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Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand

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Foreword

The United Nations Office on Drugs and Crime (UNODC) is the guardian of the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against Smuggling of Migrants by Land, Sea and Air. UNODC promotes these instruments and assists States to adopt and implement them effectively.

UNODC's Regional Office for Southeast Asia and the Pacific (ROSEAP) has been implementing a joint project with the Thailand Institute of Justice (TIJ) to address human trafficking. The project aims to improve evidence-based knowledge, sharing and access to knowledge on trafficking in persons (TiP), and to assist project countries in increasing their capacity to generate and use information on TiP.

The Report *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand* is the result of an intensive UNODC and TIJ collaboration under this project to collect and review information on trafficking-related flows of people from the target countries of Cambodia, Lao PDR and Myanmar to Thailand. Covering four States, the report is unique, providing a comprehensive overview of the profiles of victims and traffickers, flows and patterns of TiP, push and pull factors, and the complexities of trafficking in persons in the region.

Drawing on the available literature, and qualitative data collected through interviews with experts in the four target countries, the report presents in detail the current picture of trafficking in persons to Thailand, and highlights challenges and opportunities for preventing and combating trafficking.

Approximately four million migrants live in Thailand. 90 per cent of the total migrant population living in Thailand come from neighbouring Cambodia, Lao PDR and Myanmar. Many of these migrants are in an irregular situation in Thailand and work in a range of labour-intensive industries, including agriculture, fishing, construction, manufacturing, domestic work, hospitality and the sex industry. Higher wages and the demand for labour in certain industries, combined with the lack of income-generating opportunities and widespread poverty in the source countries, especially in rural areas of Cambodia, Lao PDR and Myanmar, are the main pull factors that draw migrant workers to Thailand. Further fuelling the push for emigration is the fact that population growth in the source countries remains high. The available information suggests that irregular migrants are particularly vulnerable to traffickers. Trafficked Cambodians, Lao PDR nationals, and Myanmar nationals have been identified in Thailand's labour and sex sectors.

Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand for the purpose of sexual exploitation involves mostly women and children. However, boys, particularly those living in tourism hot spots, are also vulnerable to sexual exploitation. Labour exploitation, forced labour and other forms of labour trafficking are also the most common forms of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand. Men and boys are trafficked into Thailand's fishing, construction and manufacturing industries, amongst others, while trafficked women and girls can be found in domestic services, hospitality, and retail industries of Thailand.

Victims of trafficking often endure extreme hardship. Physical violence, sexual abuse, harassments, threats and coercion are common experiences for many trafficked persons. Some victims lose their lives at the hands of ruthless traffickers who exploit the victims' vulnerabilities. These vulnerabilities and the risks of exploitation are amplified for children.

With the opening of South-East Asian borders in 2015 with the ASEAN Community, the cross-border movement of people in the region is expected to increase. Poverty, environmental disasters, political disturbances, and other new push factors for initial migration to Thailand are expected to continue. Concurrently, the evidence base on trafficking in persons and related aspects of transnational organized crime in the region, remains limited.

UNODC promotes a comprehensive response to trafficking in persons, which is informed by in-depth research activities in concerned countries. A multifaceted approach, supported by evidenced-based research, is required to increase the protection of persons who are vulnerable to trafficking, improve international cooperation, and build States' capacities to target the networks and operations of human traffickers.

Data lies at the heart of any such approach, but in Southeast Asia high-quality, evidence-based data on trafficking in persons is lacking. To help combat migrant smuggling, ROSEAP runs a secure, online database – the Voluntary Reporting System on Migrant Smuggling and Related Conduct (VRS-MSRC) - for the collection and sharing of law enforcement data between member countries. Regional actors urgently need to integrate similar data-focused initiatives into their efforts to combat trafficking in persons. ROSEAP stands ready to assist them.



Jeremy Douglas
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Southeast Asia and the Pacific

Abbreviations and acronyms

ADB	Asian Development Bank
ASEAN	Association of Southeast Asian Nations
ATM	Automated teller machine
BEZ	Border Economic Zone
cf	Compare (Latin: confer)
GDP	Gross domestic product
HDI	Human Development Index
i.e.	that is (Latin: id est)
ILO	International Labour Organization
IOM	International Organization for Migration
Lao PDR	Lao People's Democratic Republic
MMK	Myanmar Kyat
MoU	Memorandum of Understanding
NGO	Non Government Organisation
PDR	People's Democratic Republic
THB	Thai Baht
TIJ	Thailand Institute of Justice
UN	United Nations
UN-ACT	United Nations Action for Cooperation against Trafficking in Persons
UNDP	United Nations Development Programme
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crime
USD	United States Dollar

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Executive summary

The present report, “Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand” is the result of a partnership between the United Nations Office on Drugs and Crime (UNODC) and the Thailand Institute of Justice (TIJ). In 2016, TIJ invited UNODC to collaboratively develop an extensive research report on trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand with the objectives of increasing evidence-based information relating to trafficking in persons, reviewing the current state of knowledge, identifying existing information gaps and enhancing the capacity of States to generate, access and use information on trafficking in persons. This report is the first of its kind and marks the launch of an ongoing research and strategic policy partnership between UNODC and TIJ.

