myanmar migrant workers, it is important to ensure adequate access to communication during their employment abroad. According to Chantavanich and Vungsiriphisal, 86.8% of Myanmar migrant workers have access to mobile phones as their primary means

of communication, while the rest rely on their relatives, friends, or the middlemen.<sup>397</sup> Therefore, it can be assumed that the Myanmar migrant workers are able to communicate with their families. In terms of transportation, the REs are responsible to arrange the transportation and accommodation.

### 4.6.2. Policies, Regulations, and Legislations Related to Labour Migration

Myanmar has several official documents which contain elements related to the management of mobilisation activities of migrant workers across its borders. Within these documents, the rights of migrant labourers to file work-related complaints, to have social security, and to be protected from illegal activities such as trafficking are guaranteed. For example, the State Peace and Development Council Law No. 3/99 on Overseas Employment adopted in 1999 stipulated the establishment of a government institution named Overseas Employment Central Committee and Supervisory Committee. Such an institution is responsible to monitor the activities of service agencies which assist and support the preparation of Myanmar migrant workers going abroad. Currently, it regulates 318 licensed Overseas Employment agencies and it guarantees that the rights of Myanmar migrant workers are protected throughout their mobilisation activities.<sup>398</sup>

The protection of the rights of Myanmar migrant workers in the destination country is further stated in the 2008 Constitution of

Myanmar which maintains that the government is responsible to provide protection for every citizen at home and abroad. In order to further guarantee the protection of Myanmar migrant workers and foreign workers within Myanmar, the government signed a MOU with Thailand on Cooperation in the Employment of Workers and another MoU on Cooperation to Combat Trafficking in Persons, especially Women and Children.

Myanmar also regulates labour disputes through the Pyidaungsu Hluttaw Law No. 5/2012 on The Settlement of Labour Dispute Law and regulates social security for migrant workers through Social Security Law. The Social Security Law maintains that Myanmar as a receiving state is responsible for guaranteeing that all foreign workers in Myanmar have social and health insurance as well as employment injury benefit insurance.

<sup>397</sup> Chantavanich and Vungsiriphisal, "Myanmar Migrants to Thailand," 224.

<sup>398</sup> "Myanmar (April-June 2020)," International Labour Organization (ILO), accessed 20 September 2020. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_735107.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_735107.pdf).

### 4.6.3. Governmental Institutions Related to Labour Migration Management

The governmental institution which is responsible to handle and manage labour migration activities is the Ministry of Labour. This ministry has four main roles of protecting and ensuring the rights of workers, fulfil social rights, ensuring productivity, and arranging matters pertaining to international affairs. In order to fulfil such roles, the ministry performs 4 basic functions; ensuring workers enjoy rights and protection granted under the various labour laws, providing social services for the workers, enhancing productivity of labour, and participation in international labour affairs. To be able to reutilize the skills, techniques and experiences migrant workers acquired from workplace abroad, Ministry of Labour has been systematically dispatching the workers to Overseas in accordance with the Overseas Employment Law (1999) which is currently under reviewed to be in line with the ongoing situations of the country.

In direct relation to labour migration activities, this ministry is currently formulating a framework for labour migration management by introducing the following Migration Policies to facilitate the migration process of current and potential Myanmar migrant workers;

- a. Collecting migration related data, conducting research and policy analysis
- b. Developing Local and Overseas labour markets
- c. Simplifying regular channels that allow people to seek employment abroad,
- d. Reducing transaction costs associated with migration,
- e. Ensuring the basic rights of migrant workers,
- f. Improving socio-economic life for migrants and their families,
- g. Enabling to gain and share experience, skill and knowledge from mobility,
- h. Collaborating with international organisations, civil societies, both international and local, on issues of migrant workers,
- i. Making mobility as an integral part of poverty alleviation strategy.

<sup>391</sup> "Thailand To Legalize Illegal Foreign Workers," Migration News, accessed 19 September 2020. <https://migration.ucdavis.edu/mn/more.php?id=1034>.

<sup>392</sup> Ibid, 10.

<sup>393</sup> "Unemployment, total (% of total labor force) (modeled ILO estimate) - Myanmar," World Bank, accessed 20 September 2020, <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=MM>.

<sup>394</sup> Tun Maung, "International Labour," 13.

<sup>395</sup> World Bank, Myanmar Living Conditions Survey 2017 (2019), 14. <http://documents1.worldbank.org/curated/en/921021561058201854/pdf/Myanmar-Living-Condition-Survey-2017-Report-3-Poverty-Report.pdf>.

#### 4.6.4. Non-State Actors Related to Labour Migration Management

The role of non-state actors in labour migration management is stipulated under The State Peace and Development Council Law No. 3/99 on Overseas Employment which elaborates the role of REs in conducting job proficiency training programmes for potential migrant workers under the arrangements of the government. Moreover, the REs under chapter IX of the law are also required to ensure the rights fulfillment of the Myanmar migrant workers. Hence, the REs hold the responsibility to support the government's job in protecting the rights of migrant workers during their working time abroad.

Other than the REs, there are also some civil society organisations whose activities are related to labour migration management. The first is the MAP Foundation. MAP Foundation is a grassroots non-governmental organisation that seeks to empower migrant communities from Myanmar living and working in Thailand through general assistance and empowerment.<sup>399</sup> Their works revolve around 4 activities. The first is to assist Myanmar migrants in Thailand in redressing labour exploitation through rights education, informal collective bargaining, accessing the legal system and policy advocacy for greater protection of their rights. Second, the Foundation seeks to empower certain groups of migrants who are particularly isolated and stigmatised, namely youth, women, migrant families and migrants in times of physical or mental crisis. Third, it promotes physical, social, and emotional

well-being of migrants by empowering them to make changes in both personal behaviour and societal attitudes on sex, relationships, HIV/AIDS and gender. Last, it aspires to produce communication materials in migrant languages to disseminate information to migrant communities on issues of policies, laws, rights, and health.<sup>400</sup> In 2017, MAP has reached out to more than one thousand migrants to educate and provide them with information regarding labour rights. It has also provided legal assistance for more than 900 complaints from migrant workers.<sup>401</sup> Although MAP mainly focus on migrant labours support activities for Myanmar migrants in Thailand, its advocacy works cover broad migrants' rights, particularly those of vulnerable groups such as women and youth.

Second is the FED, which was primarily established under the name Grassroots Human Rights Education & Development (GHRE). Thailand being as the top destination country for Myanmar migrant workers, FED focuses on addressing the issue of Myanmar migrant workers residing in Thailand. Since the occurrence of the Tsunami in 2004 which resulted in the neglect of most Myanmar migrant workers, FED has been addressing the needs of marginalised Myanmar migrant workers and their families through migrant workers empowerment and assistant programmes.<sup>402</sup> These programmes are implemented aiming to achieve 7 objectives which include providing education and a safe environment for the

399 "Our Mission," MAP Foundation, accessed 11 September 2020. <https://www.mapfoundationcm.org/eng/index.php>.

400 Ibid.

401 Ibid.

402 "About Us: Our Story," Foundation for Education and Development (FED), accessed 11 September 2020. <http://ghre.org/en/our-story/>.

children of migrant workers, promoting safe migration, building communication within the community, teaching migrant workers regarding human rights, economic, social, and culture rights, as well as to encourage migrant workers in enhancing their living conditions.<sup>403</sup>

#### 4.6.5. Remittances

In terms of remittance, informal agents are the most common channel used by Myanmar migrant workers especially undocumented and unregistered migrant workers who do not possess legal and proper documentation. Remittances sent through friends, families, relatives, and formal channels are less common. Several studies reported that more than 90% of remittances are sent through informal channels, whereas less than 2% Myanmar migrant workers are using the formal channels.<sup>404</sup> In an earlier study conducted by Sandar in 2010, based on interviews with around 453 Myanmar households, it is found that the predominant channel used to send the remittance is through informal hundi<sup>405</sup> method accounting of 75% and fewer than 5% use banks to transfer their remittances.<sup>406</sup>

In 2011, Sandar has also conducted another survey specifically in Samut Sakhon, Thailand, that bears the same result as to the hundi system to be the primary channel used by Myanmar migrant workers to remit their savings.<sup>407</sup> Such a system offers an auspicious practicality as it is convenient, fast, and cheap. Chantavanich and

Vungsiriphal stated that instead of the migrant workers going places to remit their money, the brokers would visit the migrant workers' place to collect their remittances.<sup>408</sup> Sandar further added that such a system enables the families of the migrant workers to withdraw the money although the money has yet to be sent from the respective migrant workers.<sup>409</sup> This strategy is exercised by several informal channels as there is an increasing competition with other informal channels in providing services for migrant workers. Regardless of the efficiency offered by informal agents, sending remittances through informal agents may pose higher risks of losing their money. Hence, a significant amount of trust is needed between the informal channels and migrant workers to remit the money. In addition, migrant workers would usually remit through a trusted informal channel such as the broker who provided them with jobs at the beginning.<sup>410</sup> However, such informal financial services are usually not recognised nor supervised by the government.

As for the formal channels such as banks or other formal financial institutions namely

403 Ibid.

404 Randall Akee and Devesh Kapur, Final Report No. S-53405-MYA-1: Myanmar Remittances (International Growth Centre, 2017), 7.

405 Hundi is an instrument used to exercise financial or trade activities. See "Hundi," Merriam-Webster, accessed 30 October 2020, <https://www.merriam-webster.com/dictionary/hundi>.

406 Akee and Kapur, Myanmar Remittances, 7.

407 Tun Min Sandar, A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand) (Vahu Development Institute, 2011), 9.

408 Chantavanich and Vungsiriphal, "Myanmar Migrants to Thailand," 227.

409 Sandar, A Study of Factors, 9.

410 Chantavanich and Vungsiriphal, "Myanmar Migrants to Thailand," 226.



Western Union and MoneyGram, with a guarantee for a safer process during the sending of remittances, the formal channels usually require proper documentation such as passports, work permits, letter of recommendation from employer, and proof as an active customer in a foreign bank.<sup>411</sup> Therefore, formal channels are less viable for migrant workers. Aside from the requirement of proper documentation, they also charge with more expensive fees to ensure their good services. In addition, Sandar discovered that the majority of Myanmar migrant workers are either lacking trust towards formal financial channels such as banks or have concerns for their own security.<sup>412</sup> Such mistrust may root from the language barrier experienced by the migrants as Sandar stated that their understanding towards Thai language is limited. Thus, they will opt to keep their savings in their room, where they usually live collectively, with no sufficient security or privacy.<sup>413</sup> After a certain amount of money is saved, the migrant workers will then remit their savings to their families.

However, in a study conducted by Chantavanich and Vungsiriphisal in 2012, there is an increasing number of Myanmar migrant workers who use the bank service to send their remittances, from less than 5% (2010) to more than 20% (2012).<sup>414</sup> Through the analysis above, there are several determinants on how Myanmar migrant workers would choose which channel to send the remittances:

- a. **Legal status of Myanmar migrant workers.** The legal status of migrant workers will critically determine their accessibility towards the channels to transfer their remittances.<sup>415</sup>
- b. **Eligibility to open a bank account.** Vis a vis point 1, migrant workers with improper documentation will tend to have no eligibility to open a bank account which then will lead them to send their remittances through informal channels.<sup>416</sup>
- c. **Language.** The knowledge of Myanmar migrant workers on the language of the countries where they work is significantly influencing their choice of channels.<sup>417</sup>
- d. **Convenience.** A timely and easy transfer of remittances, where migrant workers are conveniently assisted, are more likely to be used to send remittances.<sup>418</sup>

411 Sandar, A Study of Factors, 9.

412 Ibid.

413 Ibid.

414 Chantavanich and Vungsiriphisal, "Myanmar Migrants to Thailand," 269.

415 Ibid, 226.

416 Ibid, 227.

417 Koji Kubo, "Evolving Informal Remittance Methods of Myanmar Migrant Workers in Thailand," ERIA Discussion Paper Series (2015): 7.

418 Chantavanich and Vungsiriphisal, "Myanmar Migrants to Thailand," 227. 419 Ma, "Labor Migration."

#### 4.6.6. Best Practices in Labour Migration Management

The financial reform undertaken in 2012 has facilitated the remittance transactions and migrant workers' right to transfer their earnings. With the liberalisation of Myanmar's foreign exchange as well as banking and remittance, many international banks and official money transfer services were established providing more trustworthy access for Myanmar and foreign workers.<sup>419</sup> Myanmar has also put its best effort in assisting both workers in Myanmar and abroad through the establishment of Complaints Mechanism Centres (CMC). The CMC is set to be 24/7 and it provides services in Nay Pyi Taw and Yangon.

The MoU between Myanmar and Thailand also maintains that migrant workers need to be protected from illegal activities such as trafficking and that vulnerable groups such as children and women need to be protected during their migration activities. A media called Xinhua also reported that Myanmar has established its second 5-year framework on labour management in collaboration with the IOM.<sup>420</sup>

The Ministry of Labour already implemented a Five-year National Plan (2013- 2017) with regard to systematic and orderly deployment of Myanmar migrant workers under the themes: Governance of Migration, Protection and Employment of Migrant Workers, Labour Migration and Development, Data Collection and Management in cooperation with IOM, other Development Partners and concerned Ministries.

Currently, the five-year National Plan of Actions for the Management of International Labour Migration (2018-2022) is being implemented by the Ministry of Labour in collaboration with IOM and other Development Partners and concerned Ministries. Under the current Plan of Actions, measures are undertaken to empower and protect migrant workers, to enhance benefits from labour migration and to improve the Governance and Administration of Labour Migration. These measures are in line with the UN Agenda 2030 for Sustainable Development Goals and the GCM.

As there is limited English language information regarding the labour migration management in Myanmar, it can be said that the existing arrangements aim towards fulfilling several specific rights of migrant workers as stipulated in the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers namely, freedom of movement, fair treatment in workplace, fair and appropriate remuneration and benefits regardless of gender, file complaints and make representation, and right to appeal.

Myanmar appointed Labour Attaches in Korea and Thailand in 2011, and Malaysia in 2013 in order to protect the rights of Myanmar migrant workers and provide assistance in settling disputes and problems. At present, there are 5 Labour Attachés appointed in Thailand and two Labour Attachés in Malaysia and one Labour Attaché in Korea.

419 Ma, "Labor Migration."

420 "Myanmar launches framework for migrant workers management," Xinhua, May 12, 2019, [http://www.xinhuanet.com/english/2019-05/12/c\\_138052307.htm](http://www.xinhuanet.com/english/2019-05/12/c_138052307.htm).

In order to address the needs and problems of migrant workers and safe migration, the Complaints Mechanism Centres are opened in NayPyi Taw and Yangon, providing services on 24 hours per day and 7 days a week. Moreover, Labour Attaches, Myanmar Embassies in foreign countries where Labour Attaches are not appointed, licensed Overseas Employment Agencies, Migrant Resource Centres, Media, Social Organizations, NGOs and INGOs are also receiving and settling complaints received through the labour exchange offices.

The complaints related to labour affairs in foreign countries are being solved in concerned countries. For the complaints in Myanmar, actions are being taken against those who committed the irregular activities for recruiting and sending Myanmar migrant workers to

foreign countries through investigation teams formed by the officers at Labour Exchange Offices and Myanmar Overseas Employment Agency Federation (MOEAF) in accordance with the Law Relating to Overseas Employment, 1999. When the complaints are found as the cases for human trafficking, which are transferred to the concerned Ministry.

In order to disseminate the information for safe migration, 19 MRCs were opened in cooperation with ILO and IOM in order at the regions and states from where majority of Myanmar migrant workers come. Cost free and compulsory Pre-Departure Orientation Course has been initiated for Potential Migrant Workers since 9th January 2017 at the Training Centres under Department of Labour in Yangon and Mandalay for safe migration.

#### 4.6.7. Conclusion

Myanmar is one of the origin countries in international labour migration. As the domestic job market is unable to absorb all Myanmar labours, many citizens resort to seek job opportunities abroad. Moreover, domestic instability and climate change also become the push factor which leads to Myanmar labour migration. In some conditions, migrants have to work while seeking refuge in other countries. Higher wages and standard of living in other countries as well as greater demand for low-skilled labour become the main pull factor for the labour migration from Myanmar. In general, the migration infrastructure in Myanmar is dominated by regulatory and commercial dimensions with some support from humanitarian dimensions.

First, within the regulatory dimension, several regulations enacted by the Ministry of Labour ensure the rights of migrant labourers to file work-related complaints, to

have social security, and to be protected from illegal activities such as human trafficking. Considering that a big portion of the migration process is handled by REs, these regulations maintain that only licensed REs may be involved in the labour migration process and their activities will constantly be monitored by the government. Moreover, Myanmar also established an MoU with Thailand to ensure the rights protection of Myanmar migrant workers working in Thailand. This MoU is important since 70% of Myanmar migrant workers choose Thailand as its destination country to work. As a receiving state, Myanmar regulates that all foreign labours working in Myanmar are entitled to social, health, and work insurance so that the basic rights of these foreign labours can be well protected while working in Myanmar.

Second, within the commercial dimension, the mobilisation of labour is seen as a significant contribution to national economic growth.

The labour migration activities contribute to poverty eradication in Myanmar through remittances fulfilling household's daily needs. Moreover, the REs through certain processes are responsible for recruiting, selecting, and training potential migrant workers under the supervision of the Department of Labour under the Ministry of Labour. This field of business is a lucrative business since the demand from Myanmar to be connected to the international labour market remains high as shown by the existing 318 licensed Overseas Employment Agencies operating in Myanmar.

Third, the humanitarian dimension is mainly supported by MAP Foundation and FED. MAP Foundation and FED work exclusively

to advocate the rights of Myanmar migrant workers working in Thailand. By assisting and empowering Myanmar migrant workers in Thailand, they seek to advocate for the protection and fulfilment of their rights, especially the rights of vulnerable groups such as women and youth. Although there is no apparent direct association between the two organisations and the government of Myanmar, their activities support the works of the government in terms of protecting the rights of Myanmar migrant workers in Thailand, especially in terms of informing these migrants regarding the regulations and policies which protect their rights while working abroad.

### 4.7. Philippines

#### 4.7.1. Country Profile and History Related to Labour Migration Management

The Philippines is a country with a surplus of human resources. As of the 2020 Census of Population and Housing, the country has a total population of 109,035,343.<sup>421</sup> It has a population of around 108 million, 34% of whom are below the age of 15.<sup>422</sup> The country's population continues to grow at 1.4% annually

since 2018. The Philippines is classified as a lower middle-income country. The country has exhibited impressive economic growth over the last decade or so. Since 2010, the economy has been growing significantly compared to its neighbours in the region. In 2012, the economy grew by 6.6%, the highest in ASEAN.<sup>423</sup>

421 "2020 Census of Population and Housing (2020 CPH) Population Counts Declared Official by the President," Philippine Statistics Authority, July 7, 2021. <https://psa.gov.ph/content/2020-census-population-and-housing-2020-cph-population-counts-declared-official-president>

422 "Projected Population, by Age Group, Sex, and by Single-Calendar Year Interval, Philippines: 2010 – 2020," Philippine Statistics Authority, accessed 15 January 2022. [https://psa.gov.ph/sites/default/files/attachments/hsd/pressrelease/Table4\\_9.pdf](https://psa.gov.ph/sites/default/files/attachments/hsd/pressrelease/Table4_9.pdf)

423 Philippine Institute for Development Studies (PIDS), PIDS 2012 Economic Policy Monitor: Regional Economic Integration and Inclusive Growth, Engaging Nations, Embracing People (Makati City: PIDS, 2013). [http://dirp4.pids.gov.ph/ris/books/pidsep2012\\_v3.pdf](http://dirp4.pids.gov.ph/ris/books/pidsep2012_v3.pdf)



However, the country continues to be plagued by numerous social and political challenges. A substantial portion (21.6% in 2018) of the population live below the poverty line.<sup>424</sup> The unemployment rate is said to have reached 10% in July 2020, according to the PSA, although it did reach 17.7% during the first quarter of that year.<sup>425</sup>

As of 2021, the Philippine Statistics Authority (PSA) cited poverty incidence at 23.7%.<sup>426</sup> Unemployment rate is said to have reached 10% in July 2020 which is lower than 17.7% recorded before the CoViD-19 pandemic in April of 2019.<sup>427</sup> Push factors are expected as the country's economy contracts by 7.3 percent in 2020 in the wake of the COVID-19 pandemic but is expected to rebound next year as the economy is further reopened and the coronavirus disease 2019 is contained, according to a report from the Asian Development Bank (ADB).<sup>428</sup>

The demand for migrant labour in many countries in the Gulf and in Southeast Asia stimulated the employment of many Filipinos. In the early 1970s, the Philippines supplied all kinds of skilled and low-skilled workers

to the world's more developed regions and embarked on an overseas employment program to organise these outflows of labour. Over the decades, what has emerged is what might be described as a culture of migration in which more and more Filipinos aspire to work abroad in order to satisfy the demand for labour.<sup>429</sup>

The 2019 Survey on Overseas Filipinos (SOF) estimates that there were 2.2 million overseas Filipino workers (OFWs) at the time.<sup>430</sup> One in five of these OFWs are in Saudi Arabia. Meanwhile, the Commission on Filipinos Overseas (CFO) would have a much higher estimate of around 4.2 million temporary migrants in 200 destination countries and territories although it is not clear whether these are all workers. The combined income remittances of these migrant workers have been quite substantial. In 2019, these remittances reached a total of US\$ 33.5 billion - a significant contribution to the Philippine economy.

However, as a result of the global COVID-19 pandemic, Filipino migrant labour outflows have experienced a significant decline beginning in the first quarter of 2020. In June

424 "World Development Indicators," World Bank, accessed 15 September 2020. [https://databank.worldbank.org/views/reports/reportwidget.aspx?Report\\_Name=CountryProfile&Id=b450fd57&tbody=y&dd=y&inf=n&zm=n&country=PHL](https://databank.worldbank.org/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbody=y&dd=y&inf=n&zm=n&country=PHL).

425 "Employment Situation in July 2020," Philippine Statistics Authority, September 3, 2020, <https://psa.gov.ph/content/employment-situation-july-2020>.

426 "Proportion of Poor Filipinos Registered at 23.7 Percent in the First Semester of 2021," Philippine Statistics Authority, December 17, 2021. <https://psa.gov.ph/content/proportion-poor-filipinos-registered-237-percent-first-semester-2021>.

427 Ralf Rivas, "Unemployment down to 10% in July 2020, says Philippine gov't," Rappler.com, September 3, 2020. <https://rappler.com/business/unemployment-rate-philippines-july-2020>.

428 Catherine Gonzales, "PH economy seen to contract by 7.3 percent in 2020 — ADB," Inquirer.net, September 15, 2020. <https://business.inquirer.net/307360/ph-economy-seen-to-contract-by-7-3-percent-in-2020-adb#ixzz6Z2rLOurq>.

429 Maruja Asis, "The Philippines' Culture of Migration," Migration Policy Institute, January 1, 2006. <https://www.migrationpolicy.org/article/philippines-culture-migration>.

430 The SOF is an annual survey conducted by the Philippine Statistics Authority (PSA) since 1982 to collect data on Filipinos who have left the country in the last five years. See Claire Dennis Mapa, "Total Number of OFWs Estimated at 2.2 Million," Philippine Statistics Authority, June 4, 2020. <https://psa.gov.ph/statistics/survey/labor-and-employment/survey-overseas-filipinos>.

2020 the Department of Labour had indicated that no less than 350,000 Filipino migrant workers have been affected by the pandemic and that around 95,000 were reportedly stranded abroad and had expressed a desire for repatriation.<sup>431</sup>

## 4.7.2. Policies, Regulations, and Legislations Related to Labour Migration

The socio-economic realities in the Philippines have led to the development of institutions, legislation, policies and rules to govern the phenomenon of labour out-migration that would come to be known as the overseas employment program. The overseas employment program was institutionalised in 1974 by then President Ferdinand E. Marcos through Presidential Decree No. 442 (PD 442) instituting a labour code thereby revising and consolidating labour and social laws to afford protection to labour, promote employment and human resources development and ensure industrial peace based on social justice otherwise called the Labour Code of the Philippines. Insofar as overseas employment is concerned, PD 442 mandates the State to "protect every citizen desiring to work locally or overseas by securing for him the best possible terms and conditions of employment;... facilitate and regulate the movement of workers in conformity with the national interest;... strengthen the network of public employment offices and rationalize the participation of the private sector in the recruitment and placement of workers, locally and overseas, to serve national development objectives; [and] insure careful selection of Filipino workers for overseas employment in order to protect the good name of the Philippines abroad".<sup>432</sup>

PD 442 further evolved through the institution of policies of overseas employment and the establishment of a higher standard of protection and promotion of the welfare of migrant workers, their families and overseas Filipinos in distress by the legislative enactment of Republic Act No. (RA) 8042 or The Overseas Filipinos and Migrant Workers Act of 1995 and subsequent related amendments to strengthen its policies through RA 9422433 and RA 10022434.

RA 8042 is extensively rights-based in its declaration of principles which states the following:

- a. *...the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.*
- b. *The State shall afford full protection to labour, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all [and] shall provide adequate and timely social, economic and legal services to Filipino migrant workers.*
- c. *...*
- d. *The State affirms the fundamental equality before the law of women*

431 Christina Mendez and Mayen Jaymalin, "Economic Saviors No More: OFW Deployment Dips; 95,000 Seek To Go Home," One News Philippines, June 3, 2020. <https://www.onenews.ph/economic-saviors-no-more-ofw-deployment-dips-95-000-look-to-go-home>.

432 Republic of the Philippines, Presidential Decree 442, article 12.

*and men and the significant role of women in nation-building.... [and] shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.*

- e. *Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any persons by reason of poverty... and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.*
- f. *The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.*
- g. *The State recognizes that the ultimate protection to all migrant workers is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only to skilled Filipino workers.*
- h. *Non-governmental organisations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare, the State shall cooperate with them in a spirit of trust and mutual respect.*

*i. Government fees and other administrative costs of recruitment, introduction, placement and assistance to migrant workers shall be rendered free without prejudice to the provision of Section 36 hereof.<sup>435</sup>*

A key state principle in the Migrant Workers Act is the declaration that *"the State does not promote overseas employment as a means to sustain economic growth and achieve national development... [and that] the existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated."*<sup>436</sup>

In pursuit of these principles, the Philippines can only deploy its workers to State that protects the right of Filipino migrant workers. In particular, overseas deployment is premised on the following conditions obtaining in destination countries:

- a. *It has existing labour and social laws protecting the rights of migrant workers;*
- b. *It is a signatory to multilateral conventions, declaration or resolutions relating to the protection of migrant workers;*
- c. *It has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers; and*
- d. *It is taking positive, concrete measures to protect the rights of migrant workers.*<sup>437</sup>

<sup>435</sup> Republic of the Philippines, Republic Act 8042 (The Overseas Filipinos and Migrant Workers Act), Section 2. <https://web.archive.org/web/20160203172644/http://www.poea.gov.ph/rules/ra8042.html>.

<sup>436</sup> Ibid.

<sup>437</sup> Ibid, Section 4.