Previous UNODC reports on trafficking in persons have covered the subject of trafficking to Thailand as one important flow in a region rife with trafficking cases. Previous reports have explored trafficking primarily from a law enforcement perspective and highlighted the need for strengthened legal frameworks, law enforcement responses, including the need for proactive investigations, and stronger criminal justice frameworks. This report, while emphasising the way forward in preventing and combating trafficking to Thailand, also explores the many facets of the trafficking phenomenon itself, including the profiles of victims and traffickers, the contemporary push and pull factors for trafficking, the routes taken by regular and irregular migrants to Thailand, the fees paid to smugglers and traffickers and the *modi operandi* of traffickers and their networks.

Drawing on the available literature and qualitative data collected through interviews with experts in the four target countries (Cambodia, Lao PDR, Myanmar and Thailand) the report presents in detail the current picture of trafficking in persons to Thailand and highlights challenges and opportunities for combating trafficking. While gaps in information remain and the overall picture remains incomplete, the findings presented in this report rely on a solid evidence base and may be useful for researchers, policy makers, governments and others interested in improving the response to combating trafficking, as well as approaches to identifying and supporting victims.

The report consists of six chapters. The introduction (Chapter I) presents information on the topic covered, the background and context of the study, the study’s purpose and goals, and methodology. Chapters II to IV examine the levels and characteristics of trafficking in persons in Cambodia (Chapter II), Lao PDR (III), and Myanmar (IV). Each of these chapters follows an identical structure by (1) summarising the available data, (2) exploring the causes of trafficking in persons, (3) examining the different types of trafficking and the profile of victims, (4) documenting the means and routes used for trafficking to Thailand, (5) analysing the exploitation of victims by their traffickers and (6) exploring the profile of the traffickers and trafficking networks.

The scale of the trafficking in persons phenomenon in Thailand

In 2015, approximately 4 million migrants lived in Thailand, constituting 5.76 per cent of the total population of the country. Approximately 90 per cent of the total migrant population living in Thailand come from neighbouring Cambodia, Lao PDR and Myanmar. Many of these migrants are in an irregular situation¹ in Thailand and work in a range of labour-intensive industries, including agriculture, fishing,

¹ There is no universally accepted definition of irregular migration. From the perspective of destination countries it is entry, stay or work in a country without the necessary authorisation or documents required under immigration regulations.

construction, manufacturing, domestic work, hospitality and the sex industry.

Reliable data on the levels of trafficking in persons is very limited due to its clandestine nature and the small number of victims formally identified. A recent publication by UNODC, which drew on official data and studies conducted by other agencies, estimated between 4 and 23 per cent of irregular migrants from Cambodia, Lao PDR and Myanmar in Thailand could be classified as victims of trafficking.² However, the report noted the limitations of using official and non-official figures on irregular migration to extrapolate the number of trafficked persons and emphasised the need for more robust official and non-official data (meaning, data not collected by governments) collection and reporting and sharing processes on all aspects of trafficking in persons crimes.

Background

Cambodia, Lao PDR and Myanmar have a long history of migration to neighbouring Thailand. In many places, it is easy to cross the long and porous border, which is marked by the Mekong River for long stretches. Many Cambodian, Lao and Myanmar nationals look to Thailand to improve their lives and those of their families, hoping to find employment and better pay. Many migrants seek to settle and work in Thailand long term or permanently; others cross into Thailand daily to work in areas near the border.

Higher wages and the demand for labour in certain industries, combined with the lack of income-generating opportunities and widespread poverty in the source countries, especially in rural areas of Cambodia, Lao PDR and Myanmar, are the main pull factors that draw migrant workers to Thailand. Further fuelling the push for emigration is the fact that population growth in the source countries remains high. Existing communities of migrants in Thailand provide an additional pull factor as they can assist with local contacts, accommodation, tips about employment, and can provide a social network for newly arrived migrants.

Despite the existence of formal bilateral Memoranda of Understanding (MoUs) between Cambodia, Lao PDR, Myanmar and Thailand, most labour migration to Thailand occurs irregularly. This is because many migrants still associate avenues for legal migration and work with high costs and significant levels of bureaucracy, while informal channels are seen as inexpensive, fast and readily available. These factors fuel the demand for migrant smugglers and may provide opportunities for traffickers to recruit and subsequently exploit migrants who are vulnerable due to their irregular status in Thailand and the debts incurred during the migration process.

Types of trafficking

Labour trafficking

Irregular migration from Cambodia to Thailand mostly involves labour migration. Such migration can lead to trafficking if the workers are exploited or deceived when they are first recruited, during their journey, or, most commonly, once they take up employment in Thailand. Most reports about labour trafficking from Cambodia to Thailand relate to men who often work for minimal pay and in harsh conditions in Thailand's fishing, construction and agricultural industries. Women are most commonly

² UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13-14.

trafficked into the domestic services, garment or hospitality sectors in Thailand.

Labour trafficking is the most prevalent form of trafficking in persons from Lao PDR to Thailand and, according to available literature, involves more women than men. This is particularly the case among the many Lao nationals who move to Thailand to work in the domestic service and garment industries. Lao men tend to work in the construction and agricultural sectors in Thailand.

Labour exploitation, forced labour and other forms of labour trafficking are also the most common forms of trafficking in persons from Myanmar to Thailand. Men from Myanmar are more commonly trafficked into Thailand's fishing, construction and manufacturing industries, while women can be found in domestic services and the textile and garment industries of Thailand.

Sexual exploitation and trafficking

Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand for the purpose of sexual exploitation involves mostly women and children. However, boys, particularly those living in tourism hot spots, are also vulnerable to sexual exploitation.

Recent studies suggest that trafficking from Cambodia to Thailand for the purpose of sexual exploitation has been declining in recent years. Cambodia has instead become a destination country for sex trafficking from Viet Nam and experiences high levels of internal trafficking.

Trafficking in children

Children are trafficked from Cambodia, Lao PDR and Myanmar to Thailand for the purpose of labour trafficking, sexual exploitation and forced begging. Child labour is particularly common in border areas where many children enter Thailand from neighbouring countries every day to work in agriculture, in markets or in seafood processing. Children from Cambodia, Lao PDR and Myanmar are frequently found begging in cities in Thailand. Despite its visibility, this issue is not well researched and it is not clear whether these children are recruited from their home countries for the purpose of begging or whether they were born to migrants who were already living in Thailand.

Experiences and exploitation

The irregular status of migrants from Cambodia, Lao PDR and Myanmar in Thailand, the migrants' fear of deportation, the lack of knowledge of their rights and of the laws applicable to them, language barriers and limited access to authorities and to people outside their workplace make irregular migrants from these countries particularly vulnerable to deception, coercion, violence, exploitation, and trafficking.

Victims of trafficking often endure unspeakable hardship. Physical violence, sexual abuse, harassments, threats and coercion are common experiences for many trafficked persons. These experiences leave most victims scarred for life. Some suffer serious trauma and depression; others are marked by injury or contemplate self-harm. Some lose their lives at the hands of ruthless traffickers who exploit the victims' vulnerabilities and turn their dreams of a better life into nightmares. These vulnerabilities and the risks of exploitation are amplified for children.

Despite the harsh realities, regular and irregular migrants from Cambodia, Lao PDR and Myanmar continue to move to Thailand in large numbers undeterred. Many migrants require little convincing to explore opportunities in Thailand and to follow in the footsteps of millions of others who have migrated before them.

Trafficking and smuggling routes and methods

Travel from Cambodia, Lao PDR and Myanmar to Thailand is easy, and migrants, smugglers and traffickers can choose from a variety of means of transportation to cross the border into Thailand. This includes the use of scheduled bus services, boats and ferry services across the Mekong River, driving migrants across the border in cars, vans or trucks, or simply guiding the migrants on foot to Thailand. Both covert and overt methods are used to transport migrants across the border. Some migrants simply walk or take transportation to the border and are then met by people who will take them to their place of employment. For movement into other parts of Thailand, migrants usually require some assistance with documents and transportation.

The great majority of migrant workers enter Thailand without the required documents. If smugglers and traffickers are involved, they often try to conceal the movements of migrants from law enforcement and border authorities. Smugglers may guide the migrants across the border in remote areas or conceal them in the loading areas of trucks or in other vehicles. If migrants cross into Thailand independently or in small groups, they usually do so through fields, forests, rivers and other areas with few border patrols. Migrants travelling independently or with family or friends may also elect to use the daily border pass system to cross in a regular manner into Thailand, and then overstay, thus becoming irregular migrants.

In some cases, migrants from Myanmar make their irregular journey to Thailand by boat. Most of these cases involve departures from Rakhine state, sometimes via Bangladesh. The migrants initially tend to be loaded onto small boats that depart from coastal towns and beaches and are then taken to larger ‘rendezvous vessels’ waiting offshore. Once this vessel has been filled—often with many more migrants than the vessel was built to carry—it embarks on a journey across the Andaman Sea to Thailand.

Fees, payments and debts

The fees smugglers charge for irregular migration from Cambodia to Thailand amount, on average, to approximately USD 100—significantly less than what migrants must pay for regular migration to Thailand. The precise fees depend on several factors, especially on the smuggling services offered and the distances travelled.

Many migrants cannot afford to pay the fees associated with migrating irregularly or legally to Thailand upfront and instead must borrow money. Generally, the money needed to pay those who facilitate the journey to Thailand often represents a migrant’s life savings. Migrants often must rely on their families and friends to contribute to payments. Another way migrants can afford the fees is through an arrangement that allows brokers or employers to automatically deduct money from their income once they are in Thailand.

Many migrants are in debt by the time they reach Thailand. This debt further complicates their situation if they lose their jobs or want to change employers. If their stay in Thailand is irregular, they also run the risk of being apprehended by Thai authorities, returned to their home country and left in significant debt with limited prospects of paying it off. These circumstances make regular and irregular migrants vulnerable to exploitation and trafficking, leaving them with little choice but to remain with their employers and work long hours for little or even no pay.

Traffickers—and their networks

In general, the smuggling and trafficking ‘trade’ across the borders of Thailand is characterised by a high degree of flux and flexibility, which means that the *modi operandi* of smugglers and traffickers may change frequently. For the most part, perpetrators are connected through loose networks that facilitate the process of recruiting migrants, transporting them to Thailand and placing them in employment. Because of the many tasks and stages involved in the migrants’ transportation and employment placement process, it is unlikely for perpetrators to operate alone; however, it is uncommon for mafia-style syndicates with clear hierarchical structures and wide geographical reach to engage in the smuggling of migrants and trafficking in persons to Thailand.