RA 8042 also empowers the state to terminate or impose a ban on the deployment of Filipino migrants to certain countries *"in pursuit of the national interest or when public welfare so requires."*<sup>438</sup>

The Philippines has placed special emphasis on the importance of international labour conventions and standards in pursuit of protecting the rights and welfare of its overseas migrant workers and is signatory to all fundamental conventions of the UN International Labour Organization (ILO) <sup>439</sup> specifically;

- a. C029- Forced Labour Convention, 1930 (15 July 2005)
- b. C087-Freedom of Association and Protection of the Right to Organise Convention, 1948 (29 December 1953)
- c. C098- Right to Organise and Collective Bargaining Convention, 1949 (29 December 1953)
- d. C100- Equal Remuneration Convention, 1951 (29 December 1953)
- e. C105- Abolition of Forced Labour Convention, 1957 (17 November 1960)
- f. C111- Discrimination (Employment and Occupation) Convention, 1958 (17 November 1960)
- g. C138- Minimum Age Convention, 1973, Minimum age specified: 15 years, (04 June 1998)
- h. C182- Worst Form of Child Labour Convention, 1999 (28 November 2000)

The Philippines was the first country in ASEAN to sign the 1990 UN International Convention

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). The Migrant Workers Act of 1995 RA 8042 was passed in conformity with the 1990 UN Convention.

A more recent addition to the overseas employment program in terms of protecting and promoting the rights of vulnerable migrant groups is the institution of a set of reforms concerning the deployment of Filipino migrant domestic workers. It is referred to as the Reform Package for Filipino migrant domestic workers and is actually a series of POEA circulars and memoranda released between October to December 2006 intended to address the vulnerabilities of overseas Filipino migrants employed as domestic workers as well as to professionalise the migrant domestic work sector. The key reforms include setting the minimum age for migrant domestic workers at 25 years; requiring a professional certification for domestic workers; setting the monthly minimum wage at US\$ 400; exempting domestic workers from payment of the placement fee to the REs; and monitoring and intervention by the Philippine embassy in cases where migrants encounter problems with their employers.

There is also a provision in PD 442 that stipulates the joint and solidary liability between the local REs and the foreign employer on matters pertaining to contract violations. The Philippines appears to have pioneered this legal principle.

<sup>438</sup> Ibid, Section 5.

<sup>439</sup> "Ratification for Philippines," International Labour Organizations, accessed 15 January 2021, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102970](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102970).



*“Power of the agency to sue and be sued jointly and solidarily with the principal or foreign based employer for any of the violations of the recruitment agreement and the contracts of employment.”<sup>440</sup>*

In 2007, the Philippines signed the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. In 2017, the Philippines also signed the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. Interestingly during both times, the Philippines was chair of ASEAN. The ASEAN Consensus is considered the centrepiece of Philippine chairmanship and is said to be the Philippines’ “gift to ASEAN.”<sup>441</sup>

Aside from these, the Philippines has also entered into bilateral labour agreements with

different destination countries. As of 2018, the country has entered into 43 bilateral labour agreements with 27 country destinations.<sup>442</sup> These agreements are designed to strengthen the country’s protection mechanisms for migrant workers. However, it is worthy to note that the Philippines has no existing labour agreement with any ASEAN member country except Indonesia with which it has a MOU to promote and protect the rights of migrant workers since 2003.

### 4.7.3. Governmental Institutions Related to Labour Migration Management

At the beginning of the overseas employment program the government established separate agencies under the DOLE. These were the Overseas Employment Development Board (OEDB), the National Seamen Board (NSB), and the Bureau of Employment Services (BES). In 1977, the Welfare and Training Fund for Overseas Workers was also established under DOLE to provide a skills training platform as well as a welfare security net for prospective Filipino migrant workers.

In 1980, the Welfare and Training Fund became the Welfare Fund for Overseas Workers (Welfund for short), the mandate of which was “to provide social and welfare services to Filipino migrant workers, including insurance coverage, legal assistance, placement assistance and remittance services.” Welfund was intended as a social security institution funded by contributions of the migrant workers themselves. In 1987, the Welfund was renamed the Overseas Workers Welfare Administration or OWWA.<sup>443</sup>

440 Republic of the Philippines, Republic Act 8042, Section 10.

441 Paterno Esmaguell II, “Pact on migrant workers’ rights is PH gift to ASEAN,” Rappler.com, November 11, 2017. <https://www.rappler.com/nation/consensus-migrant-workers-rights-philippines-asean-2017>.

442 Bernard Paul M. Mangulabnan and Carl Rookie O. Daquio, “A Review of Bilateral Labor Agreements Concluded by the Philippines with Countries of Destination: Toward a Framework for Monitoring and Evaluation,” Philippine Journal of Labor Studies 1, No. 1 (2018): 1-39.

443 Aniceto Orbeta Jr., Michael Abrigo and Michael Cabalfin, “Institutions Serving Philippine International Labor Migrants,” Discussion Paper Series No. 2009-31, Philippine Institute for Development Studies (2009). <https://dirp3.pids.gov.ph/ris/dps/pidsdps0931.pdf>, 10.

By 1982, the OEDB, NSB, and BES were to be streamlined and merged into one – the POEA—whose main function is to manage and coordinate the overseas employment program. More specifically:

*“The POEA is mandated to formulate and undertake, in coordination where necessary with the appropriate entities concerned, a systematic program of promoting and monitoring the overseas employment of Filipino workers taking into consideration domestic manpower requirements, and to protect their rights to fair and equitable employment practices.”<sup>444</sup>*

In other words, the official mandate of the POEA revolves around two main functions “(i) to promote maximum employment of Filipino overseas workers, and (ii) to protect migrant workers’ rights to fair and equitable labour practices.”

In order to protect the rights and welfare of migrants, the POEA regulates the participation of private recruiters to those that it grants licenses to. These licenses ensure that the private agency adheres to the States prescribed standards of recruitment and deployment of migrant workers. There are currently over 2,800 REs nationwide that are accredited by POEA. Together, these agencies are able to recruit over 90% of the country’s total annual labour deployments. Recruitment licenses are renewed each year. In addition, the POEA requires private recruiters to submit evidence of a specified minimum capitalisation and escrows in case they commit any wrongdoing. The current

minimum capitalisation requirement is P 5 million (around US\$ 100,000) while the current escrow requirement is P 1 million (around US\$ 20,000). Aside from the capitalisation requirement private agencies are required to be at least 75% Filipino-owned and -controlled.

The POEA also protects the rights of overseas Filipino workers by setting minimum standards in overseas employment specific to labour contract provisions (e.g., wage benchmarks, working hours, living conditions for the migrants, among others). Local REs are expected to comply with these minimum standards for them to remain in good standing and retain their recruitment licenses. The POEA has a monitoring and inspection system to determine whether agencies are able to comply with prescribed standards allowing them to retain their licenses.

The POEA also provides a redress and complaints mechanism for migrant workers. It has exclusive jurisdiction over cases involving recruitment violations as well as cases involving contractual obligations. The Overseas Workers Welfare Administration (OWWA) is also an agency attached to the DOLE. Its main mandate is to provide social welfare assistance to migrant workers. More specifically, this can include emergency repatriation services of migrants caught in areas of conflict, epidemic, natural or man-made disasters and other similar events. The OWWA is also mandated to come up with a program that would allow for the eventual return and reintegration of migrants back to Philippine society by providing them with education and skills training as alternatives to overseas employment.

In addition to the POEA and OWWA, the International Labour Affairs Bureau (ILAB)

444 Republic of Philippines, Executive Order 797 (1982), section 4(a).

under DOLE is broadly tasked with the responsibility for developing policy and program recommendations and operating standards relative to international labour and employment concerns and for monitoring the country's observance and implementation of its international obligations/commitments. The ILAB is also responsible for providing advisory service pertinent to the performance of Philippine Overseas Labour Offices (POLOs) and the Migrant Workers and Other Filipino Resource Centres (MWOFRCs) in different parts of the world.<sup>445</sup>

The POLOs perform an important function in the overseas employment scheme. These POLOs are representations of Philippine government agencies that monitor and supervise the conduct of the overseas employment program. More specifically, the POLOs perform a variety of functions most notable of which is the verification before approval of employment contracts whether these are up to standards set by the Philippine government for specific migrant jobs.

The DOLE, as the mother agency of the POEA, OWWA, and ILAB, is mandated to oversee and ensure that labour and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centres or hospitals.<sup>446</sup>

The DOLE is tasked with addressing the persistent problems of unemployment and

underemployment and to ensure full respect of labour standards and the fundamental principles and rights at work. It seeks to continuously strengthen the protection and security of overseas Filipino workers and to bring more focus and accessibility in workers' protection and welfare programs.<sup>447</sup>

The Department of Foreign Affairs also has a role to play in the overseas employment program. Through its home office or foreign posts, the DFA takes priority action in representing Filipino migrants to protect their rights in the different countries of destination. This also includes facilitating the repatriation of distressed or beleaguered migrant workers and other overseas Filipinos. In addition, the Department provides consular and other assistance to nationals abroad who are in distress.

Republic Act No. 7157, otherwise known as "Philippine Foreign Service Act of 1991", gives mandate to the Department of Foreign Affairs to implement the three (3) pillars of the Philippine Foreign Policy:

5. Preservation and enhancement of national security
6. Promotion and attainment of economic security
7. Protection of the rights and promotion of the welfare and interest of Filipinos overseas.<sup>448</sup>

445 "About ILAB," International Labour Affairs Bureau, June 7, 2017. <http://ilab.dole.gov.ph/abouts>.

446 Republic of the Philippines, Republic Act 8042.

447 "Vision, Mission and Agenda," Department of Labour and Employment, accessed 13 September 2020. <https://www.dole.gov.ph/vision-mission-agenda>.

448 "Philippine Foreign Policy," Department of Foreign Affairs, accessed 13 September 2020. <https://www.dfa.gov.ph/about/phl-foreign-policy>.

Since 1995 with the passage of the Migrant Workers Act, the framework for protecting the rights and welfare of Filipino migrant workers was expanded to include the creation of the Legal Assistant Fund and the Assistance-to-Nationals Fund. A Legal Assistant for Migrant Workers Affairs was initially established under the Department of Foreign Affairs (DFA). This eventually became the Office of the

Undersecretary for Migrant Workers Affairs (OUMWA) within DFA whose mandate is to provide legal assistance as well as coordinate legal service directed at Filipino migrants abroad. Between 2003 and 2008, OUMWA has provided assistance to 68,500 Filipino migrants not including 5,000 legal assistance cases to overseas Filipinos in distress.<sup>449</sup>

#### 4.7.4. Non-State Actors Related to Labour Migration Management

The Philippines has over 101,000 registered non-profit organisations, around 60,000 of which are non-government organisations (NGO) engaged in advocacy work.<sup>450</sup> In 2011, the Philippines was dubbed as the NGO capital of the world.<sup>451</sup> Having extensive experience with overseas employment, it is not surprising to find organisations involving non-state actors and institutions dealing with migrant workers and their families.

Non-state actors related to labour migration include organisations like Center for Migrant Advocacy (CMA), KAMAO Media Advocate International Incorporated Media Correspondent Volunteers Organization (KAMAOII-MCVO), United Filipinos German-International (UFGL-Germany), Development in Diversity and Solidarity in Europe, Migrante International, Kanlungan Centre Foundation, Inc. (Kanlungan), Atikha Overseas Workers and Communities Initiative, Inc. (Atikha), Unlad Kabayan Migrant Services Foundation,

Inc. (Unlad Kabayan), and Development Action for Women Network (DAWN). These non-government organisations also provides assistance to migrant workers. The POEA cooperates with some of these non-state entities particularly in terms of providing pre-departure assistance to migrant workers about to leave the country and also in providing safe havens or shelters for distressed migrants who have returned.

Since then, Migrante International has become an active defender of the rights and welfare of OFWs by raising public awareness on their plight and providing a critical analysis of the Philippine government's labour export policy program as the main factor responsible for the commodification of Filipino workers. Migrante International seeks to promote migrants' rights and dignity against all forms of discrimination, exploitation and abuse in the work place and in the community and resist all anti-migrant policies.<sup>452</sup>

449 Orbeta, Abrigo, and Cabalfin, "Institutions Serving Philippine."

450 Official Gazette, The Philippines Human Rights Situationer (2020), 14, <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>.

451 Rina Jimenez-David, "The NGO capital of the world," Inquirer.net, June 11, 2011. <https://opinion.inquirer.net/6139/the-ngo-capital-of-the-world>.

452 "About," Migrante International, accessed 20 September 2020. <https://migranteinternational.org/about/>.



Other non-state organisations include Kanlungan Centre Foundation, Inc. (Kanlungan), Atikha Overseas Workers and Communities Initiative, Inc. (Atikha), Unlad Kabayan Migrant Services Foundation, Inc. (Unlad Kabayan), and Development Action for Women Network (DAWN). For the most part, these non-government organisations are providing the much-needed assistance migrant workers and their that the government currently is able to only marginally provide. The POEA cooperates with some of these non-state entities particularly in terms of providing pre-departure assistance to migrant workers about to leave the country and also in providing safe havens or shelters for distressed migrants who have returned.

There are also a number of non-state entities that produce research on migration. Most notable among these research groups is the Scalabrini Migration Centre which also comes out with a peer-reviewed publication, the Asia-Pacific Migration Journal (APMJ). Another research entity is the Philippine Migration Research Network (PMRN) which is currently housed in the Philippine Social Science Council (PSSC). Aside from non-state entities that provide assistance to distressed

migrant workers, there are also associations of Private Recruitment Agencies (PRAs) like the Philippine Association of Service Exporters, Inc. (PASEI) and the Overseas Placement Agencies of the Philippines (OPAP). These associations advance and develop the private sector role in the overseas employment program. PASEI is an association of PRAs involved in service work such as domestic work and janitorial work among others. Both PASEI and OPAP has been in existence for almost as long as the overseas employment program itself. PASEI has over 200 member agencies, while OPAP has grown to an organisation of around a hundred licensed Res, providing pre-departure seminars to the migrant workers that it is able to recruit. They also conduct marketing missions to expand the market for Filipino migrant labour.

OPAP is another association of placement or REs. It is also as old as the overseas employment program itself (established in 1977). It was originally formed with the intention of resisting the move by the government to phase out private REs at the beginning of the overseas employment program but has grown to an organisation of around a hundred licensed REs.

that allows for banks and non-bank money transfer agents to operate as remittance channels. Western Union and LBC express are some of the most prominent ones operating in the country. Aside from these, there are also several pawnshops that provide remittance

#### 4.7.5. Remittance

Among the members of the Colombo Process, the Philippines is the largest receiver of remittances in ASEAN where formal remittances account for 10% of the country's national income.<sup>453</sup> The Philippines has an inclusive remittance regulation environment

453 Leon Isaacs, Study on Remittance Regulatory Frameworks and Accessibility of Regular Remittance Channels of the Colombo Process Member States (Colombo: International Organization for Migration, 2019). [https://publications.iom.int/fr/system/files/pdf/study\\_on\\_remittance\\_regulatory\\_frameworks.pdf](https://publications.iom.int/fr/system/files/pdf/study_on_remittance_regulatory_frameworks.pdf).

payouts although these operations are mainly domestic-based. In addition, mobile payment services have achieved significant success in recent years provided by two service providers like GCash and Smart. Even while only a third (34%) of the country's adults have formal bank accounts, mobile money has allowed for a greater proportion of the population to be included in the formal financial sector. The informal remittance sector is said to account between 30 to 40% of foreign currency flows to the country on top of official transfers.<sup>454</sup>

According to the Study on Remittance Regulatory Frameworks and Accessibility of Regular Remittance Channels of the Colombo Process Member States by Mr. Leon Isaacs, the ten largest sending markets to the Philippines in 2017 are the US (US\$11.099B), UAE (US\$4.109B), Saudia Arabia (US\$3.686B), Canada (US\$2.370B), Malaysia (US\$1.962B), Qatar (US\$1.301B), Japan (US\$1.177B), Australia (US\$1.002B), Kuwait (US\$922M), and Italy (US\$660M). In a Review of remittance-backed products in the Philippines written by Mr. Ildefonso Bagasao noted that more and more remittance products and other financial instruments are being introduced in the Philippines by variety stakeholders such as insurance and real estate companies, grassroots cooperatives, and micro-finance institutions.<sup>455</sup> Traditional commercial remittance provides have expanded their service coverage and networks. Moreover, the application of new technologies and the introduction of mobile-based remittance channels can lead to a lowering of transfer fees and greater financial inclusion.

In 2012, there were 24 government and private financial institutions that provided remittance services with commercial banks dominating the remittance market in the Philippines.<sup>456</sup> The commercial banks engaged in providing remittance services have formed an association called ABRO – Association of Bank Remittance Officers – at the time with 13 member banks. In addition to the commercial banks, there are also non-bank money-transfer agencies operating throughout the Philippines that provide remittance services like Western Union, LBC Express, and MoneyGram. Western Union and MoneyGram also have affiliated links with a variety of pawnshop networks. Mr. Bagasao notes that the competition between bank and non-bank remittance service providers has led to a significant lowering of the costs of remittance transactions. Mobile wallets like GCash and Smart in the Philippines are becoming more popular.<sup>457</sup>

454 Ibid.

455 Ildefonso Bagasao, Review of remittance-backed products in the Philippines (Bangkok: ILO Regional Office for Asia and the Pacific, 2013).

456 Ibid.

457 Isaacs, Study on Remittance.

### 4.7.6. Non-State Actors Related to Labour Migration Management

The Philippine overseas employment program has been described as a global model in labour migration management.<sup>458</sup> The Philippines has demonstrated leadership in terms of institutionalising the overseas employment program. It has paved the way for the government to take the initiative and act as a coordinating body for labour out-migration. In its over 40 years of existence, numerous characteristics, mechanisms, and arrangements found in the program have been copied and emulated in different labour-origin countries.

To process and protect migrants, the government has managed to integrate and coordinate three key elements - recruitment regulation and pre-departure orientation (POEA), welfare assistance, repatriation, and reintegration assistance for distressed and returning migrants (OWWA), and on-site assistance to migrants (POLOs). Given the enormous role played by the private sector, the government has taken steps to address the problems of and prevent irregular recruitment practices and overcharging of fees.

Several innovations can be cited, among them the reform package for migrant domestic workers which seeks to professionalise the sector over the long term. Another innovation

they have instituted is to allow the public to check online whether a RE is duly licensed or not. Recognising the insufficiency of government resources, the government has recognized the need to partner with non-state entities and organisations as well as local governments with the goal of more effectively providing direct assistance to migrants and their families particularly in the area of pre-departure education, finance management, and reintegration.

The reintegration programme of OWWA under its NRCO is worth mentioning. The programme provides both social and economic support to returning migrant workers. The social dimension includes addressing the psycho-social needs of families, values formation and the organisation of OFW family circles and youth groups. The economic dimension consists of livelihood assistance and business / entrepreneurial loans to returning migrants and their families.

In light of the recent pandemic, the Philippine government has also temporarily restricted the deployment of health care workers early this year in order to safeguard this valuable human resource<sup>459</sup> although they were eventually allowed to leave the country.<sup>460</sup>

458 Ancieto Orbeta Jr. and Michael Abrigo, "Managing International Labor Migration: The Philippine Experience," Discussion Paper Series 2011-33, Philippine Institute for Development Studies (PIDS) (2011). <https://dirp4.pids.gov.ph/webportal/CDN/PUBLICATIONS/pidspjd11-philippines.pdf>.

459 Philippine Overseas Employment Administration, Governing Board Resolution No. 09 (Mandaluyong City: Department of Labor and Employment, 2020). <http://poea.gov.ph/gbr/2020/GBR-09-2020.pdf>.

460 Arianne Merez, "Duterte allows more health workers to work abroad," ABS-CBN News, September 21, 2020. <https://news.abs-cbn.com/news/09/21/20/duterte-allows-more-health-workers-to-work-abroad>.

Another key initiative is in the area of data management and sharing. Under the Migrant Workers Act, government agencies are mandated to have a shared government information system on migration that allows them to share databases across different offices and to have these made accessible to the public. At the moment, however, this is still in a very rough blueprint stage with different agencies having different definitions of key terms (for instance, who is a migrant?) that make it difficult for them to share migration data.

### 4.7.7. Conclusion

Ultimately, what might be unique in the case of the Philippines is that even though migration is a personal choice of the individual, the government is still duty-bound to attend to their problems wherever they may be with extra special attention paid to vulnerable groups particularly women migrants and domestic workers.

Finally, a major challenge facing the Philippines is in the area of extending its protective shield to its nationals outside the country. This is where bilateral labour agreements become crucial. The country appears to be doing its best to conclude such agreements but the problem lies more on the side of the destination countries. Although

In the Philippines, there is a labour assistance counter (LAC) at the airports to screen and assist Filipinos leaving as migrant workers. The LAC checks the overseas employment certificate (OEC) as well as the employment contract of the migrant. The OEC is issued by the POEA. Filipino migrants are also exempt from paying the travel tax for all out-bound nationals.

the number of bilateral labour agreements is steadily rising over the last two decades, most of these agreements are in the form of non-binding memoranda of understanding and that there is a need to push for agreements that are binding and specific.<sup>461</sup>

The Philippines has also seen the proliferation of remittance channels that are both bank-based and non-bank-based. The competition between different remittance channels has seen the lowering of remittance costs for Filipino migrants. At the same time, the high number of Filipinos working abroad has led to the Philippines being a major recipient of migrant remittances.

461 Mangulabnan and Daquio, "A Review of Bilateral Labor Agreements," 1-39.



## 4.8. Singapore

### 4.8.1. Country Profile and History Related to Labour Migration Management

Over the last five decades, Singapore has remarkably transitioned from being a poor country upon independence in 1965 to a highly advanced, prosperous, and world-class powerhouse economy. With little land and hardly any natural resources, Singapore has transformed itself into a major manufacturing and financial hub. By 2019, Singapore's GDP per capita had risen to over US\$ 65,000 - the highest in the ASEAN region.<sup>462</sup>

Significantly high rates of growth were attained in the 25 years after independence. The average economic growth rate of Singapore during that period was between 7.7% and 9.2%.<sup>463</sup> Given its small geographical size (around 728 sq kms), it is not surprising that Singapore has become an industrial hub for Asia. Its main exports are machineries, pharmaceuticals, telecommunications equipment, integrated circuits, computers, and other high-technology products. Singapore has been ranked the freest open economy in 2020.<sup>464</sup>

Singapore is able to accomplish such significant feats of economic growth with limited natural and human resources. As of 2021, Singapore has a total population of 5.45 million and a resident population of 3.99 million and the old-age support ratio is 4.0.<sup>465</sup> It is in some ways unique because it is a multi-ethnic, multireligious, and multilingual society but has shown comparatively little evidence of xenophobia.<sup>466</sup>

Given its outstanding levels of prosperity, stability, and development, Singapore has become a magnet for both highly-skilled and low-skilled migrant workers. Over the past two decades, Singapore has experienced the most rapid increase in the absolute number of migrant workers in the region. About 36% of Singapore's current (June 2021) total population are permanent residents and non-residents.<sup>467</sup> In 1970, it was about 9.6%.<sup>468</sup> As of June 2021, around 16% of the non-resident population of Singapore are migrant domestic workers.<sup>469</sup> About 880,500 of these new

462 "GDP per capita," World Bank, accessed 7 July 2021, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?contextual=region&end=2019&locations=SG>.

463 "Overview," World Bank, accessed 12 September 2020. <https://www.worldbank.org/en/country/singapore/overview>.

464 "2020 Index of Economic Freedom: Singapore," The Heritage Foundation, accessed 20 September 2020. <https://www.heritage.org/index/country/singapore?version=348>.

465 "Singapore Population," Department of Statistics, accessed 15 January 2021, <https://www.singstat.gov.sg/modules/infographics/population>.

466 Siow Yue Chia, "Foreign Labour in Singapore: Rationale, Policies, Impacts, and Issues," *Philippine Journal of Development* 38, No. 1-2 (2011): 105-133.

467 Department of Statistics, Singapore, Singapore's Population in Brief 2021 Report (2021), <https://www.population.gov.sg/files/media-centre/publications/population-in-brief-2021.pdf>.

468 "Population and Population Structure," Singapore Statistics, accessed July 7, 2021, [www.singstat.gov.sg/find-data/search-by-theme/population/population-and-population-structure/latest-data](http://www.singstat.gov.sg/find-data/search-by-theme/population/population-and-population-structure/latest-data).

469 Department of Statistics, Singapore's Population.

arrivals are low-skilled workers primarily in the construction, domestic labour, construction and manufacturing industries.<sup>470</sup> Non-residents currently account for about one-third of the country's workforce.<sup>471</sup>

### 4.8.2. Policies, Regulations, and Legislations Related to Labour Migration

With a country that is not so heavily endowed with natural resources, Singapore has managed to bring about rapid economic growth as well as maintain its global competitiveness by opening its economy and attracting foreigners with different but much-needed talents and capabilities. The Government of Singapore adheres to a number of principles and policies that are relevant to migrant workers.

Part IV of the Constitution of Singapore provides that no person shall be held in slavery as well as condemns all forms of forced labour. The Employment of Foreign Manpower Act provides restrictions on salary deductions to migrant workers. Section 22A states that:

*"No person shall deduct from any salary payable to a foreign employee, or demand or receive, directly or indirectly and whether in Singapore or elsewhere, from a foreign employee any sum or other benefit —*

- a. *as consideration or as a condition for the employment of the foreign employee, whether by that person or any other person;*
- b. *as consideration or as a condition for the continued employment of the foreign employee, whether by that person or any other person; or*

*b. as a financial guarantee related, in any way, to the employment of the foreign employee, whether by that person or any other person."*

All employees are covered by the Employment Act of Singapore except foreign domestic workers, seafarers, and public servants, who are covered under other regulations due to the nature of their work. The Employment Act specifies the basic employment terms and conditions, as well as the rights and obligations of employers and employees in Singapore.

In 2015, Singapore enacted the Prevention of Human Trafficking Act which provides that:

*"Any person who recruits, transports, transfers, harbours or receives an individual (other than a child) by means of (a) the threat or use of force, or any other form of coercion; (b) abduction; (c) fraud or deception; (d) the abuse of power; (e) the abuse of the position of vulnerability of the individual; or (f) the giving to, or the receipt by, another person having control over that individual of any monetary or other benefit to secure that other person's consent, for the purpose of the exploitation (whether in Singapore or elsewhere) of the individual shall be guilty of an offence."*<sup>472</sup>

470 "Rapid Growth in Singapore's Immigrant Population Brings Policy Challenges," Migration Policy Institute, April 3, 2012. <https://www.migrationpolicy.org/article/rapid-growth-singapores-immigrant-population-brings-policy-challenges>.

471 Chia, "Foreign Labour in Singapore."

472 Republic of Singapore, Prevention of Human Trafficking Act 2015, Section 3.

The historical development of Singapore's policies on foreign labour<sup>473</sup> can be summarized as follows: The first stage is during the decade of the 1970s when work permits were first introduced for migrant workers in construction and domestic work. During the second stage by the 1980s, the government embarked on a short-lived phaseout of migrant workers but this proved to be infeasible and so the work permit and levy system was reintroduced and institutionalized under the Employment of Foreign Workers Act of 1990. During the third stage, the foreign workforce in Singapore grew rapidly during the 1990s. It was also at this point that a new permit allocation system was introduced. The fourth stage is characterized by a manpower lean labour policy to pursue a more sustainable mode of growth driven by productivity. However, Singapore remains open to foreign manpower that complement its local workforce with skills in short supply or bring new networks of opportunity.

Although there are four official languages in Singapore (English, Chinese, Malay, and Tamil), English is the lingua franca language in business, government, and tertiary education. This makes it easy for foreigners to almost blend in while at the same time giving Singapore an edge in global competitiveness.