The way forward

An important step that governments need to take to counteract trafficking is to deter the use of irregular migration and actively promote safe migration. To maximise the benefits of international migration, protect the rights of migrants and to prevent and combat trafficking in persons and smuggling of migrants, national policies need to be developed and followed by implementation and enforcement. This requires human and financial resources that turn policy goals into practical measures. To be effective, policy development also needs to be based upon sound data.

National laws criminalising trafficking in persons and smuggling of migrants are the cornerstone for any legitimate and effective action to prevent and suppress these crimes. Legal frameworks permitting police and other authorities to conduct investigations, arrest suspects, confiscate property, and seize assets are needed.

A crucial element in the fight against trafficking in persons is international cooperation at all levels of government, particularly coordination across law enforcement bodies. Law enforcement agencies, including police, border agencies, coast guards and immigration authorities play important roles in investigating trafficking cases, identifying suspects, arresting offenders and seizing the assets of such crimes. Agencies should enhance their use of mechanisms such as a joint investigation taskforces to ensure law enforcement coordination across multiple countries.

Successful prosecutions of trafficking in persons cases are generally more dependent on victim testimony than many other transnational crimes. Victim cooperation is therefore a fundamental requirement for trafficking investigations. A lack of trust between victims and law enforcement is a key barrier to successful trafficking prosecutions in target countries. One way criminal justice systems in the target countries can rebuild trust is to embrace a “victim-centred approach”. Such an approach seeks to minimise additional trauma associated with the criminal justice process by providing adequate support to victims of trafficking and placing their needs at the centre of the process rather than subjugating them to the demands of investigation and prosecuting traffickers. Over time, a victim-centred approach can yield results by improving the relationship between law enforcement and victims without compromising the victims’ needs and rights.

It is important that any strategy aimed at preventing and suppressing trafficking in persons to Thailand considers the root causes that trigger migration and displacement. Combating trafficking thus also involves improving school attendance, reducing the number of early school leavers and ensuring that both boys and girls are given fair, equal and free access to education. Such measures need to be complemented by other initiatives that foster skills training and improve employment opportunities for school graduates so they have real incentives to complete school and pursue a career in their home country.

While many policies and practical measures have sought to address the symptoms of trafficking, they often overlook underlying factors, structural deficits and political and economic realities. Any meaningful attempt to reduce and eliminate trafficking in persons must be combined with efforts to promote sustainable development, economic growth, democracy, the rule of law, and peace.

1 Introduction

1.1 Topic

This report examines trafficking in persons from Cambodia, Lao People's Democratic Republic (PDR) and Myanmar to Thailand. It explores the circumstances that make Cambodia, Lao PDR and Myanmar source countries for trafficking, the means and routes used to traffic persons to Thailand, the conditions of such trafficking, the profile of victims and perpetrators, the circumstances that make Thailand a destination for trafficking and the exploitation of trafficked persons in Thailand. This report aims to increase evidence-based information relating to trafficking in persons in these countries, review the current state of knowledge, identify existing information gaps and enhance the capacity of States to generate, access and use information on trafficking in persons.

This report adopts the definition of “trafficking in persons” in Article 3 of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) “Child” shall mean any person under eighteen years of age.³

The report explores all forms of trafficking in persons within the meaning of Article 3(a) of the United Nations (UN) *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*. This includes, in particular, trafficking for the purpose of sexual exploitation, labour trafficking and trafficking in children. The report also explores trafficking for forced begging, forced marriage and for other exploitative purposes insofar as these are documented. Wherever possible, the report distinguishes between trafficking in children and trafficking in adults.⁴

It must be stressed from the outset that trafficking in persons to Thailand sits along a spectrum that covers various forms of irregular migration. Irregular migration may occur without the assistance of others or may involve facilitation and payment, a phenomenon commonly referred to as smuggling of

³ Opened for signature 12 December 2000, 2237 UNTS 319 (entered into force 25 December 2003) [hereinafter *Trafficking in Persons Protocol*].

⁴ Article 3(b) of the *Trafficking in Persons Protocol* defines ‘child’ to ‘mean any person under 18 years of age.’

migrants.⁵ In the context of irregular migration from Cambodia, Lao PDR and Myanmar to Thailand, it is not always possible to clearly and unambiguously identify instances of trafficking in persons and separate them from smuggling of migrants and other forms of irregular migration. Much of the available literature and data also struggles to differentiate and accurately label these phenomena and acknowledges that they are placed along a continuum. The information collected for and presented in this report needs to be understood accordingly. Wherever possible, the report highlights commonalities and differences between smuggling and trafficking, between smugglers and traffickers, and between trafficked persons and smuggled migrants.

The goal of this report is to comprehensively document the available knowledge, including official reports, literature and data, on trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand and to provide insight and analysis into the causes, circumstances, conditions and consequences of such trafficking. The report seeks to assist the governments of Cambodia, Lao PDR, Myanmar and Thailand, international and non-government organisations (NGOs), researchers, civil society groups and individuals working in this field to develop effective responses to prevent, suppress, and punish trafficking in persons whilst protecting and assisting victims of trafficking.