The 1970s saw large inflows of low-skilled migrant workers in manufacturing, construction, and domestic services most notably from the Philippines, Thailand, and Indonesia as well

as South Asia (namely, India, Bangladesh, Sri Lanka). Singapore also attracted large inflows of expatriate professionals and skilled labour from other developed countries. Singapore needed immigration and foreign workers for several reasons:

*First is to grow the Singapore population beyond the size determined by a declining total fertility rate. Second, is to mitigate rapid population ageing and the consequent loss of societal dynamism and rising health care costs. Third is to increase labour supply and skills, so as not to constrain economic growth and economic restructuring. Fourth is to act as buffer for cyclical demands for labour. Fifth is to contain rising wage cost of businesses and maintain international competitiveness. Finally, there is a need to fill vacancies in lowly paid and "dirty, demeaning, and dangerous" (3D) jobs shunned by better-educated and increasingly affluent Singaporeans.*<sup>474</sup>

Singapore's current foreign labour policy is two-tiered. It has well-developed policies to selectively bring in highly-skilled, complementary foreign professionals while allowing for the regulated inflow of low-skilled migrant workers through a system of granting temporary permits and quotas.<sup>475</sup> In the case of low-skilled migrants, this is sometimes referred to as the revolving door policy.<sup>476</sup>

473 Chia, "Foreign Labour in Singapore."

474 Chia, "Foreign Labour in Singapore," 107.

475 Maureen Hickey, Pitra Narendra and Katie Rainwater, "A Review of Internal and Regional Migration Policy in Southeast Asia," Working Paper 8, Asian Research Institute, National University of Singapore (Brighton: University of Sussex, 2013). <http://www.migratingoutofpoverty.org/files/file.php?name=wp8-hickey-review-of-internal-and-regional-migration-policy-in-sea.pdf&site=354>; Nowrasteh, "Singapore's Immigration System."; and Chia, "Foreign Labor in Singapore."

476 Charmian Goh, Kellynn Wee, Brenda S.A. Yeoh, "Migration governance and the migration industry in Asia: moving domestic workers from Indonesia to Singapore," *International Relations of the Asia-Pacific* 17, No. 3 (2017): 401–433.

All foreigners who intend to work in Singapore must have a valid pass (commonly known as a work pass) before they start work. There are different types of passes for professionals, mid-skilled and lower-skilled workers. Presently, foreigners working in Singapore are divided into the following main categories:<sup>477</sup>

- a. Employment passes (EP) are given to foreign professionals, managers, and executives who have a job offer in Singapore. These are valid for the first two years and can be renewed for up to three years at a time. EP holders should be professionals who earn a fixed monthly salary of at least S\$4,500. Those in the financial services sector need to earn a fixed monthly salary of at least S\$5,000. Older and more experienced workers require higher salaries to qualify. Those earning over a fixed monthly salary of at least S\$6,000 can apply for a Dependent's Pass for spouses and unmarried children under 21 years of age. Those EP holders earning a fixed monthly salary of at least S\$12,000 can apply to bring their parents to Singapore on Long Term Visit Passes. There is no quota for EP holders in Singapore.
- b. The S Pass is designed for mid-skilled technical staff that earn a fixed monthly salary of at least S\$2,500 or more. The S Pass is valid for the first two years and can be renewed for up to three years at a time. The Work Permit (WP) applies to semi-skilled migrant workers in construction, manufacturing, or the services sector in Singapore.

- c. The Work Permit applies to unskilled or semi-skilled migrant workers employed in construction, manufacturing or the services sector in Singapore, as well as migrant domestic workers. There is no salary requirement but employers must declare their workers' pay to MOM and are subjected to levies and quotas, and can only hire workers from specified countries. The work permit is valid for up to two years and can be renewed.

Aside from those mentioned above, there are also short-duration work visas given to foreigners. These are:

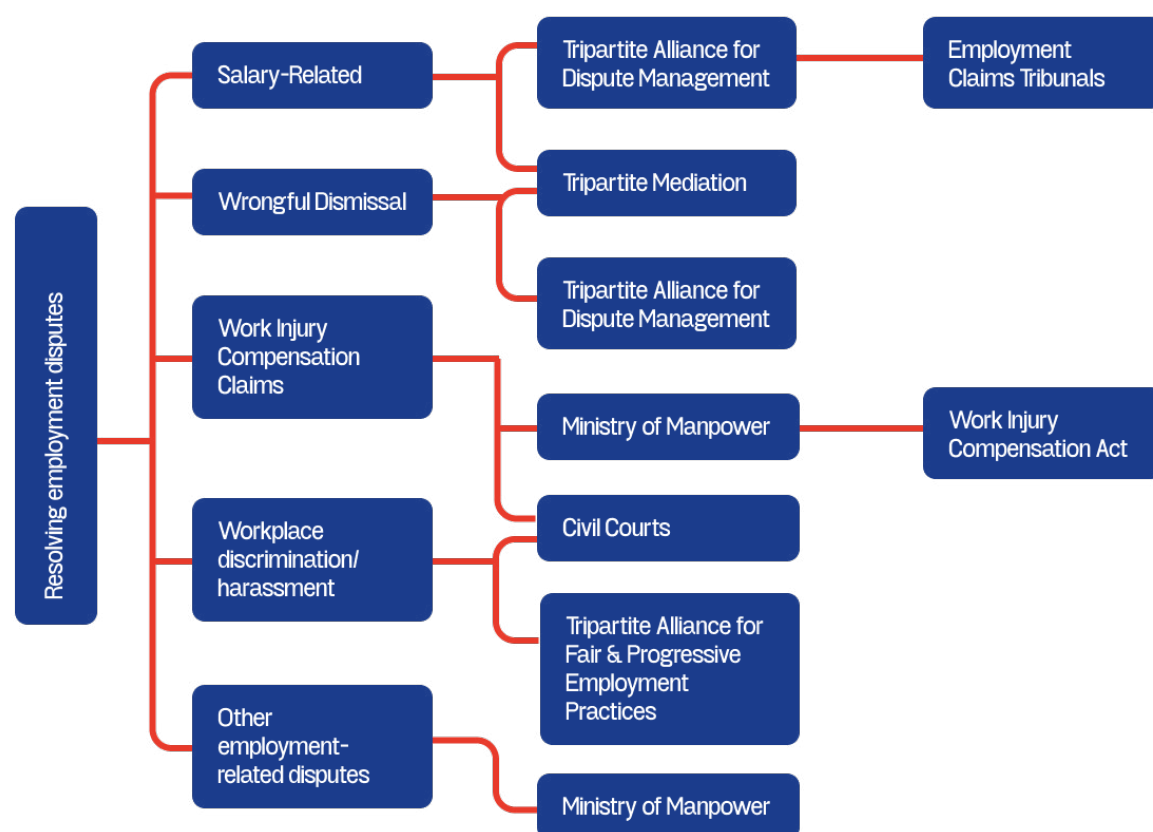
- a. Training Employment Pass (TEP) – A TEP is issued to foreign students or trainees from a foreign office or subsidiary who are undergoing training in Singapore. The candidates must be studying in an acceptable institution or earn a fixed monthly salary of at least S\$3,000 a month. The candidates must also be sponsored by a well-established Singapore-registered company. The TEP is valid for a maximum period of three months and is not renewable; and
- b. Training Work Permit (TWP) – A TWP is issued to foreign students studying in educational institutions in Singapore or foreign unskilled or semi-skilled trainees undergoing practical training in Singapore. Companies have to pay foreign worker levy for these foreign trainees; the number of trainees is subject to the company's foreign worker quota. The pass is valid for up to 6 months and is not renewable.

477 Vasundhara Rastogi, "The Guide to Employment Permits for Foreign Workers in Singapore," ASEAN Briefing, December 2, 2019. <https://www.aseanbriefing.com/news/guide-employment-permits-foreign-workers-singapore/>, supplemented by data from the Ministry of Manpower website (<https://www.mom.gov.sg/>).



There are currently (as of June 2021)<sup>478</sup> 166,900 EP holders; 164,200 S Pass holders; and 834,300 WP holders of which 245,600 are foreign domestic workers and 304,200 in construction and marine process. The other pass holders total 31,700.<sup>479</sup>

Undocumented migration is relatively well managed in Singapore due to its small geographical size as well as the strict enforcement of immigration rules combined with severe penalties (fines and imprisonment) imposed on irregular workers and businesses, and human traffickers. In cases involving employment disputes in Singapore, Singapore Legal Advice has set out a flowchart for some of the common types of employment disputes (see below).<sup>480</sup>



Source: "Where to Get Help for an Employment Dispute in Singapore," *Singapore Legal Advice*

478 "Foreign Workforce Numbers," Ministry of Manpower, accessed 10 July 2021. <https://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers>.

479 Ibid.

480 "Where to Get Help for an Employment Dispute in Singapore," Singapore Legal Advice, September 1, 2020. <https://singaporelegaladvice.com/law-articles/employment-disputes-in-singapore/>.

Migrant domestic workers are quite numerous in Singapore and can sometimes be treated harshly by their employers. In response, the MOM has instructed employers to treat their domestic workers humanely and with respect.<sup>481</sup> Migrant domestic workers are entitled, among others, to several benefits and rights under MOM regulations. Migrant domestic workers, among other measures, are entitled to a weekly rest day, adequate and safe accommodations and basic amenities, three adequate meals a day, medical care provided by the employer, safe working conditions.

Being a major hub for the movement of goods and people in the region, Singapore is susceptible to human trafficking. Recognizing the problems and potential threats that this transnational crime poses for the country, Singapore has taken steps to combat this growing menace. In 2010, an interagency task force co-chaired by the Ministry of Home Affairs (MHA) and the MOM was set up with member-representatives from the Singapore Police Force (SPF), Immigration & Checkpoints

Authority (ICA), then-Ministry of Community Development, Youth & Sports (MCYS) (now the Ministry for Social and Family Development (MSF)), Ministry of Health (MOH), Ministry of Law (MOL), Ministry of Foreign Affairs, and the Attorney-General's Chambers (AGC). The aim of the taskforce was to develop a holistic approach to combatting human trafficking, including identifying, adopting, and implementing coordinated government strategies to tackle it. In March 2012, the Singapore Government embarked on a National Plan of Action Against Trafficking in Persons (2012-2015) (NPA), followed by a National Approach against TIP (2016 – 2026) (NA).<sup>482</sup> The NPA adopts the 4Ps strategy of prevention of human trafficking, prosecution of offenders, protection of trafficking victims, and partnerships with other countries, non-governmental organisations, academics, and the private sector in dealing with the human trafficking problem. The NA, on the other hand, outlines the long-term direction which will guide stakeholders in addressing TIP issues over a ten-year horizon until 2026.

### 4.8.3. Governmental Institutions Related to Labour Migration Management

The MOM seeks to develop a productive workforce and progressive workplaces, in part by ensuring that the foreign workforce complements the local workforce. They also enable job opportunities for all, sustain wage

growth and improve workplace conditions for the vulnerable.<sup>483</sup>

The ICA is responsible for securing Singapore's borders against the entry of

481 "Employer's guide: foreign domestic worker," Ministry of Manpower, accessed 3 October 2020. <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/employers-guide>.

482 "Combating Trafficking in Persons," Ministry of Home Affairs (MHA), accessed 22 April 2021. <https://www.mha.gov.sg/what-we-do/combating-trafficking-in-persons>.

483 "MOM's vision, mission and values," Ministry of Manpower, accessed 13 September 2020. <https://www.mom.gov.sg/about-us/vision-mission-and-values>.

undesirable people and cargo through land, air and sea checkpoints. ICA also administers immigration and registration services, such as issuing passports and Identity Cards to Singapore citizens, and immigration passes and permits to foreigners. As a security agency, they enforce laws and regulations relating to immigration and registration.<sup>484</sup>

#### 4.8.4. Non-State Actors Related to Labour Migration Management

Non-governmental advocacy initiatives in Singapore typically take several forms such as providing documentation and research on the conditions of migrant workers, meetings with government officials, and publicising issues that affect migrant workers in the media.<sup>485</sup> Most provide socio-psychological support like counselling, healthcare, and recreational activities, among many others while a few provide legal assistance, case work support, and even small cash grants to disadvantaged migrants.

The MWC is a non-government organisation whose mission is to champion fair employment practices and the well-being of migrant workers in Singapore.<sup>486</sup> The Centre provides safe refuge to migrant workers awaiting the settlement of their cases in Singapore. It also provides advice and assistance to migrant workers seeking remedies against the unfair practices of employers. It also does outreach and public education activities as well as provides a platform for interaction and integration migrants and local communities.

The Centre for Domestic Employees (CDE)

champions for the fair treatment of migrant domestic workers in Singapore through a balanced and pragmatic approach towards dispute resolution, humanitarian aid, social integration and support. CDE does so by proactively engaging stakeholders to aid migrant domestic workers in distress, actively developing partnerships with service and training providers to facilitate the up skilling of migrant domestic workers, and harmonising the relationships between employment agents, employers, and migrant domestic workers. Above all, CDE strives to integrate migrant domestic workers socially into Singapore.

Transient Workers Count Too (TWC2) is a non-profit advocacy organisation that actively engages government officials, migrant workers, employment agencies, partner organisations, and the general public. TWC2 has since grown into a reliable help agency for migrant workers who encounter problems with their employers, a source of information for employers and the public, a centre for generating action-oriented research and a credible advocate for a more enlightened regulatory framework.<sup>487</sup>

484 "Vision, Mission & Values," Immigration & Checkpoints Authority, accessed 13 September 2020. <https://www.ica.gov.sg/about-us/vision-mission-values>.

485 Jolovan Wham, "On Migrant Workers in Singapore," Heinrich-Böll-Stiftung Southeast Asia, August 4, 2020. <https://th.boell.org/en/2020/08/04/migrant-workers-singapore>.

486 "Who We Are," Migrant Workers' Centre, accessed 15 September 2020. <http://www.mwc.org.sg/wps/portal/mwc/home/Aboutus/whoweare>.

487 "Organisation," Transient Workers Count Too, accessed 14 September 2020. <https://twc2.org.sg/who-we-are/organisation/>.

The Humanitarian Organization for Migration Economics (HOME)<sup>488</sup> is a charitable organisation established in 2004 and is dedicated to supporting and empowering migrant workers who suffer abuse and exploitation. HOME provides immediate shelter assistance to distressed migrants as well as those victimised by forced labour. Their services include specialised helpdesks for migrants, a refuge shelter, legal aid, and medical treatments.

Many NGOs like the ones mentioned above have constantly worked with the Singapore government on issues that may be faced by migrant workers in Singapore, such as being forced to pay exorbitant recruitment fees, low wages and poor access to health care than their cramped living conditions as well as unscrupulous and cruel employers especially in light of the current COVID-19 pandemic.<sup>489</sup>

The Singapore Government has engaged in partnerships and collaborations with NGOs and other elements of civil society in the fight against human trafficking.<sup>490</sup> The Singapore Government contributes funds to NGOs that provide support services and for the NGOs' ad-hoc refurbishment projects and staff training. MSF and MOM work closely with NGOs – the Good Shepherd Centre (GSC) and MWC respectively – to provide shelters for sex and labour TIP victims. Besides providing shelter to TIP victims, who consent to receiving shelter, victim assistance services including medical care, counselling and translation services, are provided according to individual victim's care needs. When needed, home leave is arranged for victims who are material witnesses in court

cases against their former employers to return to their home country to reconnect with their family for emotional support, at the Singapore Government's expense. Further arrangements are made for their return to Singapore to continue with court proceedings. When their cases conclude, assistance is provided to facilitate the victims' return to their home country.

The United States Department of State 2020 report on trafficking in persons ranked Singapore as a Tier 1 country. According to the report, the Ministry of Social and Family Development funded four NGO-run shelters with a total capacity of 220 places for women and their children; one specifically served as a shelter for up to 48 female trafficking victims and exploited foreign domestic workers. The government provided partial funding and oversight to 22 homes serving vulnerable children.

Also, according to the same TIP report, the Singapore Government also allocated funds for an NGO to provide victims with trauma recovery and safe resettlement services including counselling and medical care, skill development, legal support, employment, and assistance with resettlement in the victim's home country. In 2019, the NGO continued to support 11 foreign labour trafficking victims referred by the government in an earlier reporting period. In 2019, the government permitted two victims who were material witnesses in court cases against their former employers to return to their home country, at the government's expense, pending trial procedures.

488 "What We Do," Humanitarian Organization for Migration Economics (HOME), accessed 15 September 2020. <https://www.home.org.sg/what-we-do-index>.

489 Ken Kwek, "Singapore NGOs call for rethink of migrant workers' salaries, health care and recruitment fees," South China Morning Post, May 31, 2020. <https://www.scmp.com/week-asia/economics/article/3086751/singapore-ngos-call-rethink-migrant-workers-salaries-health>.

490 MHA, National Plan of Action Against Trafficking in Persons 2012-2015.



Singapore NGOs have also forged partnerships with other NGOs in source countries. In 2012, HOME forged a partnership with the Blas F. Ople Policy Centre, a non-profit organisation based in the Philippines, to work jointly on cases involving trafficked Filipino women.<sup>491</sup> The Singapore government had increased its dialogue and cooperation with NGOs in the past year.

The MOM has reported in April 2020 that a Singapore Government inter- agency task

force is collaborated with NGOs to better look after the health well- being of migrant workers.<sup>492</sup> The task force has collaborated with MWC to disseminate useful information to migrant workers in a timely manner. It is also working with the Alliance of Guest Workers Outreach (AGWO), It's Raining Raincoats (IRR), COVID-19 Migrant Support Coalition (MSC) and Crisis Relief Alliance, among others, to reach out to migrant workers including those staying in dormitories.

### 4.8.5. Remittance

Singapore is a top source of remittances to different countries in ASEAN and beyond. The Monetary Authority of Singapore (MAS) oversees the operations of licensed remittance companies in Singapore. The Asian Development Bank (ADB) describes Singapore as having an established, mature, and highly competitive remittance marketplace made up of domestic banks, local branches of foreign banks, and licensed remittance companies. These remittance companies dominate the remittance sector.

There are a wide variety of remittance options to choose from in Singapore. Some offer to take cash in local currency and credit the equivalent amount in the recipient's bank account or cash collection agent in the destination country. Others offer door-to-door cash delivery and

can handle e-money transfers on debit cards and even bills payments in the destination country.

In the last five years, digital money has been growing in Singapore especially among migrant workers. For instance, Indonesian migrant workers in Singapore receive a migrant card that they can use as an ATM card to withdraw money in Singapore.<sup>493</sup> Nevertheless, migrant workers continue to experience difficulties in remitting back to their home countries particularly those in undocumented situations since Singapore has very strict rules concerning the opening of bank accounts and remitting money. Singapore requires the passport or the national identity card as well as a work permit of a foreigner in order to open a bank account and send money.

491 "Ople Center forges anti-trafficking partnership with Singapore NGO," Blas F. Ople Policy Center and Training Institute, February 20, 2012. <http://www.blasoplecenter.com/press-release/ople-center-forges-anti-trafficking-partnership-with-singapore-ngo/>.

492 "Inter-agency Taskforce Coordinating NGOs' Efforts to Support the Well-Being of Foreign Worker," Ministry of Manpower, April 17, 2020. <https://www.mom.gov.sg/newsroom/press-releases/2020/0417-inter-agency-taskforce-coordinating-ngos-efforts-to-support-the-well-being-of-foreign-workers>.

493 Isaacs, Study on Remittance.

### 4.8.6. Best Practices in Labour Migration Management

What might be significant to mention at this point is that Singapore's migration policy framework and practice can be described as highly systematic, structured, segmented, specific. From certain perspectives, Singapore might be considered odd. As a labour-receiving country, it receives many foreign workers from many countries and therefore it does not have bilateral labour agreements with origin countries, preferring instead to adopt a robust legal framework to regulate the employment of migrant workers and protect their well-being, regardless of nationality.<sup>494</sup> Most importantly, immigration is seen by the authorities as a key strategy for economic development and global competitiveness.

Singapore has been quite diligent in its prosecution of employers who violate the provisions of its laws and regulations. For instance, in 2020 alone (up to September only), no less than 18 employers have been convicted and penalized for failing to pay the salaries of workers.<sup>495</sup> In 2018, over 20 different employers were prosecuted and convicted for the same offence.

Also worthy of mention here are the efforts of the authorities to investigate and prosecute employers and REs that flout Singapore's laws. Singapore has been cited by Human Rights Watch in 2010 as a country that "has vigorously and successfully prosecuted employers and recruiters who physically abused domestic workers."<sup>496</sup>

The challenges pertaining to labour migration management are more evident in sectors involving low- and unskilled migrant workers in Singapore. All migrant workers, including migrant domestic workers, are protected by a comprehensive framework of laws and enforcement measures. All migrant workers (in non-domestic sectors) are accorded the same rights as local workers under the Employment Act and Work Injury Compensation Act. Expatriate professionals and managers are also more aware of the laws and regulations as well as their rights and bargaining powers. At the same time, these professional and skilled expatriates are covered in intergovernmental mutual recognition arrangements (MRAs) and free trade agreements (FTAs) that facilitate and encourage cross-border movements such as the ones found in ASEAN.

However, the problems faced by migrant workers who are unskilled and semi-skilled (particularly migrant domestic workers) can be a challenge for national authorities. In responding to these challenges, social activists and NGOs have become increasingly involved in providing for the well-being of migrant domestic workers and migrants doing construction work.<sup>497</sup> The extent of cooperation between NGOs and government agencies can be a positive direction towards better protecting and promoting the rights of migrant workers in Singapore.

494 Amarjit Kaur, "Labour migration trends and policy challenges in Southeast Asia," Policy and Society 29, No. 4 (2010): 385-397.

495 "Employers convicted under the Employment Act," Ministry of Manpower, September 7, 2020, accessed 3 October 2020. <https://www.mom.gov.sg/employment-practices/employers-convicted-under-employment-act#/>. 496 Human Rights Watch (HRW), Slow reform: Protection of migrant domestic workers in Asia and the Middle East (New York: HRW, 2010), 4. [https://www.hrw.org/sites/default/files/reports/wrd0410webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/wrd0410webwcover_0.pdf).

497 Chia, "Foreign Labour in Singapore."

### 4.8.7. Conclusion

Since its independence, Singapore society has been transformed from a poor and backward economy into an advanced and world-class country. As a result of these remarkable transformations, Singapore has become a magnet for all kinds of foreign talents and workers. Singapore welcomes foreign manpower that complements the local workforce with skills in short supply or bring new networks of opportunity, even as Singaporeans remain the core of the workforce. Foreigners now account for a third of Singapore's labour force.

Due to the large influx of migrant workers, Singapore has to institute numerous policies and mechanisms to regulate their entry. At the same time, the Singapore government has also put in place several measures to address the problems and concerns of migrant workers. Most notable among these are promulgation of the Prevention of Human Trafficking Act as well as the Guide for Employers hiring foreign domestic workers.

The Singapore Government is also able to engage in efforts to address the problems of migrant workers in collaboration with several NGOs both within and outside the country. In the wake of the pandemic, the government has earnestly collaborated with migrant NGOs for disseminating relevant information in a timely manner to migrants staying in dormitories.

But challenges still remain for Singapore especially in the area of protecting the rights of migrants performing low-skilled work. Government agencies are doing their best to detect and prosecute employers who abuse their migrant workers. Singapore has been cited as having good progress in the area of prosecuting erring employers. Migrant workers in Singapore are able to tap on multiple options, including physical and digital remittance services, to remit money back to their families.

## 4.9. Thailand

### 4.9.1. Country Profile and History Related to Labour Migration Management

Thailand is an upper-middle income country and is cited by The World Bank as a development success story with its sustained economic growth and impressive poverty reduction efforts. Thailand has seen its poverty

levels decline substantially in the last 30 years from 65% in 1988 to just 9.85% in 2018.<sup>498</sup> In 2009, the country's GDP per capita was US\$ 4,213. By 2019, Thailand's GDP per capita had almost doubled to US\$ 7,808.<sup>499</sup>

Thailand is a country that has managed to bring down its population growth rates over the last few decades. Total fertility rate in the Kingdom has declined significantly from 6 births per woman in the mid-1960s to just below 2 by the 1990s. Thailand has the lowest population growth rate in ASEAN.<sup>500</sup> Also, its life expectancy rates have risen during the same period from 55.2 and 61.8 years (for men and women, respectively) in the 1960s to 69.9 and 74.9 years by the 1990s. As a result, Thailand is fast becoming an ageing society.<sup>501</sup> The proportion of old persons (aged 60 years and over) in Thailand stands at 16% of the population in 2017. By 2050, that proportion is expected to increase to over 35%.<sup>502</sup> The country's population in 2018 is around 69.4 million.

Economic growth and prosperity combined with a slowly ageing population have given rise to the growing demand for migrant workers, especially in labour-intensive and low-skilled sectors of the economy such as construction and agriculture. The demand for migrant labour is necessary in order to sustain the Kingdom's continued economic growth and global competitiveness.

Even before the establishment of formal systems to monitor and regulate cross-border movements, large numbers of people have entered and settled in Thailand. As a result, Thailand today is ethnically diverse with people coming from neighbouring countries such as China, Myanmar, Laos, Cambodia, Malaysia, India, and others.

Thailand is also a country of labour emigration. In 2017 over 115,000 Thai workers left the country to work in the Gulf, Europe, and other parts of Asia such as Taiwan, Japan, Singapore, and South Korea. The MFA currently estimates the stock of overseas Thais at around 1.1 million.<sup>503</sup> In the last three decades, however, Thailand has transformed itself from a net labour emigration (source) to a net labour immigration country (destination).<sup>504</sup>

The large-scale labour migration to Thailand is said to have begun in the 1990s coinciding with an economic boom with the economy growing at nearly 10% per year but which has in turn led to the widening of wage differentials between the Kingdom and its neighbouring countries.<sup>505</sup>

500 Harry Smith, Reuben Lim, and Benjamin Harkins, "Thailand Migration Profile," in Thailand Migration Report 2019 ed. Benjamin Harkins (Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019). [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRe s.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRe s.pdf).

501 Pracha Vasuprasat, Agenda for labour migration policy in Thailand: Towards long-term competitiveness (Bangkok: ILO, 2010). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_145130.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_145130.pdf).

502 Smith, Lim, and Harkins, "Thailand Migration Profile."

503 Ibid.

504 Srawooth Paitoonpong, "Managing International Labor Migration in ASEAN: Thailand (Immigration)," Philippine Journal of Development 38, No. 1-2 (2011): 163-193.

505 Benjamin Harkins (ed.), Thailand Migration Report 2019 (Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019). [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRe s.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRe s.pdf).

498 "Overview," World Bank, accessed 20 September 2020. <https://www.worldbank.org/en/country/thailand/overview>.

499 "GDP per capita (current US\$) – Thailand," World Bank Data, accessed 20 September 2020. <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=TH>.



The Kingdom's non-Thai population has been increasing substantially in the last five years from around 3.7 million in 2014 to 4.9 million by 2018 (3.9 million of whom are migrant workers from Cambodia, Myanmar, Laos, and Vietnam) of which around 800,000 are irregular status migrants.<sup>506</sup> A significant number of migrant workers in Thailand are undocumented and are working in labour-intensive and low-skilled occupations in agriculture/fisheries, construction, and domestic work, among others.

It is estimated that migrants currently make up over 10 per cent of the Kingdom's total labour force.<sup>507</sup> Indeed, in some economic sectors like construction and fishing, migrant workers represent almost 80 per cent of the total workforce. While seen largely as a temporary source of labour, this migrant workforce has undoubtedly contributed immensely to the resilience of economic and social prosperity of Thailand. A report by the Organisation for Economic Co-operation and Development (OECD) and ILO estimated that migrants contribute between 4.3 to 6.6 per cent of gross domestic product.<sup>508</sup> The increased prosperity has created a strong demand in specific

sectors of the economy and society that locals refuse to do and migrants are likely to fill up.

Numerous challenges face Thai authorities ranging from regularising the status of qualified migrant workers to uplifting the substandard working and living conditions of its migrant workforce to ensuring that migrant workers receive adequate and just wages. It has been observed that *"a distortion in the labour market has been inadvertently created [by these challenges and difficulties], which has resulted in a long-term dependency on the supposedly temporary migrant workers."*<sup>509</sup>

Human trafficking has also been a recurring problem when it comes to labour migration to Thailand especially in the commercial fishing sector. Taking into account the ageing workforce and declining birth rate in Thailand, coupled with a reluctance among Thai workers to take jobs within low-skilled sectors, it is likely that several segments of Thailand's economy will continue to be highly dependent on low- and semi-skilled migrant workers from Cambodia, Laos, Myanmar, and Vietnam (CLMV) countries.<sup>510</sup>

calamity, or when a state of emergency or martial law is declared, or during the time when the country is in a state of war or armed conflict." Chapter VI provides that the State

## 4.9.2. Policies, Regulations, and Legislations Related to Labour Migration

Chapter III of the Constitution of Thailand provides that "Forced labour shall not be imposed, except by virtue of a provision of law enacted for the purpose of averting public

506 Smith, Lim, and Harkins, "Thailand Migration Profile."

507 Harkins, Thailand Migration Report 2019.

508 Smith, Lim, and Harkins, "Thailand Migration Profile."

509 Vasuprasat, Agenda for labour migration policy in Thailand.

510 Harkins, Thailand Migration Report 2019.

*"should protect labour to ensure safety and vocational hygiene, and receive income, welfare, social security and other benefits which are suitable for their living, and should provide for or promote savings for living after their working age."*

The Labour Protection Act of 1998 provides a comprehensive coverage of the rights of all workers in Thailand. In principle, the Act should also apply to migrants regardless of their immigration status. However, the Act "does not cover some occupations in sectors for which migrants are usually hired, such as agriculture, domestic work, transport, fishing, etc."<sup>511</sup>

The first Thai law dealing specifically with the employment of foreigners is perhaps the Royal Ordinance 281 of 1972 which defines a foreigner and the conditions and occupations under which foreigners may be employed in Thailand.<sup>512</sup> By 1978, the Alien Employment Act (AEA) was promulgated dealing with undocumented migrants in the Kingdom. The AEA has had several revisions over the decades. The latest AEA was introduced in 2008. Among others, the latest AEA defines the categories of immigrants eligible for temporary employment; establishes a list of occupations where foreigners are allowed; collects a levy from firms that employ migrant workers; and allows migrants to change employers and workplaces.<sup>513</sup>

In response to growing demand from the private sector, the Thai government came out with an official resolution in 1992 that allowed for the registration of undocumented migrant workers from Myanmar. At the time the measure was seen as a stop-gap temporary solution to address the high demand for workers in the private sector. There was no comprehensive framework for recruiting and hiring foreign migrant workers.

Instead, the resolution provided temporary amnesty for violation of Thailand's immigration and labour laws to irregular migrant workers already employed in Thailand. Migrants were granted a short-term reprieve from deportation based upon the request of their employers but without the right to change employment or leave the province in which they had registered.<sup>514</sup>

The temporary policy continued primarily because the demand for migrant workers did not subside but had, in fact, intensified in the following years and decades. At present, the process involving the registration for temporary stay of foreigners to obtain a work permit is illustrated below:

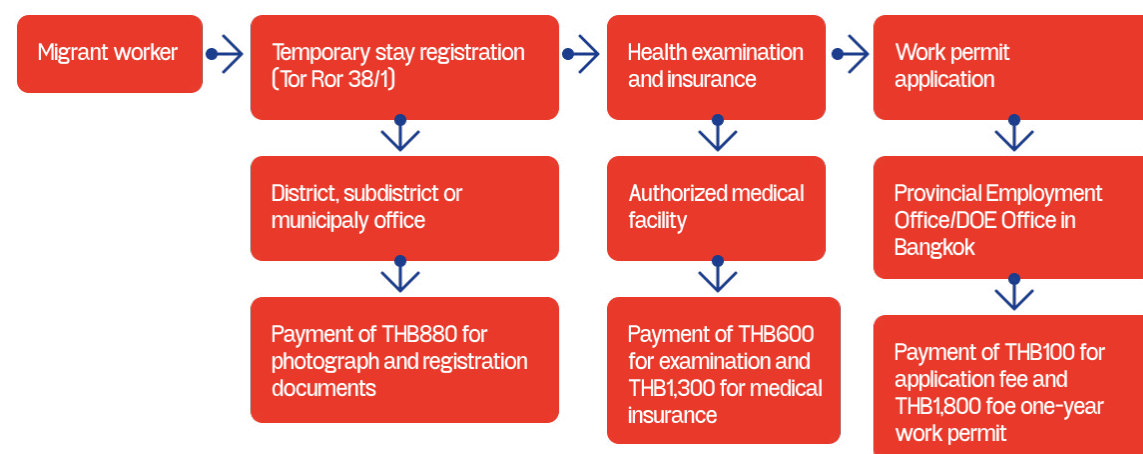
511 Paitoonpong, "Managing International Labor Migration in ASEAN," 173.

512 Ibid.

513 Ibid.

514 Harkins, Thailand Migration Report 2019.

Figure 8. Process to complete the temporary stay registration and obtain a work permit



Source: ARCM (2013), 33.

In order to render some degree of formality to the inflows as well as ensure the return of the migrants from the Kingdom, Thailand instituted MOUs with its neighbouring countries that have become the primary source of migrant labour - Cambodia, Laos, and Myanmar. Agreements on labour cooperation were signed with these countries between 2002 and 2003. However, their implementation did not start until 2006 (for Cambodia and Laos) and 2009 (for Myanmar).<sup>515</sup> Moreover, there were gaps observed between what the MOUs provided for in terms of protecting and promoting the rights of migrants and how these were actually enforced in practice.<sup>516</sup>

Between 2015 and 2016, the earlier MOUs were revised and signed between Thailand and the governments of Cambodia, Laos, Myanmar, (with the addition of Vietnam) for bilateral cooperation to eliminate human trafficking and ostensibly provide better

alternative mechanisms to ensure that migrants take legal channels to come to Thailand and to also build greater commitment among the countries of origin to implement these mechanisms more effectively. However, these MOUs with CLMV countries only affected a few migrants “due to the lengthy, complex and expensive procedures put in place.”<sup>517</sup>

In 2017, Thailand came out with the Royal Ordinance Concerning the Management of Foreign Workers Employment B.E. 2560 (2017) that consolidated Thailand’s laws on recruitment and employment of migrant workers. The intention was to give the ad hoc labour migration policy framework some clarity and coherence. Its overall effect, however, was to “convince migrants to use regular channels” by imposing fines and prison sentences of up to five years on violators<sup>518</sup> exacerbating the vulnerabilities of migrant workers in Thailand.<sup>519</sup>

Eventually, however, the government suspended the punitive provisions of the Ordinance.<sup>520</sup> A revised version of the Ordinance came out in 2018 that contained provisions that were now aligned with international standards. It removed the prison sentence and reduced the fines imposed on both erring migrants and their employers.

Aside from the above provisions, the Royal Ordinance also provides for the creation of a Foreigners’ Working Management Fund within the Department of Employment. This is a revolving fund to assist foreigners who suffer violation of their labour rights as well as to assist and subsidise government and non-government organisations for work management, welfare provision, education, public health and labour protection for foreigners, and to fund the repatriation of foreigners.

At present, documented migrant workers in Thailand are classified into six categories as follows:

- Temporary or general permit migrants – An alien who is granted a work permit to work in the occupation stipulated by existing government regulations...
- Permanent resident or lifetime permit migrant – An alien who had resided in the Kingdom under the Immigration Law, had worked before December 13, 1972 and who receives a work permit issued by government...
- National verification permit migrant – A formerly irregular migrant worker who

has changed his or her status from illegal to legal through a process of nationality verification (NV) and has received a temporary passport or a Certificate of Identification...

- Migrant worker under Section 11 or MOU – A migrant worker from Cambodia, Laos, and Myanmar (CLM) countries who is under MOU between Thailand and the CLM...
- Migrant worker under Section 12 or BOI – A migrant worker who comes to work in the Kingdom under Investment Promotion Act or related laws...
- Migrant workers under Section 14 or border workers – A migrant worker who has residence and nationality of the country borders with Thailand and temporarily enters Thailand with travel documents (passport or border pass) and is permitted to work temporarily or seasonally in the border area.<sup>521</sup>

In 2008, Thailand enacted the Anti-Trafficking in Persons Act. Section 6 of the Act provides that anyone “*procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person [or child] under his control... is guilty of trafficking in persons.*”

515 Harkins, Thailand Migration Report 2019.

516 Mary Grimwade and Petra Neumann, “Migration Policy and Practice in Thailand,” in Thailand Migration Report 2019, ed. Benjamin Harkins (Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019). [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRe s.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRe s.pdf)

517 Harkins, Thailand Migration Report 2019.

518 Ibid.

519 Grimwade and Neumann, “Migration Policy and Practice,” 28.

520 Ibid.

521 Office of Migrant Workers Administration (OFWA), Annual report on foreigners who are permitted to work in the Kingdom, 2009 (Bangkok: Department of Employment, Ministry of Labour, 2010) as cited by Paitoonpong, “Managing International Labor Migration in ASEAN.”



Thailand is a country that still has many Thai nationals living and working abroad. In 1985, Thailand enacted The Employment and Job Seeker Protection Act that had provisions that sought to protect Thais going abroad to work. Chapter III of the said Act refers specifically to overseas employment arrangements and provides that “no person shall undertake to arrange overseas employment for a jobseeker, except where a license is granted”.<sup>522</sup> Additional safeguards and guarantees are also provided for Thai jobseekers going abroad such as:

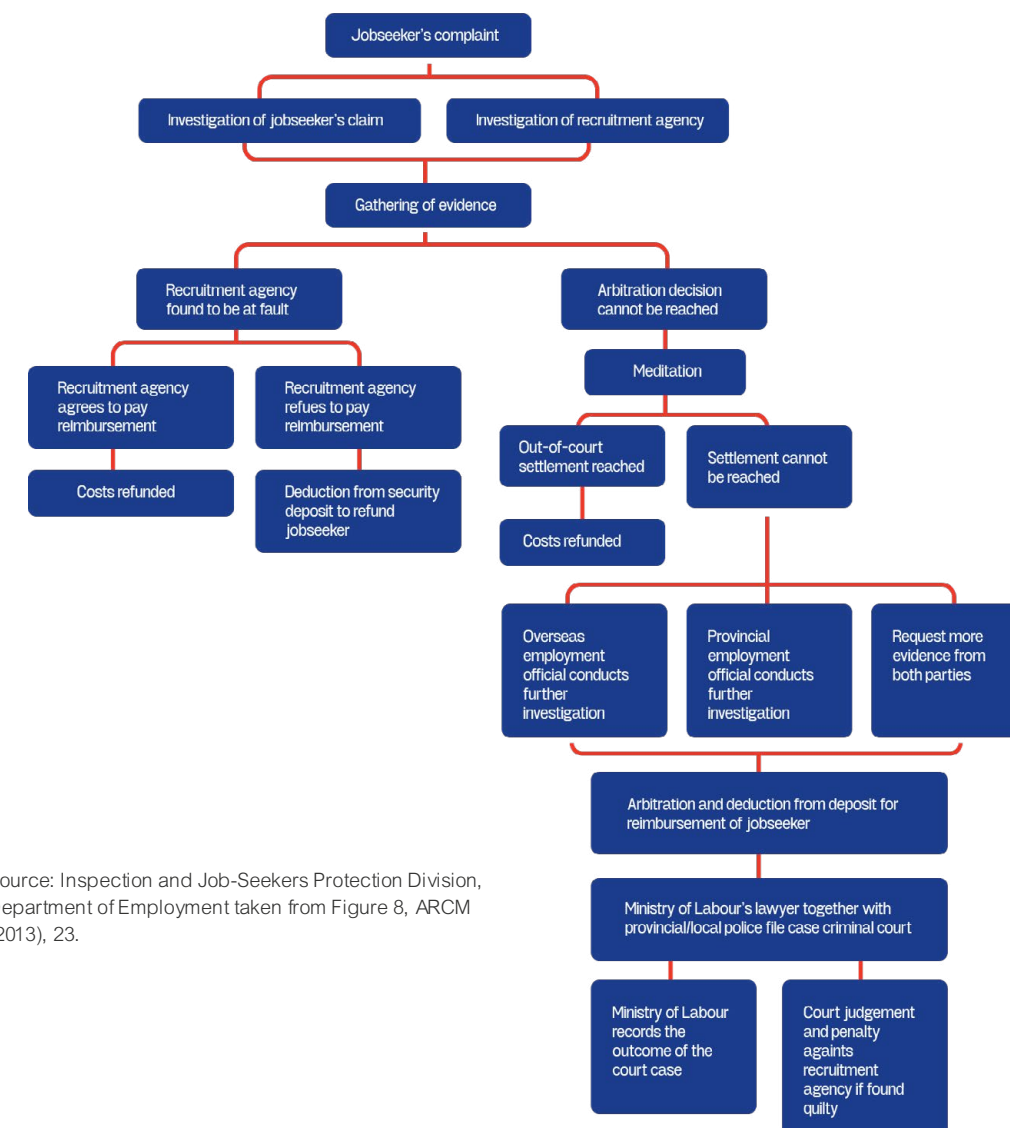
(1) submitting, prior to sending a jobseeker to work abroad, the employment arrangement contract which is made between the overseas employment arrangement licensee or its employment agent and a jobseeker, together with conditions for such employment of labour which are made between the overseas employer or the authorized agent of such employer and the jobseeker as well as other evidences as prescribed by the Director-General; (2) sending a jobseeker to have a medical examination in accordance with the criteria and procedure, and at an infirmary prescribed by the Director-General; (3) sending a jobseeker to receive a skill testing in accordance with the criteria prescribed by the Director-General of the Department of Skill Development; (4) sending the selected jobseeker who passes a skill testing to get training on laws, custom and tradition of the country in which the jobseeker is to work, including training on working conditions, at the Central Employment Registration Office, Changwat Employment Registration Office or any other institutions as prescribed by the Director General.<sup>523</sup>

<sup>522</sup> Kingdom of Thailand, Employment and Job Seeker Protection Act, Section 30.

<sup>523</sup> Ibid., Section 36.

<sup>524</sup> Asian Research Center for Migration, Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand (Bangkok: ILO, 2013). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_226498.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_226498.pdf).

Figure 9. Process for outbound workers to resolve complaints against licensed recruitment agencies



Source: Inspection and Job-Seekers Protection Division, Department of Employment taken from Figure 8, ARCM (2013), 23.

### 4.9.3. Governmental Institutions Related to Labour Migration Management

At least two government agencies can be identified as playing a role in labour migration management (inflow and outflow) in Thailand. These are the MOL and the MFA. The main task of the MOL<sup>525</sup> is labour administration. It is the ministry in charge of both the entry and exit of labour to and from Thailand. The Department of Employment under the MOL manages

both the sending of Thai workers abroad as well as the regulation of the entry of foreign workers into Thailand. Also, within the MOL is the Department of Skill Development which has as its key functions the development of labour skills, capacity building for labour and entrepreneurs with a view to develop labour skills to meet international standards and

<sup>525</sup> “MOL Duties,” Ministry of Labour, accessed 17 September 2020. <https://www.mol.go.th/en/departments/mol-duties/>.

encourage entrepreneurs to be able to compete in the global market. Its duties and powers include the following:

- ◇ to develop the standards of labour skills to meet international standards and to promote skill testing and skill competition;
- ◇ to develop labour skills and the system and model of skill development for labour;
- ◇ to promote participation, to coordinate linkages and to establish and develop networking for the development of labour potentials in the country and abroad.

Government has the mandate to monitor the situation of migrant workers in Thailand. The MOL, particularly, its Department of Labour Protection and Welfare (DLPW) monitors the compliance with laws on working conditions using two methods of labour inspection - self-assessments by firms and traditional field visits. Inspectors are guided by parameters set by DLPW. Also within the same Ministry is the Department of Employment<sup>526</sup> whose main function is employment promotion and job seekers protection by analysing the labour market situation and trends, being the labour market information centre, as well as developing and promoting the administrative system on employment promotion in order that the working-age people will be able to get jobs that are most suitable to their knowledge and aptitudes and receive appropriate and fair benefits. The Department's main functions are as follows:

- ◇ Proceeding all legal matters according to the Recruitment and Job Seekers Protection Act, the Working of Alien Act, and other relevant laws;
- ◇ Analysing labour market situation, forecasting the trends of labour market demand and supply, and being the labour market information centre;
- ◇ Developing employment service system, measures, and recruitment procedures, as well as preparing and coordinating the Department's action plan to comply with the policies and strategies of the MOL and specifying occupational and industrial standards;
- ◇ Providing vocational guidance, career counselling, and aptitude tests to the general public.

The MFA<sup>527</sup> is the lead organisation in driving Thailand's foreign policy for the advancement of its national interests. Part of that includes the protection and promotion of the legitimate rights and interests of Thai nationals living or traveling abroad. Thailand has labour attaches posted in different embassies in major destination countries. The MFA is responsible for overseas Thais who are not employed as workers although irregular migrant workers can come under their supervision when they experience problems abroad. Under the MFA is the Protection of Thai Nationals Abroad Division<sup>528</sup> which provides assistance to nationals abroad who are facing difficulties. The Ministry also undertakes efforts to prevent Thai nationals from becoming victims of human traffickers. It undertakes a range of campaigns and initiatives that include the following:

526 "Duties," Department of Employment, accessed 17 September 2020. [https://www.doe.go.th/prd/main/general/param/site/1/cat/29/sub/0/pull/singleview/view/detail/object\\_id/4](https://www.doe.go.th/prd/main/general/param/site/1/cat/29/sub/0/pull/singleview/view/detail/object_id/4).

527 "Vision & Mission," Ministry of Foreign Affairs, accessed 17 September 2020. <http://mfa.go.th/main/en/policy/9867-Vision-&-Mission.html>.

528 "The Protection of Thai Nationals Abroad Division's Main Responsibilities," Ministry of Foreign Affairs, accessed 19 September 2020. <http://mfa.go.th/main/en/services/16266-Protection-of-Thai-Nationals.html>.

- ◇ Close coordination and cooperation with all governmental agencies and NGOs to take joint preventive and suppressive measures;
- ◇ Using multimedia to forewarn Thai public and potential victims of the consequences of going abroad irregularly

There is also the Kredtrakarn Protection and Occupational Development Centre<sup>529</sup> or Baan Kredtrakarn (Kredtrakarn Shelter) for short. Established in 1960, the Centre is under the Department of Public Welfare and provides protection for women and children who are victims of human trafficking whether Thais or non- Thais. In 2003, a special inter-agency Committee on Illegal Migrant Workers Administration (CIMWA) was established under the Office of the Prime Minister. The main responsibility of CIMWA is to formulate policies, guidelines, plans, and measures to manage, suppress, and monitor irregular migrant workers in the Kingdom.<sup>530</sup>

The main agency that is involved in monitoring and supervising labour migration in Thailand is the Office of Migrant Workers Administration (OFWA) under the MOL. The OFWA has the following functions:

- ◇ Processing work permit applications of migrant workers who are currently working in the country or who wish to enter the country for work in both formal and informal sectors. It also assists employers in applications for migrant works;
- ◇ Processing cases related to illegal entry and irregular migrant workers who are currently working and residing in the country. By law, OFWA has no right to arrest an irregular migrant worker. It has to report the case to the Royal Thai Police;
- ◇ Managing migrant workers who are working in the country by coordinating with all relevant parties and agencies and following up on all cases related to their work and their employers;
- ◇ Disseminating all relevant and important information to all concerned parties about relevant policies, laws, systems, developments, and changes related to the registration system and work permit application. This also extends to educating migrant workers about their rights and privileges along with the relevant policies and laws that they have to follow and abide by;
- ◇ Working with other agencies and authorities in gathering relevant information about migrant workers residing and working in Thailand, including studying and analysing employers' needs, labour market situations, migration trends, and other important statistics and data related to migrant workers.<sup>531</sup>



529 "Kredtrakarn Protection and Occupational Development Centre," Kredtrakarn Protection and Occupational Development Centre, accessed 19 September 2020. <http://kredtrakarnhome.com/Home-USLeng.html>.

530 Paitoonpong, "Managing International Labor Migration in ASEAN."

531 Ibid., 179.



#### 4.9.4. Non-State Actors Related to Labour Migration Management

Several non-state actors are worth mentioning in relation to labour migration in general and protecting the rights of migrants in particular. These are:

The Foundation for Women (FFW)<sup>532</sup> is a Bangkok-based non-governmental organisation providing services to women. FFW was formed in 1984 when they established a Women's Information Centre, providing advice to Thai women about to go abroad. FFW also provides social and legal assistance both to Thai and non-Thai women and children who are victims of national and cross-border trafficking. FFW works in Immigration Detention Centres and the Public Welfare Homes and cooperates with organisations in countries of destination in assisting women and children and preventing human trafficking.

The Human Right and Development Foundation (HRDF)<sup>533</sup> provides legal assistance to disadvantaged migrants in Thailand. It established the Mae Sot Labour Law Clinic in Tak Province working in cooperation with government agencies and the private sector to promote and protect the human rights of labour, to increase the standard of human rights of Thai labour and migrant workers in Mae Sot and surrounding areas, to provide legal aid and to provide knowledge and understanding on labour law and human rights to migrant workers.

The Prevention of HIV-AIDS among Migrant Workers in Thailand (PHAMIT)<sup>534</sup> is concerned about HIV prevention among documented and undocumented migrants in Thailand. PHAMIT engages in various outreach programs such as condom distribution, referral for STI diagnosis and treatment, and voluntary and confidential counselling and testing. PHAMIT hopes that with these efforts, an enabling environment will be nurtured to promote positive changes in policies, strengthening of civil society and institutional capacity building, with a focus on stigma reduction, gender sensitivity and the promotion of human rights.

DLPW is able to network with NGOs to provide advice to employers and workers to comply with the laws and regulations concerning workers' rights. While there is no formal mechanism to this effect, NGOs and civil society organisations can inform labour inspectors about the situations in certain areas and firms that require government action and intervention.<sup>535</sup>

In addition to the above NGOs, there are other non-governmental initiatives that are working actively to provide protection and relief to both regular and irregular migrant workers in Thailand such as the LPN and the Migrant Workers Rights Network (MWRN).

532 "About FFW," Foundation for Women, accessed 20 September 2020. <http://www.womenthai.org/eng/index.php/about/>.

533 "About Us," Human Rights and Development Foundation, accessed 17 September 2020. [http://hrdfoundation.org/?page\\_id=2&lang=en](http://hrdfoundation.org/?page_id=2&lang=en).

534 "Objective & Activities," Prevention of HIV/AIDS among Migrant Workers in Thailand, accessed 21 September 2020. <http://www.phamit.org/objective.php>.

535 "Labour inspection country profile: Thailand," International Labour Organization, accessed 5 October 2020. [https://www.ilo.org/labadmin/info/WCMS\\_153137/lang--en/index.htm](https://www.ilo.org/labadmin/info/WCMS_153137/lang--en/index.htm).

#### 4.9.5. Remittance

The remittance sector in Thailand is dominated by banks with only one non-bank entity allowed to operate as a special licensed money transfer agent—DeeMoney—although there are other non-bank entities permitted to do payout remittances.<sup>536</sup> Banking channels have several limitations—they charge high fees, require plenty of documentation and bank account limits and do not allow for instantaneous transfers. Around 82% of Thai adults have a bank account. Nevertheless, informal remittance channels are a problem in Thailand. Undocumented migrants in Thailand are not given the option to use the formal remittance channels. The five largest remittance markets into Thailand in 2017 are the US (US\$1.859B), Germany (US\$635M), Malaysia (US\$586M), Australia (US\$383M), and Japan (US\$307M).<sup>537</sup> According to World Bank statistics, Thailand received no less than US\$ 8.1 billion in migrant inward remittances.<sup>538</sup>

Deelen and Vasuprasat note that the bulk of income remittances sent by migrant workers in Thailand back to Cambodia, Lao PDR, and Myanmar are still coursed through informal channels particularly through family, friends and informal money transfer businesses despite the prevalence of formal money transfer entities such as Western Union and MoneyGram.<sup>539</sup> In 2019, foreign migrants in Thailand sent back around US\$ 8.9 billion in cash remittances, almost twice the amount of remittances sent out the year before (US\$ 4.9 billion), according to World Bank statistics.<sup>540</sup>

It should also be noted here that money sent back home by foreign migrants in Thailand do not all go through the official or formal commercial bank system. Migrants also make use of unofficial but traditional channels such as the hundi system that Myanmar migrant workers still use today which has now made use of the online system as well as transborder transactions through brokerage services. Such services can be used for humanitarian assistance as well like providing much-needed relief goods to the families left behind.

Migrants do not make use of such formal channels for a variety of reasons – lack of information, a preference for informality due to their undocumented status, and higher remittance transfer costs. For many low-skilled migrants, it is better to maintain a cash-based livelihood since they have no access to formal credit channels. As a result of this, few migrants and their families in the home countries such as Cambodia, Lao PDR, and Myanmar have bank accounts that would allow them to use formal remittance channels. Thus, the inability to access formal remittance channels is linked to protecting and promoting the rights of the migrants to documentation and regularisation of their status. Sending money from Thailand to Cambodia is expensive and can cost as much as 14.47% for every US\$ 200 sent.<sup>541</sup>

536 Isaacs, Study on Remittance.

537 Ibid.

538 "Annual Remittances Data," World Bank, September 26, 2019, accessed 10 November 2021, <https://www.worldbank.org/en/topic/labormarkets/brief/migration-and-remittances>.

539 Deelen and Vasuprasat, Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar.

540 "Annual Remittances Data," World Bank.

541 Isaacs, Study on Remittance.

### 4.9.6. Best Practices in Labour Migration Management

Since 2017 the Thai Government has been actively supporting intergovernmental processes to promote the rights and welfare of migrant workers. It has supported the GCM by hosting three national stakeholder workshops in consultation with the IOM.

A number of good practices can be cited in the case of Thailand.<sup>542</sup> These include improvements in the regulation of PRAs. Whereas it used to be the case that these REs would operate as a kind of grey market, the Royal Ordinance required that these agencies be licensed and that a requirement for licensing is the payment of a THB 5 million (US\$ 158,000) guarantee deposit against possible regulatory violations.

Another good practice in the Ordinance is to exempt all migrants from paying the recruitment fee which is in accordance with international standards and conventions for migrant workers. Yet another good practice found in the Royal Ordinance is that it requires recruiters and employers to have employment contracts in the national languages of the migrants.

Beginning in 2016, the Thai government created Migrant Worker Assistance Centres (MWACs) in 10 pilot sites - Tak, Songkhla, Surat Thani, Ranong, Samut Sakhon, Samut Prakarn, Chonburi, Chiang Mai, Khon Kaen and Nakhon Ratchasima. Although still relatively new,

these MWACS are designed to operate in conjunction with labour protection and social welfare offices of government as well as with non-governmental organisations.

There were attempts on the part of government to streamline and facilitate the documentation process for undocumented migrants in Thailand. In 2014, the Thai government opened One Stop Service Centres throughout the country to provide documentation to irregular migrants. However, the so-called “pink card” provided by these centres offered only temporary legal status to the migrants as a kind of short-term amnesty program for irregular migrant workers.<sup>543</sup> Many migrants were unable to fulfil the requirements for long-term regularisation.