1.2 Background and context

1.2.1 Background and settings

Thailand is a source, transit and destination country for trafficking in persons. In absolute numbers, the majority of persons trafficked into or through Thailand come from neighbouring countries in the Greater Mekong Subregion, especially Cambodia, Lao PDR and Myanmar. An estimated 451,000 migrants are smuggled into Thailand annually from Myanmar, 55,000 from Cambodia and 44,000 from Lao PDR. A publication by UNODC, which drew on official data and studies conducted by other agencies, estimated that between 4 and 23 per cent of these irregular migrants could be classified as victims of trafficking.⁶

Trafficking to Thailand occurs for a range of purposes. It often involves various forms of labour trafficking in which people hoping to find work and earn higher wages are recruited by traffickers, transported to Thailand and then exploited in industries such as fishing, seafood processing, agriculture, construction, manufacturing or domestic services. Many victims of trafficking, especially women and children, are brought to Thailand from Cambodia, Lao PDR and Myanmar for the purpose of sexual exploitation. Other forms of trafficking, such as trafficking for the purpose of forced marriage or for forced begging also take place, albeit on smaller scales.

In May 2015, the serious hardship endured by many trafficked persons made headlines worldwide when Thai authorities found barbed wire camps and mass graves in southern Thailand. Several hundred people, many of them ethnic Rohingya from Myanmar and Bangladesh, had been kept in subhuman conditions for prolonged periods of time in these camps. It is widely believed that some of these persons were being trafficked into the Thai fishing industry; others were waiting to be taken

⁵ Article 3(a) of the *Protocol against the Smuggling of Migrants by Land, Sea and Air* (opened for signature 15 December 2000, 2241 UNTS 507 [hereinafter *Smuggling of Migrants Protocol*] defines ‘smuggling of migrants’ to ‘mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry into a State Party of which the person is not a national or a permanent resident.’

⁶ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13-14.

across the border to Malaysia.⁷

Cases like this raise questions about the distinction between trafficking in persons and smuggling of migrants. While the two phenomena are defined differently and set out in separate international legal instruments—namely the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* and the *Protocol against the Smuggling of Migrants by Land, Sea and Air*, which supplement the United Nations (UN) *Convention against Transnational Organized Crime*⁸—they are often difficult to distinguish in reality. This is particularly the case in situations where migrants willingly seek out or agree to take up the services of smugglers or traffickers but are later faced with exploitation and hardship they did not anticipate.

Crucially, a full understanding of the problem of trafficking in persons from Cambodia, Lao PDR, and Myanmar into Thailand is lacking. Data and information are often incomplete and government data on trafficking and related statistics are not often made publicly available. Consequently, national governments and criminal justice authorities frequently develop policy measures and take action “in the dark” without proper evidence bases. Detailed research is needed to address these lacunae.

1.2.2 Context of this research

The Thailand Institute of Justice (TIJ) was established by the Royal Thai Government in 2011. It aims to promote excellence in research and capacity building in crime and justice. Building on Thailand’s engagement in the UN Commission on Crime Prevention and Criminal Justice and the UN Crime Congresses, TIJ serves as a bridge that transports global ideas to local practice, including in enhancing domestic justice reform and the rules-based community within the Association of Southeast Asian Nations (ASEAN) region.

UNODC, the United Nations Office on Drugs and Crime, is the guardian of the *Trafficking in Persons Protocol*, the *Smuggling of Migrants Protocol*, and of the *Convention against Transnational Organised Crime*. UNODC leads international efforts to comprehensively prevent and suppress trafficking in persons and protect victims of trafficking. UNODC’s Regional Office for Southeast Asia and the Pacific in Bangkok assists national authorities in their efforts to fight trafficking in persons.

A crucial prerequisite in responding to the challenges associated with trafficking in persons is fostering evidence-based knowledge in order to raise awareness and inform adequate policy development. In January 2016, the UNODC Regional Office for Southeast Asia and the Pacific and the Thailand Institute of Justice requested the services of independent experts to examine and document the levels and characteristics of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand in all its forms and to produce a comprehensive report outlining the causes, circumstances, conditions and consequences of such trafficking.

1.3 Purpose and goals

Drawing on the available literature and information provided through semi-structured interviews, the main goal of this report is to assist the governments of Cambodia, Lao PDR, Myanmar and Thailand, international organisations, NGOs, researchers, civil society groups and individuals working in the anti-trafficking in persons field to develop effective responses to prevent, suppress and punish trafficking

⁷ See further Section IV.5.2.3 below.

⁸ Opened for signature 12 December 2000, 2225 UNTS 209 (entered into force 29 September 2003).

in persons whilst protecting and assisting victims of such trafficking.

The report seeks to provide detailed insights into and analysis of the causes, circumstances, conditions, and consequences of trafficking in persons in the target countries and to reveal existing gaps in the available information. It aims to provide a thorough and up to date picture of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand.

This report seeks to encourage more and better collection and sharing of data relating to trafficking in persons in order to (1) raise awareness about the manifestations, levels, and characteristics of trafficking in persons, (2) inform counter-trafficking policies at regional and national levels and (3) foster cooperation between concerned countries.

1.4 Structure

This report is divided into six chapters. Following this Introduction (Chapter I), Chapters II to IV examine the levels and characteristics of trafficking in persons in Cambodia (Chapter II), Lao PDR (III) and Myanmar (IV). Each of these chapters follows an identical structure by (1) summarising the available data, (2) exploring the causes of trafficking in persons, (3) examining the different types of trafficking and the profile of victims, (4) documenting the means and routes used for trafficking to Thailand, (5) analysing the exploitation of victims by their traffickers and (6) exploring the profile of the traffickers and trafficking networks.