In September 2019, the Deputy Permanent Secretary of Labour of Thailand declared that Thailand aligns with the 2017 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers along five aspects: 1) education/information 2) protection 3) law enforcement 4) request for help and 5) return to society through the Royal Ordinance on the Management of Alien Workers.<sup>544</sup>

<sup>542</sup> Grimwade and Neumann, “Migration Policy and Practice.”

<sup>543</sup> Grimwade and Neumann, “Migration Policy and Practice.”

<sup>544</sup> “Deputy Permanent Secretary Reveals Thailand’s Protection of Migrant Workers Within ASEAN Consensus,” Ministry of Labour, September 9, 2019. <https://www.mol.go.th/en/news/deputy-permanent-secretary-reveals-thailands-protection-of-migrant-workers-within-asean-consensus/>.

### 4.9.7. Conclusion

In the end, a key challenge for Thailand over the long-term is its ability and desire to go beyond the draconian measures that it has instituted in the past to address the problem of irregular and undocumented labour migration. Such stringent and punitive measures have proven to be ineffective in dealing with the problem of irregular migration and the exploitation of migrant workers.

Thailand has undertaken regularisation and granted short-term amnesty to migrant workers. Since the 1990s, a series of government resolutions have allowed for the large-scale regularisation of undocumented migrants mainly from Myanmar, Laos, and Cambodia. The most recent round took place between July 2017 and June 2018. The MOUs with CLM countries are an attempt to curb informal and undocumented migration and to promote more formal migration channels.

Attempts continue to be made to streamline the migration process between Thailand and the CLM countries through one-stop centres and other initiatives. The government has also taken steps to collaborate and cooperate with NGOs in protecting the welfare of migrant workers in Thailand. Despite the absence of formal mechanisms, the government through DLPW is able to network with NGOs to provide advice to employers and migrant workers on labour laws and workers’ rights.

Migrant remittance channels in Thailand are dominated by informal mechanisms. The high remittance costs combined with stringent documentary requirements make it difficult particularly for undocumented migrants to make use of formal banking channels including legal remittance channels.

## 4.10. Vietnam ★

### 4.10.1. Country Profile and History Related to Labour Migration Management

Vietnam’s labour migration has been an integral part of the socio-economic development since the implementation of the *doi moi* (renovation) era, which was characterised by rapid modernisation

initiated in 1986, transforming the country’s economy from a centrally subsidized system to a socialist-orientated market one.<sup>545</sup> Prior to this reformation, Vietnam had already experienced overseas employment to fulfil its

<sup>545</sup> Dang Nguyen Anh, Cecilia Tacoli, and Hoang Xuan Thanh, “Migration in Vietnam: A review of information on current trends and patterns, and their policy implications,” presented at the Regional Conference on Migration, Development and Pro-Poor Policy Choices in Asia (2003), 11.



bilateral agreements obligations to the former Council of Mutual Economic Cooperation (COMECON).<sup>546</sup> About 100,000 guest workers were made available by Vietnam to the Soviets, among them East Germany, Bulgaria, and Czechoslovakia. Over the period of 1981 to 1990, a total of 217,183 Vietnamese were employed as contract workers in the eastern bloc, with 42% of them being females.<sup>547</sup>

The renovation era also marks Vietnam's membership in the IOM where an office in Ho Chi Minh City was established (1989) and a mission in Hanoi was opened (1991). IOM arranged for the evacuation of 14,000 Vietnamese workers from Iraq before the Gulf War.<sup>548</sup> Social and political changes in the eastern bloc, as a result of the conclusion of the Cold War resulted in a sudden halt of guest workers admittance, and by the end of 1991, 169,570 (80%) of Vietnamese workers returned home from eastern Europe.<sup>549</sup> Since then, IOM, along with the MOLISA, MOFA and

other organisations such as ILO have worked together in implementing labour migration policies and tackling existing problems.

Since 1991, promoting labour export has been a regular policy adopted by the Vietnamese Party Congresses. Starting in 1994, labour migrants were sent to Asia Pacific economies, such as Kuwait, Lebanon, Saudi Arabia, Japan, and Korea. Taiwan, Singapore, and Malaysia, which became major destinations for Vietnam's contract workers.<sup>550</sup> This demand is due to rapid economic growth and declining fertility in these countries, and the lower wages foreign workers were paid with to reduce production costs. Moreover, an aging population and low birth rate greatly amplify the potential for international migration.<sup>551</sup> Simply put, Vietnam migrant workers fill the labour supply sector overseas local workers ignore. As of 2016, Taiwan, Japan, Korea, and Malaysia account for the top four receiving destinations for Vietnamese workers.<sup>552</sup>

<sup>546</sup> Ibid.

<sup>547</sup> Ibid, 12.

<sup>548</sup> "History of IOM Vietnam," International Organization for Migration (IOM), accessed September 18, 2020, <https://vietnam.iom.int/en/history-iom-viet-nam>.

<sup>549</sup> Anh, Tacoli, and Thanh, "Migration in Vietnam," 12.

<sup>550</sup> Ibid.

<sup>551</sup> Ibid.

<sup>552</sup> Consular Department, Ministry of Foreign Affairs of Viet Nam, International Organization for Migration (IOM), Vietnam Migration Profile 2016 (Hanoi: IOM, 2017), 22-23. [https://vietnam.iom.int/sites/default/files/IOM\\_Files/Migration\\_Data\\_Reports/VN\\_Migration\\_Profile\\_2016.pdf](https://vietnam.iom.int/sites/default/files/IOM_Files/Migration_Data_Reports/VN_Migration_Profile_2016.pdf).

Table 15. Top origin countries of foreign migrant workers in Indonesia, 2012- 2016

Destination	2012	2013	2014	2015	2016	Total
Taiwan	30,533	46,368	62,124	67,621	68,244	274,890
Japan	8,775	9,686	19,766	29,810	39,938	107,975
Republic of Korea	9,228	5,446	7,242	6,019	8,482	36,417
Malaysia	9,298	7,564	5,139	7,454	2,079	31,534
Saudi Arabia	2,360	1,703	4,191	4,125	4,033	16,412
Laos	6,195	4,860	200	-	1	11,256
Cambodia	5,215	4,250	50	-	-	9,515
Macau	2,304	2,294	2,516	493	266	7,873
United Arab Emirates	1,731	2,075	831	286	616	5,539
Algeria	38	158	547	1,963	1,179	3,885
Libya	645	1,201	1,005	-	-	2,851
Qatar	105	206	850	455	702	2,318
Cyprus	1,699	143	56	43	34	1,975
Israel	210	141	484	268	250	1,353
Belarus	-	403	774	91	14	1,282
Total of 15 Destinations	78,336	86,498	105,775	118,628	125,838	515,075

Source: International Organisation for Migration (IOM), Vietnam Migration Profile 2016 (Hanoi: IOM, 2017), 22-23, document available online

The total number of Vietnam workers abroad increased from 80,320 in 2012 to 126,296 in 2016. During this same period, the proportion of female workers was relatively low and stable, around 33 to 37.5 percent. In 2019, MOLISA reported a slight increase to 152,530 Vietnam workers abroad with 35.86% being female.<sup>553</sup>

Economic factors are the key driver of Vietnam's international labour migration. Poverty and inadequate employment opportunities in the motherland have motivated Vietnamese in deciding to migrate abroad. With the hope of higher income and living standards, Vietnamese are encouraged to move

abroad, either temporarily or permanently.<sup>554</sup> Oversupply of labour domestically, as well as increasingly labour migration-friendly policies and REs enhancement, push migrants to seek opportunities overseas.

As a result, international labour migration has enormously benefitted Vietnam's economy. Remittances from overseas workers are important sources of income for recipient families and the nation's development. In 2015, they amounted to a record USD 13.2 billion, 7% of Vietnam's GDP.<sup>555</sup> Nevertheless, beside gaining economic benefits from international labour migration, Vietnam also has to address

<sup>553</sup> International Organization for Migration (IOM), Vulnerabilities and Risks of Exploitation Encountered by Vietnamese Migrant Workers (Ho Chi Minh: IOM, 2020). [https://publications.iom.int/system/files/pdf/Vulnerabilities-and-Risks-of-Exploitation\\_1.pdf](https://publications.iom.int/system/files/pdf/Vulnerabilities-and-Risks-of-Exploitation_1.pdf).

<sup>554</sup> IOM, "Vietnam Migration," 55.

<sup>555</sup> Ibid, 63.

labour migration, Vietnam also has to address challenges associated with violations of rights of workers by employers, breaches of contracts and desertion by the workers, illegal networks of recruitment, and, most significantly, violation of government regulations on recruitment procedures.<sup>556</sup> In 2015, migrants in Algeria were beaten and maltreated by employers<sup>557</sup>, in which one worker paid more than VND 47 million to make the journey but received only VND 2 million worth of wages.

Moreover, the transport of migrant workers, both in and out of Vietnam has been easier than in the past. A more open border has further promoted the economic activities and eased the mobility of migrant workers, especially in terms of transportation. However, it has also inevitably provided migrant workers with the opportunity to cross the borders with no proper

documentation and using illegal means, increasing the vulnerability to trafficking and exploitation.<sup>558</sup>

The DOLAB under MOLISA oversees the management of labour export. It conducts assessments, grants or withdraws licenses, audits and inspects activities, deals with violations, and conducts research as well as advises the ministry on legislation and policies. MOLISA also established the Overseas Workers Centre (OWC), a public service institution primarily in charge of Vietnamese migrant workers in Korea. MRC is an initiative opened by DOLAB and supported by IOM as an information and support centre to prospective and returning migrant workers. In addition, MOLISA also has two state-owned enterprises licensed to conduct labour exports.<sup>559</sup>

#### 4.10.2. Policies, Regulations, and Legislations Related to Labour Migration

There are at least 39 policies, regulations and agreements related to mobilisation of people across borders in Vietnam. Most documents regulate the mobilisation of labour from Vietnam to other countries although there exist some documents which regulate activities of foreign labour in Vietnam as well. This part looks into the arrangements of labour migration infrastructure in Vietnam.

In 1999, the government signed an Agreement between the Vietnam Economic and Cultural Office in Taipei and the Taipei Economic and Cultural Office in Hanoi regarding the Sending and Receiving of Vietnamese Workers as Contract Labour which maintains that migrant workers going from Vietnam to Taiwan are protected under Taiwanese law and that both states cooperate in establishing

work-related complaint mechanism for those migrant workers. Similarly, in 2006 Vietnam also established cooperation with Republic of Korea under Agreement for the Extension of the Validity of the MOU on the Sending of Workers to the Republic of Korea between MOLISA of Vietnam and the MOL of the Republic of Korea. Other similar agreements were established bilaterally with countries such as Oman in 2007 and Qatar and Uni Arab Emirates in 2009.

Such agreements are further followed up in the span of 2006-2009 in the form of domestic regulations such as Law No 72/2006/QH11 on Vietnamese Workers Working Abroad Under Contract and Order No. 17120061L-CTN on Vietnamese Guest Workers which both regulate rights and obligations of both Vietnamese migrant workers and their foreign employers. A revised version of Law No. 72 was recently adopted by Vietnam President's Office under the Law No. 69/2020/QH14 on Contract-based Vietnamese Overseas Workers which will be enforceable from January 1, 2022.<sup>560</sup> These regulations protect Vietnamese migrant workers in terms of their legal rights and interests. Aside from that, bilateral agreements are enacted with several other countries regarding the management and protection of migrant workers which further protect the rights of Vietnamese migrant workers in destination countries.

There are other regulations aimed at protecting the rights of Vietnamese workers working abroad which generally regulate brokerage services of migrant workers, pre-departure training and employment fund, health insurance for migrant workers, as well as complaint and dispute settlement mechanism

which all aim to increase the quality and security of Vietnamese migrant workers. The list of regulations is as follows:

- ◇ Joint Circular No. 16/2007/TTLTBLDTBXH-BTC on Specific Regulation on Brokerage and Service Fee in Sending Vietnamese Labourers to Work Abroad Under Contracts
- ◇ Decision No. 18/2007/QD-BLDTBXH on Promulgation of the Essential Supplemental Training Program for Workers Prior to Overseas Employment. This decision regulates the program for pre-departure training for Vietnamese Migrant Workers before working abroad
- ◇ Decision No. 144/2007/QD-TTg on Setting Up, Management and Use of the Overseas Employment Support Fund which aims to develop and expand foreign labour markets, raising the quality of workforce, and supporting workers and enterprises in handling risks
- ◇ Decision No. 27/2019/QD-TTg on Credits for Workers in Poor District Working Abroad under Contracts until 2020
- ◇ Law No. 74/2014/QH13 on Vocational Education and Training which equips future migrant workers in languages, customs and laws of destination country as well as relevant Vietnamese laws which protects their migration activities; Law No 58/2014/QH13 on Social Insurance which covers the health rights of all Vietnamese workers including Vietnamese migrant workers;
- ◇ Decree No.: 119/2014/ND-CP on Stipulating in Detail a Number of Articles of Labour Code, Law on Vocational Training and Law on Vietnamese Employee Working Abroad under Contract about the Complaint and Denunciation which covers complaint mechanism for Vietnamese migrant workers;

556 "Labour migration in Viet Nam," International Labour Organization (ILO), accessed 18 September 2020. <https://www.ilo.org/hanoi/areasofwork/labour-migration/lang--en/index.htm>.

557 "Lao ng Vit Nam Algeria kêu cu vi b ánh p," VN Express, October 6, 2015. <http://vnexpress.net/tin-tuc/thoi-su/lao-dong-viet-nam-o-algeria-keu-cuu-vi-bi-danh-dap-3291429.html>.

558 Anh, Tacoli, and Thanh, "Migration in Vietnam," 13.

559 Futaba Ishizuka, "International Labor Migration in Vietnam and the Impact of Receiving Countries' Policies," IDE Discussion Paper No. 414 (2013): 4. <https://www.ide.go.jp/library/English/Publish/Download/Dp/pdf/414.pdf>.

560 "Revision of the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14," International Labour Organization, March 24, 2021, accessed November 2, 2021. [https://www.ilo.org/dyn/migpractice/migmmain.showPractice?p\\_lang=en&p\\_practice\\_id=208](https://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=208).



- ◇ Labour Code No. 45 which generally stipulated the rights and obligations of workers and employers, as well as the dispute settlement mechanism. This policy aims to protect female, disabled, elderly and minor employees both in Vietnam and Vietnamese abroad. Within this policy, migrant workers are also protected from gender discrimination which cause unequal salary between workers who perform equal works. This policy was firstly adopted in 2012, which was renewed in 2019 and the renewed version will be effective in 2021.

### ● 4.10.3. Governmental Institutions Related to Labour Migration Management

Besides the regulations, governmental institutions are also an important component within the regulatory dimension of migration infrastructure. In Vietnam there are 3 main governmental institutions which manage labour migration activities. First is the Ministry of Labour, Invalids, and Social Affairs or The MOLISA which perform functions on the following area: labour, wage and salary, employment, vocational education, social insurances, occupational safety and hygiene, people with special contribution to the country, social protection, children related issues, gender equality, and social vices control and prevention. In the context of Vietnam as an origin country, MOLISA performs several functions which are:

- ◇ Providing guidelines for implementation of Vietnamese legal regulations related to Vietnamese working overseas under employment contract;
- ◇ Developing overseas labour markets for the Vietnamese workers;
- ◇ Setting up and providing guidelines on implementation of pre-departure training activities to workers working overseas under employment contract and stipulating contents of pre-departure training programs with specified necessary knowledge and issuing certificates to trained workers before departure;
- ◇ Stipulating on operating license including issuing, renewing and withdrawing the

operating license of institutions operating in the areas of sending workers to work overseas in accordance with regulation;

- ◇ Conducting and providing guidelines on contract registration applied to organisations who provide migrant workers, and to individual workers who shall work overseas under individual employment contracts including monitoring implementation of labour supply contracts of organisations;
- ◇ Cooperating with the MOFA Affairs in conducting and directing management activities and resolving any issues related to the Vietnamese workers working overseas under employment contracts;
- ◇ Managing the Overseas Work Assistance Fund.

In the context of Vietnam as a receiving state, MOLISA is responsible for providing guidelines for implementation and enforcement of legal regulations related to employment, recruitment, and management of foreign labour working in Vietnam. The activities of the MOLISA includes creating forums to gather ideas on how to improve Vietnamese labourers' skills, conducting a campaign on workplace accident prevention, and pursuing cooperation with other countries regarding migrant workers through several MOUs.

The second institution is the MOFA Affairs which performs 2 functions related to migrant workers. First, it is responsible for the protection

of Vietnamese migrant workers through its overseas diplomatic missions and consular services all over the world. Such protection includes assistance and guidance related to labour-related complaints and disputes involving Vietnamese migrant workers. Second, the MOFA Affairs works closely with the MOLISA in the state management of Vietnamese migrant workers abroad.

The third institution which manages labour migration activities is the MOPS. It is responsible for granting passports and other necessary documents for Vietnamese migrant workers. Besides, it also works with related ministries such as the MOLISA and MOFA in receiving Vietnamese migrant workers who are deported or forced to repatriate back to Vietnam.

### ● 4.10.4. Non-State Actors Related to Labour Migration Management

Under some Vietnamese national laws, the role of non-state actors in labour migration management is encouraged and regulated. Notably, the Law No 72/2006/QH11 on Vietnamese Workers Working Abroad Under Contract has a section to regulate the role of private agencies in sending migrant workers abroad, including the responsibility of such agencies to instil necessary knowledge to the potential migrants before sending them abroad and providing labour supply contracts which conform to the Vietnamese laws and host country in order to protect the rights of potential migrant workers. Another important non-state actor in labour migration management is labour union or workers' representative organisations whose activities and rights are protected under the Labour Code No. 45 Year 2019. Their activities include participating in dialogue and conducting collective bargaining with employers in order to have fair working contracts for the employees.

One example of such non-state actors is the Vietnam General Confederation of Labour. It was established in 1929 as a trade union whose activities aim to assemble, build, and unite forces of labour to tailor a strong working class. As a non-state actor, they have 4 main activities. The first is to represent and protect labours' legitimate and legal rights and interests. Second, it actively participates in state management, socio-economic management and in the inspection, examination, monitoring of activities of state agencies, organisations, establishments, and enterprises to ensure the fulfilment and protection of labours' rights and interests. Third, it encourages labour forces to study and improve their qualification and professional skill so that Vietnamese labour forces can compete in the international labour market. The fourth activity is to observe laws and to build and defend the socialist Fatherland of Vietnam.

#### 4.10.5. Remittance

Studies focusing on remittance channels for Vietnamese migrant workers are relatively limited. In the past, informal channels were predominantly utilized by Vietnamese to transfer their remittances. The informal channels include the hawala system and courier deliveries.<sup>561</sup> However, such a method has shifted in the middle of 1990s with the emerging role of formal financial services such as banks and MTOs namely Western Union and MoneyGram. Although the formal channels have emerged, Vietnamese still prefer to use informal channels due to its cheaper cost, familiarity throughout the years, ability to provide personalised messages, and anonymity that allows them to keep the transfer discreet from other parties.<sup>562</sup> Aside from that, Vietnamese migrant workers usually use the service from their trusted relatives or friends to remit their money.<sup>563</sup> Such practices are very common for Vietnamese migrant workers. Differing to what other countries may experience, Vietnam's informal channels

are seen to be trustworthy intermediaries in remitting migrant workers' money.<sup>564</sup>

Moreover, Small delivered that there is an emerging new actor within the remittance channel which are the financial technology companies and blockchain technology companies. Financial technology companies such as Well Fargo add-ons, prepaid gift cards from Mastercard, digital wallets, and mobile transfers are innovations developed by the fintech companies to ease migrant workers' efforts to transfer their remittances.<sup>565</sup> Another alternative is the innovation from blockchain technology companies, the bitcoin. Small stated that bitcoin may diminish the transfer cost of remittances. This is a viable option for Vietnamese migrant workers to avoid high cost on the transfer of remittances.<sup>566</sup> However, such methods shall be further regulated in order to ensure the safety of the transfer of remittances.

#### 4.10.6. Best Practices in Labour Migration Management

During the COVID-19 pandemic, many countries have taken ineffective measures that lead them to an increasing number of COVID-19 cases. On the contrary, Vietnam has shown a great example in addressing

the COVID-19 as well as the needs of migrant workers. According to Worldometers, the number of COVID-19 cases is 1,069 with only 35 deaths (only accounting 0.000004% of the total Vietnamese population) and 999

561 Ivan A. Small, "Entrenching Transformations: Remittances in Vietnam's Tiger Economy," *Transport, Traffic, and Mobility*, March 27, 2017, <https://t2m.org/entrenching-transformations-remittances-in-vietnams-tiger-economy/>

562 Ibid.

563 Ivan A. Small, "The 'Dangerous' Gift," in *Currencies of Imagination: Channeling Money and Chasing Mobility in Vietnam*, ed. Ivan Small (New York: Cornell University, 2018), 40.

564 Ibid, 163.

565 Ibid, 164.

566 Ibid.

recoveries as of September 2020.<sup>567</sup> After more than 8 months the virus has spread throughout the world, the case of COVID-19 in Vietnam remains low, compared to other AMS. ILO Vietnam Director Chang-Hee Lee pointed out the background success story of Vietnam in addressing the COVID-19 issue. The access to healthcare is granted for all of their citizens, including for vulnerable groups such as migrant workers and women. Vietnam's health insurance has covered 90% of Vietnamese. The director stated that the government has taken pre-emptive measures which is to open access to healthcare regardless of gender and the possession of health insurance in order to tackle the other 10% citizens that do not acquire health insurance.<sup>568</sup> With such a measure, it is expected that the spread of the virus could be decreased.

Other than that, Vietnam has also developed an application to track the COVID-19 that can be easily downloaded through mobile phone. The application is called "Bluezone". Bluezone is an application to track whether the user of the phone is in close proximity with a COVID-19 patient. The idea of the application is to tell its user if they are two meters away from a COVID-19 patient that has been hospitalised in the past 14 days.<sup>569</sup> The Bluezone would alert its user as well if it notices any risk of virus infection to its users. The notification would then lead the citizen to consult the nearest hospital.<sup>570</sup> Additionally, Vietnam has

also supplied citizens who are unemployed, including the migrant workers who recently repatriated, with rice ATMs.<sup>571</sup> Such practices have shown the success story of Vietnam in protecting the rights of migrant workers.

Long before the COVID-19 pandemic spread throughout the world, Vietnam has also performed a good practice in terms of labour migration. Throughout 2007-2011, DOLAB has received more than 2,000 complaints from Vietnamese workers overseas. Such complaints included human rights issues such as violation of contract, mistreatment, violence against workers, harassment, and other problems that threatened the rights of migrant workers.<sup>572</sup> The sanctions given by DOLAB on such events were either a warning, fine, or additional penalty towards the REs. Such measurement indicated Vietnam's attempt to push REs in fostering safe migration for Vietnamese migrant workers. Additionally, Vietnam has also established several MRCs in various locations to provide migrant workers with settlement services.

Moreover, it can be seen through the stipulation of Vietnam policies which generally guarantee the health rights and fair treatments of foreign workers in terms of gender equality and protection against discrimination in workplace. The first is Circular No. 8 on Guiding the Implementation of a Number of Articles of the Government's Decree for the

567 "Vietnam Coronavirus," Worldometer, accessed 27 September 2020. <https://www.worldometers.info/coronavirus/country/vietnam/>.

568 "Viet Nam can well address labour market challenges," International Labour Organization (ILO), April 15, 2020. [https://www.ilo.org/hanoi/informationresources/PublicInformation/comments-and-analysis/WCMS\\_741638/lang-en/index.htm](https://www.ilo.org/hanoi/informationresources/PublicInformation/comments-and-analysis/WCMS_741638/lang-en/index.htm).

569 Chau An, "Vietnam develops coronavirus contact tracing app," *VN Express*, April 21, 2020. <https://e.vnexpress.net/news/news/vietnam-develops-coronavirus-contact-tracing-app-4087702.html>.

570 Ibid.

571 Alicia Lee, "'Rice ATMs' provide free rice for people out of work in Vietnam due to the coronavirus crisis," *CNN*, April 13, 2020. <https://edition.cnn.com/2020/04/13/world/coronavirus-vietnam-rice-atm-trnd/index.html>.

572 International Labour Organization (ILO), *Complaint mechanism for Vietnamese migrant workers: An overview of law and practice* (Hanoi: ILO, 2015), 19.



Recruitment and Management of Foreigners Working in Vietnam which specify the general rights and obligations of foreign workers in Vietnam. The second is Law No 58/2014/QH13 on Social Insurance which not only gives the rights of health insurance for Vietnamese working abroad as mentioned above, but also for foreign workers working in Vietnam.

Furthermore, the establishment of Labour Code No. 45 in 2019 could be considered as a milestone for Vietnam in tackling the issue of human rights and gender equality in the labour migration scheme. The Labour Code covers all aspects of migration management from Vietnam to the foreign entities. This surely indicates Vietnam's serious attempt to protect their migrant workers abroad. The Labour Code ensures that there is no labour discrimination in the workplace, including discrimination based on gender and nationality, which affects the equality of opportunity. It also emphasises the needs of workers with disabilities towards a reasonable and adequate accommodation. Through this Labour Code, the establishment of trade unions or other grassroots-level workers' representative organisations is regulated. It has ensured the right of workers to establish or join the trade unions as well. This Labour Code is the all-in-one information on migration management in Vietnam. Not to forget to mention that the Labour Code has also covered the standardisation of wages, method of wage transfer, rights to benefits when one is on maternity leave, and other matters that are significant to ensure the protection of migrant workers. Interestingly, this Labour Code does not only apply to Vietnam migrant workers abroad but also to foreign workers in Vietnam. This policy would be an example of good practice for other countries to create an integrated and comprehensive legal framework.

Aside from that, Vietnam has also ratified relevant international legislation on gender equality in 1997, namely the ILO Convention No. 100 on Equal Remuneration Convention and ILO Convention No. 111 on Discrimination. These regulations regarding migrant workers in Vietnam shows that Vietnam has considered human rights and gender aspects in regulating migrant workers both as an origin and destination country although the gender aspect is only covered by Labour Code No. 45. Additionally, the COC is also worth mentioning. It regulates PRAs that send labours abroad which can be set as a good practice done by the MOLVT in further simplifying the National Guidelines for PRAs in Cambodia.

Such arrangements are in accordance with ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers that was signed in 2007. This condition shows that even before the norm of protection and promotion of the rights of migrant workers were established regionally, Vietnam already made efforts in protecting the rights of both its migrant and foreign workers. These arrangements have fulfilled all specific rights of migrant workers mentioned in the ASEAN Consensus, namely the access to information, right to hold passports, freedom of movement, right to be issued an employment contract, fair treatment in workplace, adequate or reasonable accommodation, fair and appropriate remuneration and benefits regardless of gender, rights to benefits arising from the employment, right to transfer their earnings and savings, file complaints and make representation, right to appeal, and right to join trade unions.

#### 4.10.7. Conclusion

In the case of Vietnam, we can see that poverty and inadequate employment opportunities become the main push factor of labour migration. Migrant workers who hope to increase their living standard work abroad and this phenomenon plays an important role in the national economic growth in terms of remittance contribution to national GDP. In order to manage the mobilisation of this type of migration, Vietnam has migration infrastructure which mostly rely on the regulatory dimension to enhance and protect labour mobilisation. Similar to Cambodia and Myanmar, the migration infrastructure in Vietnam is developed mainly to support the role of Vietnam as an origin country, although there exist sufficient components to support the role of Vietnam as a destination country.

The regulatory dimension consists of numerous national regulations which exist to enhance protection and promotion of the rights of Vietnamese migrant workers in accordance with the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers. These regulations protect the welfare, legal rights and interests of migrant workers abroad through managing migrants' environments such as stating rights and responsibilities of foreign employers, managing brokerage services of migrant workers, regulating pre-departure training and employment fund, providing health insurance for migrant workers, as well as creating work-related complaint and dispute settlement mechanism. Besides, Vietnam also signed some bilateral MOUs related to management of migrant workers with other countries in order to enhance the protection of Vietnamese migrant workers in destination countries. Moreover, this regulatory dimension also consists of some regulations which protects the rights of migrant workers

working in Vietnam and such protection works in accordance with the ASEAN Consensus on the Protection and Promotion of the Right of Migrant Workers, particularly regarding the responsibility of receiving states. These regulations ensure that foreign workers in Vietnam have the rights to have social and health insurance, as well as protection against gender-based and nationality-based discrimination in workplace.

Besides the regulations, some governmental institutions also play an important role in facilitating and enabling labour migration in Vietnam. These institutions are the MOLISA, MOFA, and MOPS. Within the MOLISA, there is the DOLAB which has the responsibility to manage the process of sending migrant workers abroad including granting licenses, inspecting activities, dealing with process violations, and advising the Ministry on regulations related to migrant workers. Besides, the MOLISA in general is also responsible for two state-owned enterprises licensed to conduct labour exports, providing guidelines for pre-departure training of the migrant workers, and managing as well as licencing REs whose activities revolve around labour export. In ensuring an extensive protection for Vietnamese migrant workers abroad, the MOLISA is the government agency responsible for the management of Vietnamese migrant workers abroad, and thus coordinates with the MOFA and MOPS deals with assistance and guidance for migrant workers in their destination country, manage complaints, and deal with the issue of deportation and forced repatriation. From this point of view, MOLISA is the main government institution in Vietnam which protects the rights of Vietnamese migrant workers while the other two institutions work as the extension or support for MOLISA in fulfilling its responsibilities.

# 5

## 5. Commitment, Challenges, and Recommendation

### 5.1. Adoption of ASEAN Consensus by ASEAN Member States

In the context of ASEAN, the main countries of destination are Brunei, Malaysia, Singapore, and Thailand. The rest of AMS, namely Cambodia, Indonesia, Lao, Myanmar, Philippines, and Vietnam, are mainly countries of origin. All AMS have signed the 2017 ASEAN Consensus on the Promotion and Protection of the Rights of Migrant Workers as a framework to promote cooperation among member states to regulate migrant workers. There is still the issue of the non-binding nature of the document but to date it is still the best achievement of ASEAN so far in terms of agreeing to a certain set of ways in managing labour migration.

Meanwhile, even before the ASEAN Consensus was enacted in 2017, several AMS have long shown an extensive effort to regulate the flow and protection of migrant workers, both as an origin or destination country. Referring to the country studies in Part 4, Philippines established its Republic Act

8042 in 1995 as an attempt to protect Filipino migrant workers. Indonesia has formerly made an effort to protect IMWs through the Decision of Ministry of Manpower in 1999 and Law No. 39 Year 2004, before the current Law No. 18 Year 2017 is in effect. Despite the ongoing crisis, Myanmar has also shown its commitment as an origin country to protect Myanmar migrant workers since 1999 through the State Peace and Development Council Law No. 13. Last but not least, Malaysia mentioned that documented migrants will have the right to receive protection under the existing Malaysian laws and legislations, such as the Employment Act in 1955.

On the other hand, Lao PDR, Cambodia, and Vietnam acknowledge the needs to ensure the protection of migrant workers in the beginning of the 21st century. Lao PDR enacted its Labour Law in 2007, supported by five decrees to pursue the protection of migrant workers.



Cambodia specifically addressed the needs to protect Cambodian migrant workers through the Prakas No. 108 that was promulgated in 2006. In the same year, Vietnam adopted two legislations, Law No. 27/2006/QH11 and Order No. 17120061L-CTN.

The signing and adoption of ASEAN Consensus by AMS have demonstrated further firm commitment and political will of ASEAN leaders in promoting the protection of migrant workers. As mentioned in Part 3, with the adoption of ASEAN Consensus, AMS are committed to fulfil and accommodate the fundamental rights of migrant workers through the written obligations—both as an origin and destination country—within the Consensus. It is important to emphasise that the adoption of ASEAN Consensus would not undermine the existing domestic legislations and policies. By and large, AMS have adopted the ASEAN Consensus to the extent that they seek to build an effective cooperation under the non-binding framework, while simultaneously and primarily still deciding on the basis of the prevailing national policies and regulations.

## 5.2. Main Challenges in Labour Migration Management

From the study on migration infrastructure in ten AMS and migration management within ASEAN, we outline 9 challenges in implementing the ideal labour migration management in ASEAN which protect, fulfil, and respect the rights of all migrants equally. First, the varied policies on labour migration that exist in each member country has prevented the establishment of synchronised policies and coordinated actions among AMS. As identified in Part 2, some member states of ASEAN still treat the labour migration process as a one-dimensional phenomenon which is reflected in the policy to assign only one

Furthermore, as an effort to promote a sustainable return and reintegration of migrant workers, the AFML recently adopted a framework titled “ASEAN Guidelines on Effective Return and Reintegration”. The Guidelines demonstrated another milestone for the ASEAN Consensus. Although the Guidelines are voluntary—non-binding—and merely performs as a basis from ASEAN to encourage AMS in enhancing the return and reintegration effort of migrant workers, the Guidelines reassert the fundamental rights of migrant workers as well as obligations of Sending and Receiving states as mentioned in the ASEAN Consensus. Such an effort to establish a guideline has shown shared understanding among AMS to adopt necessary and relevant frameworks, pursuant to the adoption of ASEAN Consensus. However, although the adoption of the ASEAN Consensus and other relevant frameworks have reflected the political will of AMS, there are still challenges in terms of implementation that need to be addressed.

governmental agency to bear the responsibility of managing the labour migration, most often the Ministry of Manpower. While within these states some migration related issues such as human trafficking is handled through inter-agency cooperation, such cooperation focuses only to tackle down the issue and not for comprehensively managing the labour migration. However, a few states, particularly countries of origin, such as Indonesia and the Philippines, have established inter-agency cooperation to manage labour migration and migrants. Furthermore, the cooperation between state and non-state actors is not

always established well. Some receiving states are not adequately working with CSOs which support and advocate the rights of migrant workers, or in some cases, these states do not recognise these CSOs as their partners in managing the labour migration according to the principle of human rights.

**Second**, in regard to the regulatory framework, labour laws in some receiving states do not cover 3D jobs which frequently employed migrant workers such as plantation agriculture, fishery, and domestic works. There are disparities between the policy and practices. Hence, migrants who work in these sectors might be ignored or neglected by the general labour migration management and as a result, their rights are less protected than migrants in other sectors. This condition shows the lack of inclusiveness of the existing labour migration management since the current infrastructure in some states cannot give equal protection to migrant workers.

**Third**, the insufficient inter-agency cooperation on labour migration management as elaborated in the first challenge also reflects states’ perception of the labour migration phenomenon. When each state agency which deals with labour migration sees this phenomenon partially rather than comprehensively, the conduct of labour migration may often fail to address the human rights dimension comprehensively. Some state elements emphasise national security issues, usually focusing on threats, while others highlight economic issues, particularly the benefit and contribution to development, when dealing with labour migration. Although seeing labour migration as national security issues may protect migrants’ right to security and seeing it as an economic activity may guarantee the fulfilment of migrants’ economic rights, treating it as a partial phenomenon may cause the state to ignore other sets of human

rights. This condition contradicts with the basic principle of indivisibility of human rights.

**Fourth**, it is important to notice that several REs have misused their authority by deceiving migrant workers on to paying an additional cost that is not within the obligatory levies. As stated in Part 2, migrant levies are common practices during the process of the recruitment. Such levy is always imposed on the employers to offset the hiring of local workers. However, sometimes the burden of such levies is buck passed illegally to the migrant workers through deception by the REs. Such condition shows an unlawful act exercised by the REs in the lack—if not absence—of information received by migrant workers as well as the lack of government’s control over RE’s recruitment activities.

**Fifth**, the lack of identification system for migrant workers creates obstacles for some receiving states to establish coordination between agencies and between AMS for controlling the flow of migrant workers. It is especially the case of irregular migration which results in incomplete documentation, incorrect documentation, or even undocumented migrant workers. The main issue of this condition is that the lack of identification system for migrant workers reflect the lack of comprehensive state’s presence in labour migration management and hence, lack of comprehensive protection for migrant workers.

**Sixth**, regardless of the firm licensing arrangements that have been established by the governments, illegitimate REs keep recurring. There are fines, penalties, and other means of deterrence that have been imposed by the governments. Yet, these means are still unable to eradicate the existence of illegitimate REs. Moreover, Many REs are not liable and exercise an unlawful operation. Such recurring events of illegitimate REs indicate

the ineffectiveness of the measurement taken (such as penalties) to prevent and deter the emergence of illegitimate REs.

**Seventh**, although the majority of AMS have enacted national legislation that seeks to protect migrant workers from illicit practices such as human trafficking and slavery, the effectiveness of such arrangements remains unknown. It is important to assess whether the prevailing framework has effectively accommodated the needs of migrant workers on the protection against illicit practices. This condition has indicated the lack of assessments in regards to the existing legislation.

**Eighth** is the double-sword existence of non-state actors such as the migrant networks, NGOs, and CSOs. Although their existence has immensely assisted migrant workers in pursuing and protecting their rights, they have also enabled informal networks to appear and exercise an illegitimate recruitment of migrant workers, for an instance undocumented migrant worker. Such a condition may be unprecedented, yet in relation to the first challenge of government's lack of cooperation with and recognition of non-state actors, it has also raised a question to the role of the government in supervising the function of the social infrastructures within the migration.

### 5.3. Recommendations for Migration Management at the Regional Level

Considering the above identified challenges faced by labour migration management in ASEAN as mentioned in the preceding section, we offer the following recommendations to overcome such challenges. These recommendations are directed towards 4 entities within ASEAN involved in labour migration management. They are ASEAN, AICHR, ACMW, and AMS.

#### 5.3.1 Recommendations for ASEAN

First, ASEAN needs to continuously remind all AMS about the multidimensional characteristics of labour migration. These efforts should then be followed by facilitations of collaborative management of labour migration among state elements. The narrative should be to change partial management to comprehensive and collaborative management of labour migration to ensure that every aspect of migrant rights needs to be fulfilled as a whole. This study recognizes the existence of ASEAN Labour Ministers Meeting (ALMM) and Senior Labour Officials Meeting (SLOM) which are supported by ACMW in dealing with the protection and

promotion of rights of the migrant workers. In this regard, this study highlights the need to expand the current cooperation to other ministerial agencies which are also responsible to protect and promote the rights of the migrant workers such as MoFA, MOHA, and Ministry of Justice and Human Rights among others, where appropriate.

Second, ASEAN needs to also consider several conditions which may disrupt the current pattern of labour migration activities such as pandemic situation and other disasters which affect regional and global environment.

For example, the lockdown policy which are imposed by majority of countries in the world most certainly disrupts the labour migration activities and such disruption negatively affects the livelihood of migrant workers. Hence, in

order to protect migrant workers, ASEAN should call for further cooperation on labour migration among AMS so that a dialogue to establish a resilient labour migration management system may commence.

#### 5.3.2 Recommendations for AICHR

First, subject to the consensus among AMS, regular observation and evaluation on the implementation of the national policies and their reports can be discussed under ASEAN cooperation mechanism in order to further improve policies that regulate the REs. Such a regional dialogue will provide an opportunity to share best practices among AMS to uphold the rights of migrant workers in ASEAN region. This recommendation is in line with AICHR's plan to conduct a consultation to share good practices to create fair working conditions for migrant workers in 2022, considering that policies that regulate the REs also relate to the working conditions of migrant workers.

Second, recognizing the existing ASEAN's Action Plan (2018-2025) to Implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, there are already several published, ongoing, and planned research projects related to migrant workers, among others: research on the best practices and lessons learned on TIP (Trafficking in Persons) public awareness campaign for each AMS, study on the demand and supply of migrant workers in destination and origin countries in ASEAN, research and regional workshop on the linkage between TVET (Technical Vocational Education and Training) and sending workers to work overseas, comparative study on laws and policies in the management of foreign workers in ASEAN particularly in occupations under the 8 MRAs (Mutual Recognition Arrangements), study on portability of social security for migrant

workers across AMS, and research on migrant worker rights-based on standard employment contract. However, considering the COVID-19 Pandemic, an additional study on the management of migration in ASEAN which emphasizes on the efforts to make the process more inclusive and specifically address the latest situations related to the post-pandemic challenges, is urgently needed in the near future. This study may include the best practices and lessons learned on TIP during COVID-19 Pandemic, the change of the commercial and social dimensions of migration infrastructure during the Pandemic, and the possible improvement in regulatory and technological dimensions to manage migrant workers during Pandemic.

Third, AICHR to consider conducting a further regional study to address the cause of and solution for systemic issues in migration management system. This study may answer some systemic questions such as the gaps in regulatory framework of migration in ASEAN, the difficulties to obtain a public data regarding labour migration activities in ASEAN, and the existence of undocumented migrant workers in ASEAN. Furthermore, this study can also offer recommendations to tackle these issues, including judicial and non-judicial remediation for migrant workers who had their rights violated during their labour migration activities. A form of regional institutions for grievance mechanisms may be needed for such migrant workers.



### 5.3.3 Recommendations for ACMW

First, ACMW needs to give room for CSOs and other elements of the society to be significantly involved in the labour migration management process. This action can be done through public awareness raising which has been planned to be done in 2022- 2023.<sup>573</sup> Cooperation between the government and local CSOs can help to protect and fulfil the rights of migrant workers, especially of those in a vulnerable position such as women and youths. Moreover, discrimination and suspicions towards migrant workers can be reduced significantly when the government of receiving states can embrace local CSOs who advocate the rights of migrant workers and highlight the real contribution of migrant workers to origin and destination countries. Significant involvement of CSOs and other elements of the society within the labour migration management can be effective to support the fulfilment of the existing plan to improve public perception towards migrant workers' positive contribution.

Second, some AMS, especially the destination countries need to reconsider their current labour laws which insufficiently regulate 3D jobs. Migrant workers with 3D jobs are at higher risk, especially in terms of health. It is crucial to put emphasis on them, following the existing plan to address the health risk of migrant workers.<sup>574</sup> Strengthening laws which regulate migrant workers in all economic sectors can help strengthen the bargaining position of migrant workers towards their employer. Moreover, it also encourages employers to fulfil

their responsibility in protecting and fulfilling the rights of their migrant employees. This will require frequent and intensive dialogue between the governments of destination countries and CSOs in formulating policies that provide protections towards migrant workers.

Third, an integrated and efficient information system regarding migrant workers by the AMS is crucial. The current ACMW project in building repository of legislations and policies on migrant workers of AMS<sup>575</sup> is in line with this point and hence, need to be completed as soon as possible. This repository should also be socialized to migrant workers so that they have adequate information to prevent them from being deceived by irresponsible REs. Such socialization is also in line with ACMW's ongoing project of public campaign on safe migration. In order to improve the public campaign project, this study recommends ACMW to not only collaborate with the state actors, but also non-state actors so that the campaign can expand its reach.

Fourth, in regard of the previous point, the on-going project in building repository of legislations and policies on migrant workers of AMS could be expanded further to foster cooperation. After having an integrated information system, ACMW could consider formulating an integrated identification system for ASEAN migrant workers so that AMS may work together in managing the flow of migrant workers in and out of the ASEAN region. Moreover, ACMW should encourage its

<sup>573</sup> The plan refers to the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) Action Plan (2018-2025) to Implement the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers.

<sup>574</sup> Ibid.

<sup>575</sup> Ibid.

member countries to formulate a collaborative and comprehensive migration management system within the region. There is a need to promote cooperation between migration management officials and officials of other policy domains at the national and regional level to ensure policy coherence. By doing so, cases of undocumented or irregular migration can be minimized and protection for migrant worker can be expanded.

Fifth, also in relation to point number three, with a potential significant involvement of non-state actors, there is a need to re-evaluate the function of non-state actors

such as NGOs, CSOs, and migrant networks. Embracing the non-state actors within the migration management mechanisms can be a steppingstone for ACMW to ensure safe migration for work in the region. Nonetheless, regular monitoring—without limiting the function of non-state actors—is needed to prevent the emergence of informal networks that may hinder safe migration. There is a need to curtail the proliferation of actors who facilitate migration independently of state frameworks of regulation. There is also a need to make migration a more orderly and manageable process, and to make it beneficial for all the stakeholders involved.

### 5.3.4 Recommendations for AMS

First, this study supports the realization of ACMW reintegration projects. AMS should expand migration management to include measures that should be taken by the countries of origin, in technical and financial partnership with countries of destination as appropriate, to facilitate the reintegration of migrants. Such measures might include placement and job-finding aid for returning migrants as well as skills-acquisition and reskilling courses jointly conducted by countries of origin and destination.

Second, this study recommends that both countries of origin and destination countries to ensure permits of the migrant workers. Considering that in some cases, documented migrants which legally entered destination countries become undocumented migrants for several reasons, there needs to be a cooperation among AMS to tackle this issue.

Third, subject to consensus among AMS, a form of special regional mediation mechanism for labour migration activities is needed. This

mediation mechanism can be part of grievance systems for migrant workers who had their rights violated during their labour migration activities. Furthermore, this mechanism can also act as the impartial actor which mediate and resolve issues between migrant workers and their employers.

Fourth, this study recommends the AMS to put more focus on the rights of their citizens who become migrant workers. It is important to improve the capacity of public officials in AMS so that they can build a mechanism to gather and analyse data related to labour migration, interpret it, and use it to improve the quality of migration management system in ASEAN.

Fifth, this study encourages AMS to mainstream the role of “employers” (as a part of non-state actors). Although there has been a focus on the role of PRAs but it is becoming a norm and there is a growing expectation that employers play an important role to ensure safe and ethical recruitment practices.



## Bibliography

“2020 Index of Economic Freedom: Singapore.” The Heritage Foundation. Accessed 20 September 2020. <https://www.heritage.org/index/country/singapore?version=348>.

“2020 Census of Population and Housing (2020 CPH) Population Counts Declared Official by the President.” Philippine Statistics Authority. July 7, 2021. <https://psa.gov.ph/content/2020-census-population-and-housing-2020-cph-population-counts-declared-official-president>.

“About FFW.” Foundation for Women. Accessed 20 September 2020. <http://www.womenthai.org/eng/index.php/about/>.

“About ILAB.” International Labour Affairs Bureau. June 7, 2017. <http://ilab.dole.gov.ph/abouts>.

“About Us: Our Story.” Foundation for Education and Development (FED). Accessed 11 September 2020. <http://ghre.org/en/our-story/>.

“About Us.” Human Rights and Development Foundation. Accessed 17 September 2020. [http://hrdfoundation.org/?page\\_id=2&lang=en](http://hrdfoundation.org/?page_id=2&lang=en).

“About.” Migrante International. Accessed 20 September 2020. <https://migranteinternational.org/about/>.

“Annual Remittances Data.” World Bank. September 26, 2019. Accessed 10 November 2021. <https://www.worldbank.org/en/topic/labormarkets/brief/migration-and-remittances>.

“ASEAN Labour Ministers Meeting (ALMM)/Overview.” ASEAN. Accessed 13 December 2020. <https://asean.org/asean-socio-cultural/asean-labour-ministers-meeting-alm/overview/>.

“ASEAN Leaders commit to safeguard the rights of migrant workers.” ASEAN. November 14, 2017. Accessed 9 July 2021. <https://asean.org/asean-leaders-commit-safeguard-rights-migrant-workers/>.

“ASEAN Socio – Cultural Community.” ASEAN. Accessed 13 December 2020, <https://asean.org/asean-socio-cultural/>.

“Background Information.” TRIANGLE in ASEAN Quarterly Briefing Note. 2020. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_735103.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_735103.pdf).

“Bilateral agreements and regional cooperation: Bilateral agreements.” International Labour Organization (ILO). Accessed 13 December 2020. [https://www.ilo.org/asia/areas/labour-migration/WCMS\\_226300/lang--en/index.htm](https://www.ilo.org/asia/areas/labour-migration/WCMS_226300/lang--en/index.htm).

“BNP2TKI Tegaskan TKI Tidak Wajib Memiliki KTKLN.” detikNews. April 12, 2017. <https://news.detik.com/adv-nhl-detikcom/d-3472843/bnp2tki-tegaskan-tki-tidak-wajib-memiliki-ktkln>

“Brunei Darussalam.” ILO. Accessed 7 October 2020. <http://www.ilo.org/asia/countries/brunei-darussalam/lang--en/index.htm>.

“Brunei Population.” Worldometer. Accessed 6 October 2020. <https://www.worldometers.info/world-population/brunei-darussalam-population/>.



“C181 - Private Employment Agencies Convention, 1997 (No. 181).” ILO. Accessed 3 December 2020. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312326](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312326).

“Cambodia (July-September 2019).” International Organization of Migration. Accessed 28 August 2020. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614380.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614380.pdf).

“Cambodia needs to integrate migration into sectoral and national development strategies, says new joint OECD Development Centre – CDRI report.” Organization for Economic Cooperation and Development. Accessed 28 August 2020. <https://www.oecd.org/dev/migration-development/cambodianeedstointegratemigrationintosectoralandnationaldevelopmentstrategies-saysnewjointoecddevelopmentcentrecdrireport.htm>.

“Confederation of Trade Unions Myanmar (CTUM).” Confederation of Trade Unions Myanmar (CTUM). Accessed 11 September 2020. [https://www.icc-cpi.int/RelatedRecords/CR2019\\_06131.PDF](https://www.icc-cpi.int/RelatedRecords/CR2019_06131.PDF).

“Deputy Permanent Secretary Reveals Thailand’s Protection of Migrant Workers Within ASEAN Consensus.” Ministry of Labour. September 9, 2019. <https://www.mol.go.th/en/news/deputy-permanent-secretary-reveals-thailands-protection-of-migrant-workers-within-asean-consensus/>.

“Developing International and Internal Labour migration Governance in Myanmar.” ILO. Accessed 19 September 2020. [https://www.ilo.org/yanmar/projects/WCMS\\_563486/lang-en/index.htm](https://www.ilo.org/yanmar/projects/WCMS_563486/lang-en/index.htm).

“Duties.” Department of Employment. Accessed 17 September 2020. [https://www.doe.go.th/prd/main/general/param/site/1/cat/29/sub/0/pull/singleview/view/detail/object\\_id/4](https://www.doe.go.th/prd/main/general/param/site/1/cat/29/sub/0/pull/singleview/view/detail/object_id/4).

“Employer’s guide: foreign domestic worker.” Ministry of Manpower. Accessed 3 October 2020. <https://www.mom.gov.sg/passes-and-permits/work-permit-for-foreign-domestic-worker/employers-guide>.

“Employers convicted under the Employment Act.” Ministry of Manpower. September 7, 2020. Accessed 3 October 2020. <https://www.mom.gov.sg/employment-practices/employers-convicted-under-employment-act#/>.

“Employment Situation in July 2020.” Philippine Statistics Authority. September 3, 2020. <https://psa.gov.ph/content/employment-situation-july-2020>.

“Foreign Manpower Management Division.” Ministry of Manpower. Accessed 13 September 2020. <https://www.mom.gov.sg/about-us/divisions-and-statutory-boards/foreign-manpower-management-division>.

“Foreign Workforce Numbers.” Ministry of Manpower. Accessed 10 July 2021. <https://www.mom.gov.sg/documents-and-publications/foreign-workforce-numbers>.

“GDP per capita (current US\$) – Thailand.” World Bank Data. Accessed 20 September 2020. <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=TH>.

“Gender Mainstreaming: Strategy for Promoting Gender Equality.” Office of the Special Advisor on Gender Issues and Advancement of Women. August 2021, <https://www.un.org/women-watch/osagi/pdf/factsheet1.pdf>

“Global Compact for Migration.” International Organization of Migration. <https://www.iom.int/global-compact-migration>. Accessed 17 November 2021.

“History of IOM Vietnam.” International Organization for Migration (IOM). Accessed September 18, 2020. <https://vietnam.iom.int/en/history-iom-viet-nam>.

“Home.” Malaysia MOHR. Accessed 17 November 2021. <https://www.mohr.gov.my/index.php/en/about-us/9-site-content/76-enquiries>.

“ILO supports Cambodia’s new policy and guidelines for enhanced labour migration governance and access to justice.” ILO. Accessed 28 August 2020. [https://www.ilo.org/asia/media-centre/news/WCMS\\_654639/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_654639/lang-en/index.htm).

“International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.” United Nations Treaty Collection. Accessed December 27, 2021. [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-13&chapter=4](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4).

“Inter-agency Taskforce Coordinating NGOs’ Efforts to Support the Well-Being of Foreign Worker.” Ministry of Manpower. April 17, 2020. <https://www.mom.gov.sg/newsroom/press-releases/2020/0417-inter-agency-taskforce-coordinating-ngos-efforts-to-support-the-well-being-of-foreign-workers>.

“International migrant stock 2019.” UN Department of Economic and Social Affairs. Accessed December 7, 2020. <https://www.un.org/en/development/desa/population/migration/data/estimates2/estimates19.asp>.

“Introduction.” Department of Labour, the Ministry of Home Affairs. Accessed 7 October 2020. <http://www.labour.gov.bn/SitePages/Introduction.aspx>.

“Kredtrakarn Protection and Occupational Development Centre.” Kredtrakarn Protection and Occupational Development Centre. Accessed 19 September 2020. <http://kredtrakarnhome.com/Home-USLeng.html>.

“Labour force, total - Brunei Darussalam.” World Bank. June 21, 2020. <https://data.worldbank.org/indicator/SL.TLF.TOTL.IN?locations=BN>.

“Labour inspection country profile: Thailand.” ILO. Accessed 5 October 2020. [https://www.ilo.org/labadmin/info/WCMS\\_153137/lang-en/index.htm](https://www.ilo.org/labadmin/info/WCMS_153137/lang-en/index.htm).

“Labour inspection country profile: Thailand.” ILO. Accessed 5 October 2020. [https://www.ilo.org/labadmin/info/WCMS\\_153137/lang-en/index.htm](https://www.ilo.org/labadmin/info/WCMS_153137/lang-en/index.htm).

“Labour Migration in Asia and the Pacific.” ILO. Accessed August 24, 2020. [http://www.ilo.int/asia/areas/labour-migration/WCMS\\_634559/lang-en/index.htm](http://www.ilo.int/asia/areas/labour-migration/WCMS_634559/lang-en/index.htm).

“Labour migration in Viet Nam.” ILO. Accessed 18 September 2020. <https://www.ilo.org/hanoi/Areasofwork/labour-migration/lang-en/index.htm>.

“Lao ng Vit Nam Algeria kêu cu vì b ảnh p.” VN Express. October 6, 2015. <http://vnexpress.net/tin-tuc/thoi-su/lao-dong-viet-nam-o-algeria-keu-cuu-vi-bi-danh-dap-3291429.html>.

“Laos - Commercial Guide.” International Trade Administration, US Department of Commerce. Accessed 7 December 2020. <https://www.trade.gov/country-commercial-guides/laos-trade-financing>.