In Chapter V, this report turns to the specific situation in Thailand. This includes (1) an overview on the available data, (2) information about the arrival and reception of trafficked persons from Cambodia, Lao PDR and Myanmar in Thailand, (3) the experiences and working conditions of trafficked persons in various industries and sectors, (4) the exploitation and vulnerabilities of victims, (5) the release and return of trafficked persons and (5) any information relating to secondary movements of Cambodian, Lao, and Myanmar nationals who were originally trafficked to Thailand.

Chapter VI of this report summarises the main observations and, on that basis, identifies opportunities for intervention by legislators, law enforcement, and relevant government agencies. Information and knowledge gaps are also identified to shape the direction and content of future research and analysis.

1.5 Methodology

The research for this project was carried out between January 2016 and March 2017 at locations in Bangkok (Thailand), Brisbane (Australia), Nay Pyi Taw and Yangon (Myanmar), Phnom Penh (Cambodia), Vienna (Austria) and Vientiane (Lao PDR).

This research was conducted through (1) collection and analysis of open-source material, including primary sources, such as reported cases and official data collections and reports, as well as secondary sources prepared by international organisations, academic scholars and other experts, NGOs, and selected media reports from major international news outlets; and (2) information collected through 36 semi-structured interviews with representatives of law enforcement agencies and other government agencies in the four target countries, NGOs and international organisations. The data and facts obtained from the two key information collection methods were further complemented and validated by information received orally and in writing from representatives of international organisations in Cambodia, Lao PDR, Myanmar and Thailand. The research for this project does not

involve any classified or confidential information.

In more detail, the literature search used for this report involved two phases. First, a comprehensive search was undertaken using online library database aggregators. This function permits searching of over 1,000 research databases containing journal articles, books, online resources and reports authored by government agencies and international and non-governmental organisations. The search looked for resources dating from 1 January 2006 to present, using Boolean operators to filter the results. Positive results to the search criteria had to contain three distinct components: (1) a reference to ‘Thai’ or ‘Thailand’; (2) a term relating to trafficking in persons, smuggling of migrants or irregular migration, which were contained within a bank of relevant phrases constructed by the research team; (3) a reference to Myanmar, Lao PDR or Cambodia, which were again made by reference to a bank of relevant phrases encompassing the variations in spelling and demonyms of these countries. This search resulted in several thousand positive returns to the search criteria, of which the largest component were books, followed by journal articles and, lastly, other reports. The second phase of research involved a systematic review of the search results in order to trim the body of literature to a smaller number of higher-quality sources. To accomplish this, each individual result was checked for relevance. This limited the pool of sources to several hundred books, journal articles, and reports that have been considered in the preparation of this publication. The information retrieved from these sources was sorted into a structure developed to document the causes, types, means and routes, perpetrators, victims, conditions and consequences of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand.

Using country templates as an organising structure allowed the research team to identify, and subsequently deal with, conflicting information. In cases of conflicting information, the research team elected to utilise more recent information and/or information that was appropriately referenced, to a reputable source, in the reviewed material. Where information was considered ‘old’—having been published around a decade ago—interview data were used to qualify or supersede the literature.

The report is fully referenced to identify the origin and sources of information, which are set out in the footnotes. A complete list of sources used in this report is set out in the bibliography. To facilitate the reading of this report and to avoid unnecessary duplication, wherever possible, references have been clustered into a single footnote at the end of paragraphs where the sources listed in this footnote provide or support the information set out in this paragraph.

Thirty-six semi-structured interviews were conducted with representatives of government and non-government agencies, as well as international organisations in the four target countries. Interview respondents were initially invited to participate in interviews for the study through formal letters sent by UNODC to relevant agencies. Respondents were sent the concept note for the study and interview questions in advance, which were translated into the national language of the respondents on request. Respondents were asked questions about the causes of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand; profiles of victims; profiles of traffickers and other key players; victims’ exploitation; rescue and victim support; and the challenges associated with the law enforcement response to trafficking in persons in the region, amongst others. Interview audio-files were transcribed by UNODC and interview data were analysed thematically. To address persistent knowledge and information gaps, representatives of international organisations in Cambodia, Lao PDR, Myanmar and Thailand were, in later stages of the research, contacted both orally and in writing to validate the available information, close information gaps and resolve conflicting statements. To protect the identity of persons who participated in interviews, the phrase ‘interviews conducted for the purpose of this report’ is used consistently throughout this report.

Respondents from the participating agencies were sent copies of the relevant draft chapter for review

and comment. Potentially sensitive information was removed prior to reviews that included state authorities. Respondents' comments and feedback were included in the final draft of this report. In addition to feedback from interview respondents, the Thailand Institute of Justice also provided feedback on the content of the report.

Currencies are referred to by their standard three letter ISO 4217 codes. Because data were gathered and estimates made by the source material at different times and because of great fluctuations of currency exchange rate over the past ten years, currencies are reproduced in the same way as they appear in the original source and comparison exchange rates have not been included as there is a risk that these may greatly differ from the original data or estimate.