“Laos is not a cozy place for NGOs.” Deutsche-Welle. Accessed 12 October 2020. <https://www.dw.com/en/laos-is-not-a-cozy-place-for-ngos/a-18063886>.

“Laos Population.” Worldometers. Accessed 13 December 2020. <https://www.worldometers.info/world-population/laos-population/>.

“Laos: Labour force participation.” The Global Economy. Accessed 12 October 2020. [https://www.theglobaleconomy.com/Laos/labor\\_force\\_participation/](https://www.theglobaleconomy.com/Laos/labor_force_participation/).

“Launch of the Code of Conduct for Private Recruitment Agencies in Cambodia.” ILO. Accessed 29 August 2020. [https://www.ilo.org/asia/events/WCMS\\_735805/lang--en/index.htm](https://www.ilo.org/asia/events/WCMS_735805/lang--en/index.htm).

“Malaysia.” IOM. Accessed 8 October 2020. <https://www.iom.int/countries/malaysia>.

“Malaysia: HR Ministry drafting plan to overcome forced labour issue with ILO assistance.” Ethixbase. July 29, 2021. <https://ethixbase.com/malaysia-hr-ministry-drafting-plan-to-overcome-forced-labour-issue-with-ilo-assistance>.

“Malaysia Population.” Worldometers. Accessed 8 October 2020. <https://www.worldometers.info/world-population/malaysia-population/>.

“Migrant Worker Resource Centres.” ILO. Accessed 12 October 2020. [https://www.ilo.org/asia/projects/WCMS\\_629153/lang--en/index.htm](https://www.ilo.org/asia/projects/WCMS_629153/lang--en/index.htm).

“Migration and Remittances Data: Annual Remittances Data (updated as of April 2020).” World Bank. Accessed 26 September 2020. <https://www.worldbank.org/en/topic/migration-remittancesdiasporaissues/brief/migration-remittances-data>.

“MK: Demi Perlindungan, TKI Wajib Miliki KTKLN.” Mahkamah Konstitusi Republik Indonesia. August 4, 2016. <https://mkri.id/index.php?page=web.Berita&id=13251&menu=2>.

“MOL Duties.” Ministry of Labour. Accessed 17 September 2020. <https://www.mol.go.th/en/departments/mol-duties/>.

“MOM’s vision, mission and values.” Ministry of Manpower. Accessed 13 September 2020. <https://www.mom.gov.sg/about-us/vision-mission-and-values>.

“Myanmar (April-June 2020).” ILO. Accessed 20 September 2020. [https://www.ilo.org/wcm-sp5/groups/public/---asia/--ro-bangkok/documents/genericdocument/wcms\\_735107.pdf](https://www.ilo.org/wcm-sp5/groups/public/---asia/--ro-bangkok/documents/genericdocument/wcms_735107.pdf).

“Myanmar launches framework for migrant workers management.” Xinhua. May 12, 2019. [http://www.xinhuanet.com/english/2019-05/12/c\\_138052307.htm](http://www.xinhuanet.com/english/2019-05/12/c_138052307.htm).

“Myanmar.” IOM. Accessed 19 September 2020. <https://www.iom.int/countries/myanmar>.

“New Migrant Worker Resource Centre opens in Lao PDR.” ILO. August 9, 2018. [https://www.ilo.org/asia/media-centre/news/WCMS\\_637320/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_637320/lang--en/index.htm).

“Objective & Activities.” Prevention of HIV/AIDS among Migrant Workers in Thailand. Accessed 21 September 2020. <http://www.phamit.org/objective.php>.

“Occupational safety and health country profile: Brunei Darussalam.” ILO. Accessed 26 October 2020. <https://www.ilo.org/safework/countries/asia/brunei-darussalam/lang--en/index.htm>.

“Ople Center forges anti-trafficking partnership with Singapore NGO.” Blas F. Ople Policy Center and Training Institute. February 20, 2012. <http://www.blasoplecenter.com/press-release/ople-center-forges-anti-trafficking-partnership-with-singapore-ngo/>.

“Organisation.” Transient Workers Count Too. Accessed 14 September 2020. <https://twc2.org.sg/who-we-are/organisation/>.

“Our Mission.” MAP Foundation. Accessed 11 September 2020. <https://www.mapfoundation-cm.org/eng/index.php>.

“Our Work.” SUHAKAM. Accessed 17 November 2021. <https://suhakam.org.my/activities/>.

“Pemerintah lepas tangan dalam melindungi buruh/pekerja di tengah pandemik Covid-19.” LBH Jakarta. March 20, 2020. <https://www.bantuanhukum.or.id/web/pemerintah-lepas-tangan-dalam-melindungi-buruh-pekerja-di-tengah-pandemik-covid-19/>.

“Personal remittances, received (current US\$) – Indonesia.” World Bank. Accessed 23 September 2020. <https://data.worldbank.org/indicator/bx.trf.pwkr.cd.dt?view=chart&locations=ID>.

“Philippine Foreign Policy.” Department of Foreign Affairs. Accessed 13 September 2020. <https://www.dfa.gov.ph/about/phl-foreign-policy>.

“Population and Population Structure.” Singapore Statistics. Accessed 10 September 2020. <https://www.singstat.gov.sg/find-data/search-by-theme/population/population-and-population-structure/latest-data>.

“Poverty Data: Cambodia.” Asian Development Bank. Accessed 28 August 2020. <https://www.adb.org/countries/cambodia/poverty#:~:text=The%20latest%20statistical%20data%20on,Cambodia%20is%200.7%25%20in%202019>.

“Profil BP2MI: Sejarah BP2MI.” Badan Pelindungan Pekerja Migran Indonesia (BP2MI). Accessed 24 September 2020. <https://bp2mi.go.id/profil-sejarah>.

“Projected Population, by Age Group, Sex, and by Single-Calendar Year Interval, Philippines: 2010 – 2020.” Philippine Statistics Authority. Accessed 15 January 2022. [https://psa.gov.ph/sites/default/files/attachments/hsd/pressrelease/Table4\\_9.pdf](https://psa.gov.ph/sites/default/files/attachments/hsd/pressrelease/Table4_9.pdf).

“Proportion of Poor Filipinos Registered at 23.7 Percent in the First Semester of 2021.” Philippine Statistics Authority. December 17, 2021. <https://psa.gov.ph/content/proportion-poor-filipinos-registered-237-percent-first-semester-2021>.

“Public attitudes towards migrant workers remain unfavourable in ASEAN destination countries,” ILO, December 18, 2019. [https://www.ilo.org/asia/media-centre/news/WCMS\\_732449/lang--en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_732449/lang--en/index.htm).

“Rapid Growth in Singapore’s Immigrant Population Brings Policy Challenges.” Migration Policy Institute. April 3, 2012. <https://www.migrationpolicy.org/article/rapid-growth-singapores-immigrant-population-brings-policy-challenges>.

“Ratifications by country.” ILO. Accessed December 13, 2020. <https://www.ilo.org/dyn/normlex/en/f?p=1000:11001>.

“Ratification for Philippines.” International Labour Organizations. Accessed 15 January 2021. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102970](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102970).

“Remittance Prices Worldwide.” World Bank. Accessed 7 December 2020. <https://remittanceprices.worldbank.org/en/corridor/Thailand/Laos>.

“Remittances.” Bank Islam Brunei Darussalam Berhad. Accessed 7 December 2020, <http://www.bibd.com.bn/personal/bank-services/remittances/>.



“Sabah’s e-remittance surged to RM62mil in 2019.” The Star. February 15, 2020. <https://www.thestar.com.my/business/business-news/2020/02/15/sabah039s-e-remittance-surged-to-rm-62mil-in-2019>.

“Selamat Datang di SISKOTKLN.” SISKOTKLN BP2MI. Accessed 23 September 2020. <http://siskotkln.bp2mi.go.id/>.

“Services.” Boza Remittance. Accessed 7 December 2020. <https://www.bozaremittances.com/>.

“Singapore Population,” Department of Statistics, accessed 15 January 2021, <https://www.singstat.gov.sg/modules/infographics/population>.

“Summary Table: Employment.” Ministry of Manpower. June 17, 2021. Accessed 9 July 2021. <https://stats.mom.gov.sg/Pages/employment-Summary-Table.aspx>.

“Tentang JBM.” Jaringan Buruh Migrant. Accessed 24 September 2020. <http://www.jaringan-buruhmigran.org/p/tentang-jbm.html>.

“Tentang Kami.” LBH Jakarta. Accessed 24 September 2020. <https://www.bantuanhukum.or.id/web/tentang-kami/>.

“Tentang SBMI.” SBMI. Accessed 24 September 2020. <https://sbmi.or.id/tentang-sbmi/>.

“Thailand To Legalize Illegal Foreign Workers.” Migration News. Accessed 19 September 2020. <https://migration.ucdavis.edu/mn/more.php?id=1034>.

“The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers.” ILO. May 4, 2015. Accessed 9 July 2021. [https://www.ilo.org/dyn/migpractice/migmain.show-Practice?p\\_lang=en&p\\_practice\\_id=41](https://www.ilo.org/dyn/migpractice/migmain.show-Practice?p_lang=en&p_practice_id=41).

“The Protection of Thai Nationals Abroad Division’s Main Responsibilities.” Ministry of Foreign Affairs. Accessed 19 September 2020. <http://mfa.go.th/main/en/services/16266-Protection-of-Thai-Nationals.html>.

“The World Bank in Indonesia: Overview.” World Bank. Accessed 28 August 2020. <https://www.worldbank.org/en/country/cambodia/overview>.

“The World Bank in Singapore: Overview.” World Bank. Accessed 12 September 2020. <https://www.worldbank.org/en/country/singapore/overview>.

“The World Bank in Thailand: Overview.” World Bank. Accessed 20 September 2020. <https://www.worldbank.org/en/country/thailand/overview>.

“TRIANGLE in ASEAN – Lao People’s Democratic Republic.” ILO. Accessed 12 October 2020. [https://www.ilo.org/asia/projects/WCMS\\_622431/lang--en/index.htm](https://www.ilo.org/asia/projects/WCMS_622431/lang--en/index.htm).

“Unemployment, total (% of total labor force) (modeled ILO estimate) – Myanmar.” World Bank. Accessed 20 September 2020. <https://data.worldbank.org/indicator/SL.UEM.TOTL.ZS?locations=MM>.

“Viet Nam can well address labour market challenges.” ILO. April 15, 2020. [https://www.ilo.org/hanoi/informationresources/Publicinformation/comments-and-analysis/WCMS\\_741638/lang--en/index.htm](https://www.ilo.org/hanoi/informationresources/Publicinformation/comments-and-analysis/WCMS_741638/lang--en/index.htm).

“Vietnam Coronavirus.” Worldometer. Accessed 27 September 2020. <https://www.worldometers.info/coronavirus/country/viet-nam/>.

“Visi & Misi.” Migrant Care. Accessed 24 September 2020. <https://migrantcare.net/profil/vi-si-misi/>.

“Vision & Mission.” Ministry of Foreign Affairs. Accessed 17 September 2020. <http://mfa.go.th/main/en/policy/9867-Vision-&-Mission.html>.

“Vision, Mission & Values.” Immigration & Checkpoints Authority. Accessed 13 September 2020. <https://www.ica.gov.sg/about-us/vision-mission-values>.

“Vision, Mission and Agenda.” Department of Labour and Employment. Accessed 13 September 2020. <https://www.dole.gov.ph/vision-mission-agenda>.

“What We Do.” Humanitarian Organization for Migration Economics (HOME). Accessed 15 September 2020. <https://www.home.org.sg/what-we-do-index>.

“Where to Get Help for an Employment Dispute in Singapore.” Singapore Legal Advice. September 1, 2020. <https://singaporelegaladvice.com/law-articles/employment-disputes-in-singapore/>.

“Who We Are.” Migrant Workers’ Centre. Accessed 15 September 2020. <http://www.mwc.org.sg/wps/portal/mwc/home/Aboutus/whoweare>.

“World Development Indicators.” World Bank. Accessed 15 September 2020. [https://databank.worldbank.org/views/reports/reportwidget.aspx?Report\\_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=PHL](https://databank.worldbank.org/views/reports/reportwidget.aspx?Report_Name=CountryProfile&Id=b450fd57&tbar=y&dd=y&inf=n&zm=n&country=PHL).

Abella, Manolo I. “Asian Labour Migration: Past, Present and Future.” ASEAN Economic Bulletin 12, No. 2 (1995): 191-200.

Ahmad, Zainab Binti Ali, Kenneth Simler, and Soonhwa Yi. “Using Remittance Transaction Data for Timely Estimation of the Foreign Worker Population in Malaysia.” Policy Research Working Paper, No. 9331. Washington, DC: World Bank, 2020.

Ahouga, Younes. “The local turn in migration management: the IOM and the engagement of local authorities.” Journal of Ethnic and Migration Studies (2017).

Akee, Randall and Devesh Kapur, Final Report No. S-53405-MYA-1: Myanmar Remittances. International Growth Centre, 2017.

An, Chau. “Vietnam develops coronavirus contact tracing app.” VN Express. April 21, 2020. <https://e.vnexpress.net/news/news/vietnam-develops-coronavirus-contact-tracing-app-4087702.html>.

Anderson, Joseph Trawicki. “Managing labour migration in Malaysia: foreign workers and the challenges of ‘control’ beyond liberal democracies.” Third World Quarterly (2020): 1-19.

Anh, Dang Nguyen, Cecilia Tacoli, and Hoang Xuan Thanh. “Migration in Vietnam: A review of information on current trends and patterns, and their policy implications.” Presented at the Regional Conference on Migration, Development and Pro-Poor Policy Choices in Asia (2003).

Arisman and Ratnawati Kusuma Jaya. Protection of Human Rights and Labour Migration for Employment Purpose Across ASEAN. Jakarta: Center for Southeast Asian Studies, 2018.

ASEAN. ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. Adopted on 14 November 2017. <https://asean.org/storage/2019/01/3.-March-2018-ASEAN-Consensus-on-the-Protection-and-Promotion-of-the-Rights-of-Migrant-Workers.pdf>.

ASEAN. ASEAN Declaration on Strengthening Social Protection. Jakarta: ASEAN Secretariat, 2016.

ASEAN. ASEAN Human Rights Declaration and the Phnom Penh Statement on the Adoption of the ASEAN Human Rights Declaration. Adopted on 18 November 2012. [https://www.asean.org/storage/images/ASEAN\\_RTK\\_2014/6\\_AHRD\\_Booklet.pdf](https://www.asean.org/storage/images/ASEAN_RTK_2014/6_AHRD_Booklet.pdf).

ASEAN. ASEAN Guideline on Effective Return and Reintegration of Migrant Workers. Jakarta: ASEAN Secretariat, 2020.

ASEAN. Compendium on Migrant Workers' Education and Safe Migration Programmes. Jakarta: ASEAN Secretariat, 2017.

ASEAN. Hanoi Action Plan. Adopted on 15 December 1998. [https://www.icnl.org/wp-content/uploads/Transnational\\_1998hanoi.pdf](https://www.icnl.org/wp-content/uploads/Transnational_1998hanoi.pdf).

ASEAN. The eighth ASEAN labour inspection conference: Securing Decent Work in the Fisheries Sector through Labour Inspection in ASEAN – Conclusions and Recommendations. Bangkok: ASEAN, 2019. <https://asean.org/storage/2012/05/Recommendations-of-the-8th-ASEAN-Labour-Inspection-Conference.pdf>.

Asian Development Bank (ADB). Civil Society Brief: Lao People's Democratic Republic. Vientiane: ADB, 2011. <https://reliefweb.int/sites/reliefweb.int/files/resources/csb-lao.pdf>

Asian Development Bank (ADB). Workers' Remittance Flows in Southeast Asia. Philippines: Asian Development Bank, 2006.

Asian Research Center for Migration (ARCM). Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand. Bangkok: ILO, 2013. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_226498.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_226498.pdf).

Asis, Maruja. "The Philippines' Culture of Migration." Migration Policy Institute. January 1, 2006. <https://www.migrationpolicy.org/article/philippines-culture-migration>.

Avary, Max and Richard Finney. "Laos: Migrant workers brave exploitation & unsafe working conditions in Thailand." August 31, 2019. <https://www.business-humanrights.org/en/latest-news/laos-migrant-workers-brave-exploitation-unsafe-working-conditions-in-thailand/>.

Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI). Data Penempatan dan Perlindungan Pekerja Migran Indonesia (PMI) Tahun 2019. Jakarta: BNP2TKI, 2020. [https://bp2mi.go.id/uploads/statistik/images/data\\_19-02-2020\\_Laporan\\_Pengolahan\\_Data\\_BNP2TKI\\_\\_\\_\\_2019\(2\).pdf](https://bp2mi.go.id/uploads/statistik/images/data_19-02-2020_Laporan_Pengolahan_Data_BNP2TKI____2019(2).pdf).

Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia (BNP2TKI). Studi Implementasi SISKOTKLN Kabupaten/Kota. Jakarta: Pusat Penelitian, Pengembangan dan Informasi BNP2TKI, 2015. <http://portal.bnp2tki.go.id/read/13904/EVALUASI-IMPLEMENTASI-SISTEM-ONLINE-SISKOTKLN-DI-INDONESIA.html>.

Bagasao, Ildefonso. Review of remittance-backed products in the Philippines. Bangkok: ILO Regional Office for Asia and the Pacific, 2013.

Bank Negara Malaysia (BNM). Electronic Know-Your-Customer (e-KYC), BNM/RH/PD 030-10. Kuala Lumpur: BNM, 2020.

Bank Negara Malaysia (BNM). Financial Technology Regulatory Sandbox Framework, BNM/RH/PD 030-1. Kuala Lumpur: BNM, 2016.

Barkat, Abdul, Asmar Osman, and Subhash Kumar Sen Gupta. In the corridors of remittance: Cost and use of remittances in Bangladesh. Dhaka: ILO, 2014.

Benjamin Harkins (ed.), Thailand Migration Report 2019 (Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019). [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRes.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf).

Betts, Alexander. "The global governance of migration and the role of trans-regionalism." In *Multilayered Migration Governance*, eds. Rahel Kunz, Sandra Lavenex, and Marion Panizzon, 23-45. New York: Routledge, 2011.

Buencamino, L. and S. Gorbunov. "Informal money transfer systems: opportunities and challenges for development finance." DESA Discussion Paper No. 26. New York: UNDESA, 2002.

Bryman, Alan. *Social Research Methods*. New York: Oxford University Press, 2012.

Chamaratana, Thanapauge and Thawatchai Sangseema. "Moving on the Chain: Push-Pull Factors Affecting the Migration of Laotian Workers to Udon Thani, Thailand." *European Journal of Social Science Education and Research* 5, No. 2 (2018): 99-105.

Chantavanich, Supang and Premjai Vungsiriphisal. "Myanmar migrants to Thailand: economic analysis and implications to Myanmar development." In *Economic reforms in Myanmar: Pathways and prospects*, eds. Hank Lim and Yasuhiro Yamada. Bangkok: Bangkok Research Center, 2012.

Chia, Siow Yue. "Foreign Labour in Singapore: Rationale, Policies, Impacts, and Issues." *Philippine Journal of Development* 38, No. 1-2 (2011): 105-133.

Chin, Low Choo. "Migrant Labour Recruitment Reform in Malaysia: Towards Ethical and Zero-Cost Migration." *Otoritas: Jurnal Ilmu Pemerintahan* 10, no. 2 (2020): 142-164.

Commissioner of Law Revision Malaysia. Act 446 on Employees' Minimum Standards of Housing, Accommodations, and Amenities Act 1990. Adopted 1 February 2021. [https://jtksm.mohr.gov.my/images/kluster-warnawarni/akta-borang/akta-peraturan/SENARAI%20AKTA\\_2020/Akta%20Standard%20Minimum%20Perumahan%20dan%20Kemudahan%20Pekerja%20\(Pindaan\)%202019%20\(Akta%201604\)/Akta%20446\\_Feb2021.pdf](https://jtksm.mohr.gov.my/images/kluster-warnawarni/akta-borang/akta-peraturan/SENARAI%20AKTA_2020/Akta%20Standard%20Minimum%20Perumahan%20dan%20Kemudahan%20Pekerja%20(Pindaan)%202019%20(Akta%201604)/Akta%20446_Feb2021.pdf).

Deelen, Linda and Pracha Vasuprasat. Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar Synthesis report on survey findings in three countries and good practices. Bangkok: ILO Regional Office for Asia and the Pacific, 2010. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_122089.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_122089.pdf).

Department of Population, Ministry of Labour. Thematic Report on Migration and Urbanization. Myanmar: Department of Population, 2016. [http://www.dop.gov.mm/sites/dop.gov.mm/files/publication\\_docs/thematic\\_report\\_on\\_migration\\_and\\_urbanization.pdf](http://www.dop.gov.mm/sites/dop.gov.mm/files/publication_docs/thematic_report_on_migration_and_urbanization.pdf).

Department of State of the United States of America. *Trafficking in Persons Report 2019*. United States of America: United States Department of State Publication. 2019. <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.

Department of Statistics, Malaysia. *Balance of Payments Statistics*. Kuala Lumpur: Putrajaya. 2019. [https://www.dosm.gov.my/v1/uploads/files/7\\_Publication/Research\\_Papers/1\\_%20The%20Increasing%20Trend%20of%20Foreign%20Workers%27%20Remittances.pdf](https://www.dosm.gov.my/v1/uploads/files/7_Publication/Research_Papers/1_%20The%20Increasing%20Trend%20of%20Foreign%20Workers%27%20Remittances.pdf).



Department of Statistics, Singapore. Singapore's Population in Brief 2021 Report. 2021. <https://www.population.gov.sg/files/media-centre/publications/population-in-brief-2021.pdf>.

De Haas, Hein. "Migration and Development: A Theoretical Perspective." *International Migration Review* 44, no. 1 (2010): 227-264.

Dickson, B. and A. Koenig. Assessment Report: Profile of Returned Cambodian Migrant Workers. Phnom Penh: IOM, 2016. <https://www.iom.int/sites/default/files/country/docs/IOM-AssessmentReportReturnedMigrants2016.pdf>.

Embassy of the Philippines in Singapore, "Overview of Philippines-Singapore Relations," Philippine Embassy Website, Accessed 8 November 2020, <https://www.philippine-embassy.org.sg/about-us-2/overview-of-philippines-singapore-relations/>.

Endo, Isaku, Jose Luna-Martinez, and Dieter de Smet. "Three things to know about migrant workers and remittances in Malaysia." World Bank. June 1, 2017. <https://blogs.worldbank.org/eastasiapacific/three-things-to-know-about-migrant-workers-and-remittances-in-malaysia>.

Esmaque, Paterno II. "Pact on migrant workers' rights is PH gift to ASEAN." *Rappler.com*. November 11, 2017. <https://www.rappler.com/nation/consensus-migrant-workers-rights-philippines-asean-2017>.

Ethical Trading Initiative (ETI), Human Rights Due Diligence in Malaysia's Manufacturing Sector (London: ETI, 2019). [https://www.ethicaltrade.org/sites/default/files/shared\\_resources/ETI%20Malaysia%20HRDD.pdf](https://www.ethicaltrade.org/sites/default/files/shared_resources/ETI%20Malaysia%20HRDD.pdf).

Farbenblum, Bassina, Laurie Berg, and Angela Kintominas. *Transformative Technology for Migrant Workers: Opportunities, Challenges and Risks* (New York: Open Society Foundations, 2018).

FIDH and SUARAM. Undocumented migrants and refugees in Malaysia: Raids, Detention and Discrimination. 2008. <https://www.fidh.org/en/region/asia/malaysia/Undocumented-migrants-and-refugees>.

Ford, Michael. "Migrant Worker Organizing in Indonesia." *Asian and Pacific Migration Journal* 15, No. 3 (2006).

Gee-Weon, Yvonne Khor. "COVID-19 and housing for migrant workers in Malaysia." *MIDEQ*. May 26, 2021. <https://www.mideq.org/en/blog/covid-19-and-housing-migrant-workers-malaysia/>.

Geiger, Atsuko. "Regional Frameworks for Managing Migration and the Role of Civil Society Organizations." In *Asia on the Move: Regional Migration and the Role of Civil Society* eds. Mely Caballero-Anthony and Toshihiro Menju. Tokyo: Japan Center for International Exchange, 2015.

Goh, Charmian, Kellynn Wee, and Brenda S.A. Yeoh. "Migration governance and the migration industry in Asia: moving domestic workers from Indonesia to Singapore." *International Relations of the Asia-Pacific* 17, No. 3 (2017): 401-433.

Gonzales, Catherine. "PH economy seen to contract by 7.3 percent in 2020 — ADB." *Inquirer.net*. September 15, 2020. <https://business.inquirer.net/307360/ph-economy-seen-to-contract-by-7-3-percent-in-2020-adb#ixzz6Z2rLOurq>.

Government of Indonesia. Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families Pursuant to the Simplified Reporting Procedure (Jakarta: Government of Indonesia, 2017). [https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CM-W\\_C\\_IDN\\_1\\_6902\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CM-W_C_IDN_1_6902_E.pdf).

Government of Malaysia. National Action Plan On Anti-Trafficking In Persons (2021-2025). [http://mapo.bernama.com/pdf/naptip\\_12may.pdf](http://mapo.bernama.com/pdf/naptip_12may.pdf).

Grimwadeand, Mary and Petra Neumann. "Migration Policy and Practice in Thailand." In *Thailand Migration Report 2019*, ed. Benjamin Harkins. Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019. [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRes.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf)

Guyot, James F. "Burma in 1988: "Perestroika" with a Military Face." *Southeast Asian Affairs* (1989): 107-133.

Hernández-Coss, Raúl et al. "The Malaysia-Indonesia remittance corridor: Making formal transfers the best option for women and undocumented migrants." *World Bank Working Paper*, No. 149. Washington, DC: World Bank, 2008.

Hickey, Maureen, Pitra Narendra and Katie Rainwater. "A Review of Internal and Regional Migration Policy in Southeast Asia." Working Paper 8, Asian Research Institute, National University of Singapore. Brighton: University of Sussex, 2013. <http://www.migratingoutofpoverty.org/files/file.php?name=wp8-hickey-review-of-internal-and-regional-migration-policy-in-sea.pdf&site=354>

Hoppe, Florian, Aadarsh Baijal, Thomas Olsen and Usman Akhtar. "Fulfilling Southeast Asia's Digital Financial Services Promise." Bain & Company. October 30, 2019, <https://www.bain.com/insights/fulfilling-southeast-asias-digital-financial-services-promise/>.

Human Rights Watch (HRW), *Slow reform: Protection of migrant domestic workers in Asia and the Middle East*. New York: HRW, 2010. [https://www.hrw.org/sites/default/files/reports/wrd-0410webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/wrd-0410webwcover_0.pdf).

ILO. ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. <https://www.ilo.org/dyn/migpractice/docs/117/Declaration.pdf>.

ILO. Asian Decent Work Decade resource kit: protecting migrant workers. Bangkok: ILO, 2011. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_098142.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_098142.pdf).

ILO. Assessment of the complaints mechanism for Cambodian migrant workers. Phnom Penh: ILO, 2016. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_466494.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_466494.pdf)

ILO. Complaint mechanism for Vietnamese migrant workers: An overview of law and practice. Hanoi: ILO, 2015.

ILO. Digitalization to promote decent work for migrant workers in ASEAN. Bangkok: ILO, 2019. [http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_713546.pdf](http://www.oit.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_713546.pdf).

ILO. ILO Brief: Experience of ASEAN migrant workers during COVID-19. Bangkok: ILO, 2020. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms\\_746881.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_746881.pdf).

ILO. Implementation of recommendations from the 3rd to 10th ASEAN Forum on Migrant Labour (AFML) Progress, Review background paper for the 11th ASEAN Forum on Migrant Labour (AFML). [http://apmigration.ilo.org/resources/implementation-of-recommendations-from-the-3rd-to-10th-asean-forum-on-migrant-labour-afml/at\\_download/file1](http://apmigration.ilo.org/resources/implementation-of-recommendations-from-the-3rd-to-10th-asean-forum-on-migrant-labour-afml/at_download/file1).

ILO. International Labour Migration Statistics (ILMS) Database in ASEAN. 2018. <http://apmigration.ilo.org/asean-labour-migration-statistics>.

ILO. Labour Migration from Cambodia: A Fact Sheet. [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_160944.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_160944.pdf).

ILO. Mobile women and mobile phones: Women migrant workers' use of information and communication technologies in ASEAN. Bangkok: ILO, 2019. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_732253.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_732253.pdf).

ILO. Policy Brief Issue 1: The role of ASEAN labour attachés in the protection of migrant workers. Bangkok: ILO, 2015. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/projectdocumentation/wcms\\_417372.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/projectdocumentation/wcms_417372.pdf).

ILO. Situation and gap analysis on Malaysian legislation, policies and programmes, and the ILO Forced Labour Convention and Protocol. ILO, 2018. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_650658.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_650658.pdf).

ILO. The future of work and migration: Thematic background paper for the 12th ASEAN Forum on Migrant Labour (AFML). Bangkok: ILO, 2019. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_733923.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_733923.pdf).

IOM. Country Profile: Cambodia, accessed 28 August 2020, [https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/country\\_profile\\_cambodia.pdf](https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/country_profile_cambodia.pdf).

IOM. International Migration and Migrant Workers' Remittances in Indonesia. Makati: IOM, 2010.

IOM. International Migration and Migrant Workers' Remittances in Indonesia. Makati City: IOM, 2010. [https://publications.iom.int/system/files/pdf/indonesia\\_remittances.pdf](https://publications.iom.int/system/files/pdf/indonesia_remittances.pdf), 27.

IOM. Labour Migration from Indonesia: An Overview of Indonesian Migration to Selected Destinations in Asia and the Middle East. Jakarta: IOM, 2010.

IOM. Malaysia. Kuala Lumpur: IOM, 2019. [https://www.iom.int/sites/default/files/country/docs/malaysia/iom\\_malaysia\\_infosheet\\_may2019.pdf](https://www.iom.int/sites/default/files/country/docs/malaysia/iom_malaysia_infosheet_may2019.pdf).

IOM. Situation Report on International Migration in East and South-East Asia: Regional Thematic Working Group on International Migration including Human Trafficking. Bangkok: IOM, 2008. [https://publications.iom.int/system/files/pdf/situation\\_report.pdf](https://publications.iom.int/system/files/pdf/situation_report.pdf).

IOM. Vietnam Migration Profile 2016. Hanoi: IOM, 2017. [https://vietnam.iom.int/sites/default/files/IOM\\_Files/Migration\\_Data\\_Reports/VN\\_Migration\\_Profile\\_2016.pdf](https://vietnam.iom.int/sites/default/files/IOM_Files/Migration_Data_Reports/VN_Migration_Profile_2016.pdf).

IOM. Vulnerabilities and Risks of Exploitation Encountered by Vietnamese Migrant Workers. Ho Chi Minh: IOM, 2020. [https://publications.iom.int/system/files/pdf/Vulnerabilities-and-Risks-of-Exploitation\\_1.pdf](https://publications.iom.int/system/files/pdf/Vulnerabilities-and-Risks-of-Exploitation_1.pdf).

Isaacs, Leon. Study on Remittance Regulatory Frameworks and Accessibility of Regular Remittance Channels of the Colombo Process Member States. Colombo: IOM, 2019. [https://publications.iom.int/fr/system/files/pdf/study\\_on\\_remittance\\_regulatory\\_frameworks.pdf](https://publications.iom.int/fr/system/files/pdf/study_on_remittance_regulatory_frameworks.pdf).

Isaku Endo and Dieter de Smet, Greenback 2.0 Johor Bahru Report: migrant workers' remittances from Malaysia (World Bank Group, 2017).

Ishizuka, Futaba. "International Labour Migration in Vietnam and the Impact of Receiving Countries' Policies." IDE Discussion Paper No. 414 (2013): 4. <https://www.ide.go.jp/library/English/Publish/Download/Dp/pdf/414.pdf>.

Jason, Thomas. "Kula agrees with more transparent system for Bangladeshi workers." Free Malaysia Today. January 7, 2020. <https://www.freemalaysiatoday.com/category/nation/2020/01/07/kula-agrees-with-more-transparent-system-for-bangladeshi-workers/>.

Jimenez-David, Rina. "The NGO capital of the world." Inquirer.net. June 11, 2011. <https://opinion.inquirer.net/6139/the-ngo-capital-of-the-world>.

Joned, Alima. "Act fast to quash smears against palm oil industry." New Straits Time. August 29, 2020. Accessed 17 November 2021. <https://www.nst.com.my/opinion/columnists/2020/08/620448/act-fast-quash-smears-against-palm-oil-industry>.

Kanagasabai, Siva Kumar and Selvamalar Alagaratnam. "Malaysia." Lexology. January 13, 2020. <https://www.lexology.com/library/detail.aspx?g=0f998a84-c711-4893-9a6f-c3dae1404873>.

Kaur, Amarjit. "Labour migration trends and policy challenges in Southeast Asia." Policy and Society 29, No. 4 (2010): 385-397.

Kingdom of Cambodia, Policy on Labour Migration for Cambodia (Phnom Penh: Ministry of Labour and Vocational Training, 2014).

Kingdom of Thailand, Employment and Job Seeker Protection Act.

Kubo, Koji. "Evolving Informal Remittance Methods of Myanmar Migrant Workers in Thailand." ERIA Discussion Paper Series (2015).

Kwek, Ken. "Singapore NGOs call for rethink of migrant workers' salaries, health care and recruitment fees." South China Morning Post. May 31, 2020. <https://www.scmp.com/week-asia/economics/article/3086751/singapore-ngos-call-rethink-migrant-workers-salaries-health>.

Lago, Cristina. "Which countries are implementing digital IDs in Southeast Asia?" CIO.com. January 4, 2019. Accessed 3 November 2020. <https://www.cio.com/article/3331296/which-countries-are-implementing-digital-ids-in-se-asia.html>.

Lao PDR National Assembly. Labour Law (Amended) No. 43/NA. Adopted on 24 December 2013. [https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369\\_Eng.pdf](https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369_Eng.pdf).

Latoja, Ma. Concepcion G. "Remittances to Asia in 2018: Sources and Costs." Asia Regional Integration Center: Asian Development Bank. February 3, 2020. Accessed 4 November 2020, <https://aric.adb.org/blog/remittances-to-asia-in-2018-sources-and-costs>.

Lee, Alicia. "Rice ATMs' provide free rice for people out of work in Vietnam due to the coronavirus crisis." CNN. April 13, 2020. <https://edition.cnn.com/2020/04/13/world/coronavirus-vietnam-rice-atm-trnd/index.html>.



Lian, Jessica Chew Cheng. "Deputy Governor's Remarks at the Launch of Project Green-back 2.0 Kota Kinabalu." Bank Negara Malaysia. March 4, 2018. [https://www.bnm.gov.my/index.php?ch=en\\_speech&pg=en\\_speech&ac=791](https://www.bnm.gov.my/index.php?ch=en_speech&pg=en_speech&ac=791).

Loganathan, Tharani et al. "Breaking down the barriers: Understanding migrant workers' access to healthcare in Malaysia." PLoS One 14, No. 7 (2019): e0218669.

Loh, Wei San et al. Malaysia: Estimating the Number of Foreign Workers. Washington D.C.: World Bank, 2019.

Ma, Alex. "Labour Migration from Myanmar: Remittances, Reforms, and Challenges," Migration Policy Institute, January 18, 2017. <https://www.migrationpolicy.org/article/labor-migration-myanmar-remittances-reforms-and-challenges>.

Mangulabnan, Bernard Paul M. and Carl Rookie O. Daquio. "A Review of Bilateral Labour Agreements Concluded by the Philippines with Countries of Destination: Toward a Framework for Monitoring and Evaluation." Philippine Journal of Labor Studies 1, No. 1 (2018): 1-39.

Mapa, Claire Dennis S. "Total Number of OFWs Estimated at 2.2 Million." Philippine Statistics Authority website. June 4, 2020. Accessed 10 November 2020. <https://psa.gov.ph/content/total-number-ofws-estimated-22-million>.

Mapa, Claire Dennis. "Total Number of OFWs Estimated at 2.2 Million." Philippine Statistics Authority. June 4, 2020. <https://psa.gov.ph/statistics/survey/labor-and-employment/survey-overseas-filipinos>.

Maung, Tun. "International Labor Migration and Its impacts in Myanmar." Term Research Paper. 2020. [https://www.researchgate.net/publication/340998238\\_International\\_Labor\\_Migration\\_and\\_its\\_impacts\\_in\\_Myanmar](https://www.researchgate.net/publication/340998238_International_Labor_Migration_and_its_impacts_in_Myanmar).

Medina, Ayman Falak. "Malaysia Increases Minimum Wage." ASEAN Briefing. February 26, 2020. <https://www.aseanbriefing.com/news/malaysia-increases-minimum%20wage/>.

Mendez, Christina and Mayen Jaymalin. "Economic Savors No More: OFW Deployment Dips; 95,000 Seek to Go Home." One News Philippines. June 3, 2020. <https://www.onenews.ph/economic-saviors-no-more-ofw-deployment-dips-95-000-look-to-go-home>.

Merez, Arianne. "Duterte allows more health workers to work abroad." ABS-CBN News. September 21, 2020. <https://news.abs-cbn.com/news/09/21/20/duterte-allows-more-health-workers-to-work-abroad>.

Microsave. Digital Financial Services in Lao PDR: Market Insights on Product Needs and Channel Management. UN Capital Development Fund (UNCDF), 2015.

Migrant Forum Asia, Policy Brief No. 10: Bilateral Agreements and Memoranda of Understanding for the Promotion and Protection of the Rights of Migrant Workers and Members of Their Families. 2014. [http://mfasia.org/migrantforumasia/wp-content/uploads/2015/06/policy-brief\\_bilaterals\\_winter2014.pdf](http://mfasia.org/migrantforumasia/wp-content/uploads/2015/06/policy-brief_bilaterals_winter2014.pdf)

Ministry of Finance and Economy Brunei Darussalam. Labour Force Survey 2019 (Ministry of Finance and Economy Brunei Darussalam, 2019).

Ministry of Home Affairs (MHA), National Plan of Action Against Trafficking in Persons 2012-2015 (Singapore: Singapore Inter-Agency Taskforce on Trafficking In Persons, 2012). [https://www.mha.gov.sg/docs/default-source/default-document-library/national-plan-of-action-](https://www.mha.gov.sg/docs/default-source/default-document-library/national-plan-of-action-against-trafficking-in-persons-(2012-2015).pdf)

[against-trafficking-in-persons-\(2012-2015\).pdf](#).

Missbach. Antje and Wayne Palmer. "Indonesia: A Country Grappling with Migrant Protection at Home and Abroad." Migration Policy Institute. September 19, 2018. <https://www.migrationpolicy.org/article/indonesia-country-grappling-migrant-protection-home-and-abroad>.

MOLSW. 2 National Occupational Safety and Health (OSH) Programme year 2011- 2015. MOLSW, 2011. [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/policy/wcms\\_208356.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/policy/wcms_208356.pdf).

MOLSW. Presentation in a seminar 6-7 of June 2011 by Mr Phouvanh Chanthavong, Head of Labour Skills Development Department and Mr Khamkeng Deputy Head of Social Welfare department.

MOLSW, Strategy Plan on Labour Development from 2011-2020 (2010).

MOLSW. 2nd National Occupational Safety and Health (OSH) Programme year 2011 - 2015. 2011.

Nishimoto, Tomoko. "Why we need to recognize migrant domestic workers' contribution to our economies." ILO. June 16, 2018. [https://www.ilo.org/asia/media-centre/news/WCMS\\_632454/lang-en/index.htm](https://www.ilo.org/asia/media-centre/news/WCMS_632454/lang-en/index.htm).

Nowrasteh, Alex. "Singapore's Immigration System: Past, Present, and Future." Cato Working Paper No. 53. Washington, DC: Cato Institute, 2018. <https://www.jstor.org/stable/pdf/resrep23044.pdf?refreqid=excelsior%3Aa93e022bbd588e4fac9d88d45e4d076c>.

Official Gazette. The Philippines Human Rights Situationer. 2020. <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200609-PH-Human-Rights-Situationer.pdf>.

Olivier, Marius. Social protection for migrant workers in ASEAN: Developments, challenges, and prospects. Geneva: ILO, 2018.

Ong, Justin and Amir Yusof. "Clearing the Causeway." Channel News Asia. June 9, 2018. <https://infographics.channelnewsasia.com/interactive/causewayjam/index.html>.

Orbeta, Ancieto Jr. and Michael Abrigo. "Managing International Labor Migration: The Philippine Experience." Discussion Paper Series 2011-33, Philippine Institute for Development Studies (PIDS) (2011). <https://dirp4.pids.gov.ph/webportal/CDN/PUBLICATIONS/pidspjd11-philippines.pdf>.

Orbeta, Aniceto Jr., Michael Abrigo and Michael Cabalfin. Institutions Serving Philippine International Labor Migrants: Discussion Paper Series No. 2009-31. Makati: Philippine Institute for Development Studies, 2009. <https://dirp3.pids.gov.ph/ris/dps/pidsdps0931.pdf>, 10.

Organisation for Economic Cooperation and Development (OECD). "Cambodia's migration landscape," in Interrelations between Public Policies, Migration and Development in Cambodia. Paris: OECD Publishing, 2017. <https://doi.org/10.1787/9789264273634-en>.

Paitoonpong, Srawooth. "Managing International Labor Migration in ASEAN: Thailand (Immigration)." Philippine Journal of Development 38, No. 1-2 (2011): 163-193.

Pandit, Kavita. "Labour and Employment under the NIC Model of Development: Recent Evidence from Mauritius." Singapore Journal of Tropical Geography 16, No. 2 (1995): 158-178.

Phetsiriseng, Inthasone. Gender Concerns in Migration in Lao PDR, Migration Mapping Study: A review of Trends, Policy and Programmeme Initiatives. Vientiane: UNIFEM, 2007.

Philippine Institute for Development Studies (PIDS). PIDS 2012 Economic Policy Monitor: Regional Economic Integration and Inclusive Growth, Engaging Nations, Embracing People. Makati City: PIDS, 2013. [http://dirp4.pids.gov.ph//ris/books/pidsepm2012\\_v3.pdf](http://dirp4.pids.gov.ph//ris/books/pidsepm2012_v3.pdf).

Philippine Overseas Employment Administration. Governing Board Resolution No. 09. Mandaluyong City: Department of Labour and Employment. 2020. <http://poea.gov.ph/gbr/2020/GBR-09-2020.pdf>.

Philippine Overseas Employment Administration. Republic Act No. 9422. 1997.

Phouxay, Kabmanivanh. Patterns of Migration and Socio-Economic Change in Lao PDR. PhD Dissertation. Sweden: Department of Social and Economic Geography, Umea University, 2010.

Ponsot, Frédéric, Donald F. Terry, Bibiana Vásquez, and Pedro de Vasconcelos. Sending Money Home: Contributing to the SDGs, One Family at a Time (International Fund for Agricultural Development (IFAD), 2017). <https://www.ifad.org/documents/38714170/39135645/Sending+Money+Home+-+Contributing+to+the+SDGs%2C+one+family+at+a+time.pdf/c207b5f1-9fef-4877-9315-75463fccfaa7>.

President of Republic of Indonesia, Indonesian Law No. 18 Year 2017 on the Protection of Indonesian Migrant Workers.

President of Republic of Indonesia, Indonesian Law No. 24 Year 2011 on the Social Security Agency.

President of Republic of Indonesia, Indonesian Law No. 39 Year 2004 on the Placement and Protection of IMWs.

President of Republic of Indonesia, Indonesian President Regulation No. 56 Year 2015 on Ministry of Foreign Affairs.

President of Republic of Indonesia, Regulation of the President of Indonesia No. 90 Year 2019 on the National Board for the Protection of Indonesian Migrant Workers.

President of Republic of Indonesia, President Regulation No. 18 Year 2020 on Medium-term National Development Plan 2020-2024.

President of Republic of Indonesia, President Regulation No. 53 Year 2021 on National Human Rights Action Plan for Year 2021-2025.

PricewaterhouseCoopers (PWC). Malaysia: Employers required to contribute social security for foreign employees. PWC, 2019). <https://www.pwc.com/gx/en/services/people-organisation/publications/assets/pwc-malaysia-employers-to-pay-social-security-for-foreign-workers.pdf>.

Putri, Shivani and Tineke Ritzema. "Migrant Worker Remittances, Micro-finance and the Informal Economy: Prospects and Issues." Working Paper N/21, ILO. [https://www.ilo.org/wcmsp5/groups/public/---ed\\_emp/documents/publication/wcms\\_117997.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_emp/documents/publication/wcms_117997.pdf).

Rahman, Md Mizanur. Gender Dimensions of Remittances: A Study of Indonesian Domestic Workers in East and Southeast Asia. Bangkok: United Nations Development Fund for Women (UNIFEM), 2011.

Rastogi, Vasundhara. "The Guide to Employment Permits for Foreign Workers in Singapore." ASEAN Briefing. December 2, 2019. <https://www.aseanbriefing.com/news/guide-employment-permits-foreign-workers-singapore/>.

Ravuth, Ouk. Roundtable on Labour Migration in Asia Them: Innovative Approaches for the Effective Management of Labour Migration in Asia, Ministry of Labour and Vocational Training, presented at the 9th ADBI-OECD-ILO on January 24-25, 2019 at Tokyo, Japan.

Republic of Singapore. Prevention of Human Trafficking Act 2015.

Republic of the Philippines. Republic Act 8042 (The Overseas Filipinos and Migrant Workers Act). <https://web.archive.org/web/20160203172644/http://www.poea.gov.ph/rules/ra8042.html>.

Republic of the Philippines. Republic Act No. 10022. 2009.

Rivas, Ralf. "Unemployment down to 10% in July 2020, says Philippine gov't." Rappler.com. September 3, 2020. <https://rappler.com/business/unemployment-rate-philippines-july-2020>.

Royal Government of Cambodia. Sub-Decree No. 190 on the Management of Sending Cambodian Workers Abroad Through Private Recruitment Agencies. 2011.

Sandar, Tun Min. A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand). Vahu Development Institute, 2011.

Seddon, David, Ganesh Gurung, and Jagannath Adhikari. "Foreign labour migration and the remittance economy of Nepal." Himalaya, the Journal of the Association for Nepal and Himalayan Studies 18 No. 2 (1998).

Small, Ivan A. "Entrenching Transformations: Remittances in Vietnam's Tiger Economy." Transport, Traffic, and Mobility. March 27, 2017. <https://t2m.org/entrenching-transformations-remittances-in-vietnams-tiger-economy/>

Small, Ivan A. "The 'Dangerous' Gift." In Currencies of Imagination: Channeling Money and Chasing Mobility in Vietnam, ed. Ivan Small. New York: Cornell University, 2018.

Smith, Harry, Reuben Lim, and Benjamin Harkins. "Thailand Migration Profile." In Thailand Migration Report 2019 ed. Benjamin Harkins (Bangkok: United Nations Thematic Working Group on Migration in Thailand, 2019). [https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRes.pdf](https://thailand.iom.int/sites/default/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf).

Sophal, Chan. "Economic costs and benefits of labour migration: Case of Cambodia." In Costs and Benefits of Cross-country Labour Migration in the GMS, ed. H. Jalilian. Singapore: ISEAS-Yusof Ishak Institute, 2012.

Sophal, Chan. "Review of labour migration management, policies and legal framework in Cambodia." ILO Asia-Pacific Working Paper Series. Bangkok: ILO, 2009. [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_106497.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_106497.pdf).

Southeast Asia Women's Caucus on the ASEAN, Compliance with Women's Rights Standards: The Case of Migration of Domestic Workers from Indonesia and the Philippines in Brunei Darussalam (2014), [https://womenscaucusonasean.files.wordpress.com/2014/01/compliance-with-womens-rights-standards\\_domestic-workers-from-indonesia-and-the-philippines-in-brunei-2.pdf](https://womenscaucusonasean.files.wordpress.com/2014/01/compliance-with-womens-rights-standards_domestic-workers-from-indonesia-and-the-philippines-in-brunei-2.pdf).

State of Brunei Darussalam. Brunei 2016 Human Rights Report. 2019. <https://www.state.gov/wp-content/uploads/2019/01/Brunei.pdf>.



- State of Brunei Darussalam. Labour Enactment. 1954.
- State of Brunei Darussalam. Laws of Brunei, Chapter 174: Money-Changing and Remittance Businesses. 1995.
- Syed Munir Khasru, "Migration - the forgotten part of ASEAN integration," *Nikkei: Asian Review*, November 20, 2018, <https://asia.nikkei.com/Opinion/Migration-the-forgotten-part-of-ASEAN-integration>.
- Tangtipongkul, Kaewkwan and Virak Khiev. "The Effect of Remittance on Economic Growth in Cambodia." *Journal of Population and Social Studies* 27, No. 3 (2019).
- Taran, Patrick. "To Be or Not to Be Ruled by Law: Migration in the 21st Century and the 1990 International Convention." Paper delivered at Workshop on the Protection of the Rights of All Migrant Workers 1990: Challenges, 8th International Metropolis Conference, Vienna, 15-18 September 2003.
- Taylor, William. "Vietnam's Migrant Workers: Greatest Advantage, Greatest Challenge." The Asia Foundation. September 28, 2011. <https://asiafoundation.org/2011/09/28/vietnams-26-million-migrant-workers-greatest-advantage-greatest-challenge/>.
- Teo, Peter. Research brief—Migrant worker recruitment costs: Brunei. Singapore: Transient Workers Count Too, 2017.
- Testaverde et al. *Migrating to Opportunity Overcoming Barriers to Labor Mobility in South-east Asia*. Washington, D.C.: World Bank, 2017.
- Thant, Htoo. "Myanmar, Singapore ink MoU to establish skill standards for workers," *Myanmar Times*. June 12, 2017. Accessed 9 July 2021. <https://www.mmtimes.com/national-news/hay-pyi-taw/26341-myanmar-singapore-ink-mou-to-establish-skill-standards-for-workers.html>.
- The ASEAN Intergovernmental Commission on Human Rights (AICHR)'s 1st Coordination Meeting on Thematic Study on Migration and Human Rights in ASEAN. Bandung, November 6, 2012.
- The Asia Foundation. *Cambodia's Labour Migration: Analysis of the legal framework*. Phnom Penh: The Asia Foundation, 2011.
- The Office of the United Nations High Commissioner for Human Rights (OHCHR). Initial Report of the Republic of Indonesia on the Implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families pursuant to the simplified reporting procedure. 2017. [https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW\\_C\\_IDN\\_1\\_6902\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CMW/Shared%20Documents/IDN/CMW_C_IDN_1_6902_E.pdf).
- Ullah, AKM Ahsan and Asiyah Az-Zahra Ahmad Kumpoh. "Diaspora community in Brunei: Culture, ethnicity and integration." *Diaspora Studies* 12 No. 1 (2019): 14-33.
- United Nations. *Asia Pacific Migration Report 2020*. Bangkok: United Nations, 2020.
- United Nations Development Program (UNDP). *The Right to Health*. Bangkok: UNDP, 2015.
- UNESCAP. *Trends and drivers of international migration in Asia and the Pacific*. Bangkok, 2017.
- UNESCAP. Review of progress and challenges with regard to implementing the Global Compact for Safe, Orderly and Regular Migration in Asia and the Pacific, including the implications of the coronavirus disease pandemic, ESCAP/GCM/2021/1, December 29, 2020. [https://migrationnetwork.un.org/sites/default/files/docs/escap\\_gcm\\_2021\\_1\\_e.pdf](https://migrationnetwork.un.org/sites/default/files/docs/escap_gcm_2021_1_e.pdf).

- United Nations Women. *Women Migrant Workers in the ASEAN Economic Community*. Thailand: UN Women, 2017.
- United Nations Women. *Managing Labour Migration in ASEAN: Concerns for Women Migrant Workers*. 2013. [https://mumi.org/attachments/26\\_1.pdf](https://mumi.org/attachments/26_1.pdf).
- United Nations, Department of Economic and Social Affairs, Population Division. *International Migration 2019: Report (ST/ESA/SER.A/438)*. New York: UNDESA, 2019. [https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/InternationalMigration2019\\_Report.pdf](https://www.un.org/en/development/desa/population/migration/publications/migrationreport/docs/InternationalMigration2019_Report.pdf).
- United States Department of State. 2016 Trafficking in Persons Report – Brunei (2016). Accessed 7 October 2020. <https://www.refworld.org/docid/577f962c6.html>.
- Uy, Justhine De Guzman. "Fintech startup to provide greater financial inclusion for Malaysia's migrant workers." *AEC News Today*. July 25, 2020. <https://aecnewstoday.com/2020/fintech-startup-to-provide-greater-financial-inclusion-for-malaysias-migrant-workers/>.
- Vasconcelos, P. *Sending Money Home to Asia: Trends and opportunities in the world's largest remittance marketplace*. Rome: International Fund for Agricultural Development, 2013. <https://www.ifad.org/documents/38714170/40194108/Sending+Money+Home+to+Asia.pdf/b54ba6b3-efaa-421f-9e00-1ada4fad3b2a>.
- Verite. *Thailand Bound: An Exploration of Labor Migration Infrastructures in Cambodia, Myanmar, and Lao PDR*. Massachusetts: Verite, 2019.
- Wham, Jolovan. "On Migrant Workers in Singapore." Heinrich-Böll-Stiftung Southeast Asia. August 4, 2020. <https://th.boell.org/en/2020/08/04/migrant-workers-singapore>.
- World Bank Group. "Migration and Remittances, April 2018: Recent Developments and Outlook." *Migration and Development Brief No. 29*. Washington, DC: World Bank, 2018. <https://openknowledge.worldbank.org/handle/10986/30280>.
- World Bank. *Myanmar Living Conditions Survey 2017*. 2019. <http://documents1.worldbank.org/curated/en/921021561058201854/pdf/Myanmar-Living-Condition-Survey-2017-Report-3-Poverty-Report.pdf>.
- World Food Programme (WFP). *Vulnerability and Migration in Cambodia*. Cambodia: 2019. <https://docs.wfp.org/api/documents/WFP-0000105976/download/>.
- Wright, Lindsay. "Giving a voice to migrant workers in Malaysia." *Ethical Trading Initiative*. July 17, 2019. <https://www.ethicaltrade.org/blog/giving-voice-to-migrant-workers-malaysia>.
- Xiang, Biao and Johan Lindquist. "Migration Infrastructure." *International Migration Review* 48, No. 1 (2014): 122-148.
- Zimmer, Zachary et al. "The Impact of past Conflicts and Social Disruption on the Elderly in Cambodia." *Population and Development Review* 32, No. 2 (2006). <https://www.jstor.org/stable/20058878>.







**ASEAN Intergovernmental  
Commission on Human Rights  
(AICHR)**