The scope, objectives and methodology of this report are deliberately ambitious, although there are many limitations to researching, documenting, and analysing trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand. This report shows that many facets and dimensions of this phenomenon are not adequately researched or documented. Data is limited and, in some instances, the available information is out of date, incomplete, questionable or unreliable. The obstacles, concerns and limitations encountered during the research are clearly marked throughout this report and are also reiterated in concluding sections.

2 Cambodia

2.1 Overview and data



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Migration from Cambodia to Thailand has a long history. Travel and trade across the shared border, which measures 817 km in length, and visits by family and friends have persisted even during periods when border crossings were prohibited and illegal. During the period in which the Khmer Rouge was in power from 1975 to 1979, many Cambodians fled or were forced to leave Cambodia. The political instability that followed the end of the Khmer Rouge regime triggered further emigration to neighbouring countries.⁹

Over the last two decades, regular and irregular migration from Cambodia has mostly involved migrant workers who move to Thailand in search of work. Labour migration from Cambodia started on a significant scale in the early 1990s with the gradual opening of Cambodia's borders and the country's economy. Trafficking in persons, both domestically and across Cambodia's borders, became an important issue at the same time. Several academic books and articles attribute the rise of trafficking in persons to the arrival of United Nations (UN) peacekeeping forces who came to Cambodia after the end of the Khmer Rouge regime. The administrative vacuum that existed at the time meant that many

⁹ See generally, UNHCR, *The State of the World's Refugees 2000* (2000) 92.

government services and educational institutions were not available or only slowly developing. This period of transition left many Cambodians vulnerable to exploitation and created opportunities for trafficking in persons; a situation that persists today, especially in those sectors that are not, or not comprehensively, regulated, and monitored.¹⁰

Many Cambodians look to Thailand to improve their lives and the lives of their families, hoping to find employment and better pay. The long border between the two countries runs through many rural and remote areas and is not controlled—and not controllable¹¹—in many parts. Many Cambodians cross into Thailand for work on a daily basis, especially to work in the agricultural sector in areas near the border. Other migrants seek to settle and work in Thailand long-term or permanently, which is more common for men than women.¹²

2.1.1 Irregular migration

Despite the existence of formal agreements between the governments of Cambodia and Thailand, much of the migration between the two countries occurs irregularly. This is due to the fact that legal avenues of migration are limited in scope and are associated with high costs and significant levels of bureaucracy, while informal channels are inexpensive, fast and readily available.

Estimates relating to the number of irregular Cambodian migrants entering or residing in Thailand vary, though most estimates suggest that approximately 200,000 Cambodians reside in Thailand irregularly at any one time. Data from the mid-2000s suggested that some 180,000 irregular Cambodian migrants were residing in or had crossed into Thailand in the ten-year period from 1998 to 2008; a 2006 publication by the International Organization for Migration (IOM) estimating that approximately

¹⁰ Deanna Davy, 'Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia' (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 800; Thomas M Steinfatt & Simon Baker, *Measuring the extent of sex trafficking in Cambodia – 2008* (2011) 12; Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 160, 164; Shukuko Koyama & Henri Myrtilinen, 'Unintended consequences of peace operations on Timor Leste from a gender perspective' in Chiyuki Aoi et al (eds), *Unintended consequences of peacekeeping operations* (2007) 23, 32–33; Vanessa Kent, 'Protecting civilians from UN peacekeepers and humanitarian workers: Sexual exploitation and abuse' in Chiyuki Aoi et al (eds), *Unintended consequences of peacekeeping operations* (2007) 44, 45.

¹¹ Meaning that the borders are so long that it is impossible, even if an increased number of border guards were recruited, to monitor migration across the borders.

¹² Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 119; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 9–10; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14; Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 25.

180,000 undocumented Cambodian workers were in Thailand is frequently cited.¹³ In 2006 alone, 70,408 unauthorised Cambodian migrants were detected at Thailand's border.¹⁴ Estimates by the Ministry of Labour of Thailand are considerably lower, suggesting that about 120,000 'informal Cambodian migrants' reside in Thailand.¹⁵ A 2008 publication by the International Labour Organization (ILO) found that 196,798 irregular migrant workers from Cambodia were arrested in Thailand in 2006, up from 98,268 a year earlier.¹⁶ There is general consensus that the number of irregular migrants is considerably greater than the number of persons migrating from Cambodia to Thailand through regular, or legal, avenues.¹⁷ Interviews conducted for the purpose of this report determined that approximately 3,000 to 4,000 irregular Cambodian migrants cross into Thailand each day.

It is not clear to what extent irregular migration from Cambodia to Thailand involves smuggling of migrants and trafficking in persons. In 2013, UNODC estimated that 83 per cent of irregular Cambodian migrants are smuggled to Thailand. According to UNODC's calculation, this would mean approximately 55,000 migrants are smuggled from Cambodia to Thailand annually.¹⁸

A further indicator for irregular migration levels from Cambodia to Thailand is the number of Cambodians detected by Thai authorities and returned to Cambodia for staying in or entering Thailand unlawfully. In 2006, for example, 147,167 Cambodian nationals were deported from an immigration detention centre in Aranyaprathet, Thailand to Cambodia.¹⁹ In 2008, Cambodian authorities estimated approximately 130,000 Cambodians were deported from Thailand that year; in 2009, the number was 89,096.²⁰ Figure 1 below shows the number of Cambodian nationals deported from Thailand for the years 2010–2016.

¹³ Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 24–25; also cited in Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118, 122; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 5.

¹⁴ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration. Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 17–18.

¹⁵ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10, referencing Ministry of Thailand.

¹⁶ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration. Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 18.

¹⁷ Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 1.

¹⁸ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13.

¹⁹ Jerrold W Huguette & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

²⁰ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 8–9; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 36, 46; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 23.

Figure 1: Cambodian nationals deported from Thailand to Cambodia, 2010–2016, UN-ACT (2015)²¹

	Total	Men	Women	Boys	Girls
2016	50,867	26,420	16,640	3,067	1,560
2015	59,321	33,729	19,296	4,019	2,227
2014	281,218	174,458	89,652	12,203	4,905
2013	61,161	35,998	20,154	3,023	1,986
2012	102,002	61,657	30,485	5,765	4,095
2011	109,860	66,679	32,834	5,956	4,391
2010	104,673	62,805	31,791	5,825	4,252

Figure 1 shows that approximately two thirds of all adult Cambodian nationals deported from Thailand are men and about one third are women. Among minors, most deportees are boys, though the number of boys and girls varies greatly between years. Overall, the number of deportations has decreased in recent years, though 2014 marked a significant increase in the number of deportations of Cambodian nationals.

2.1.2 Trafficking in persons

Cambodia is a source, transit and destination country for trafficking in persons. Accurate statistics and estimates for the level of trafficking in persons from Cambodia to Thailand are lacking. The United Nations Inter-Agency Project on Human Trafficking (UNIAP) estimated that in 2009, more than 20,000 Cambodian victims of trafficking in persons were returned to Cambodia from Thailand.²² At the end of 2009, 57 Cambodian nationals received assistance from the Thai Bureau of Anti-Trafficking in Women and Children.²³ In 2010, Thai authorities uncovered only four Cambodian victims of trafficking among 371,456 irregular migrants interviewed and screened by Thai authorities that year.²⁴ Figures reported by UNIAP on the number of trafficking victims returned to their country were slightly higher. On average, some 100–150 victims of trafficking in persons are returned or repatriated to Cambodia from Thailand each year—a figure that was also mentioned in interviews conducted in Cambodia for the purpose of this report.²⁵ Official government figures show that 118 Cambodian victims of trafficking were identified in Thailand between 2013 and 2014.²⁶

In the context of labour migration from Cambodia to Thailand, it is sometimes difficult to clearly separate instances of irregular migration from smuggling and trafficking in persons. This is because exploitation and trafficking are often extensions of, or coincide with, irregular migration. Migrants initially decide to migrate from Cambodia to Thailand in order to find employment, but abuse,

²¹ Information provided by UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 8–9.

²² UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 44.

²³ UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 25.

²⁴ Government of Thailand, cited in UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 14, fn 39.

²⁵ UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 2; see also, Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

²⁶ Government of Thailand, *2014 Thailand Situation and Progress Report on Prevention and Suppression of Trafficking in Persons*, 45.

exploitation and trafficking arise during the journey or upon arrival to Thailand.²⁷

The difficulty in definitively identifying cases and collecting data on trafficking also stems from the fact that much of the cross-border migration occurs informally. Clear policies, laws and institutional and administrative frameworks to regulate and control labour migration are only slowly evolving. Some of these mechanisms are not comprehensive, lack coherence and coordination and do not set out clear responsibilities.²⁸ This makes it difficult to separate lawful labour migration from irregular migration and trafficking in persons.

2.2 Causes of irregular migration and trafficking

The main cause of emigration from Cambodia is the country's generally poor economic situation relative to the rapid economic growth in some neighbouring countries and other Southeast Asian nations.²⁹ A lack of employment opportunities for the country's rapidly growing population, widespread poverty, landlessness and debt of many rural people, as well as limited access to markets have been identified as major causes for emigration, including smuggling of migrants and trafficking in persons, from Cambodia.³⁰

2.2.1 Push and pull factors

General economic situation

Over the last decade, Cambodia has experienced considerable economic growth. Figure 2 below shows that between 2006 and 2015, the Gross Domestic Product (GDP) of the country more than doubled, both as a total and per capita. GDP growth exceeded 7 per cent most years.

²⁷ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 26.

²⁸ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 13, 21–22, 27–28.

²⁹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 92; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 18.

³⁰ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 14; Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 27; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 103; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 121, 135; UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 11; Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 2.

Figure 2: Economic indicators, Cambodia 2006–2015 (World Bank, 2016)³¹

	GDP at market prices, USD million	GDP per capita, USD	GDP growth %	Unemployment, % of total work force
2015	18,050	1,159	7.0	n.a.
2014	16,778	1,095	7.1	0.4
2013	15,450	1,025	7.5	0.3
2012	14,038	947	7.3	0.2
2011	12,830	879	7.1	0.3
2010	11,242	783	6.0	0.4
2009	10,402	735	0.1	0.1
2008	10,352	743	6.7	0.3
2007	8,639	629	10.2	0.6
2006	7,275	538	10.8	0.9

Despite recent economic growth, Cambodia's overall economic situation remains considerably weaker than that of neighbouring Thailand. Although economic growth has been lower in Thailand in recent years, the per capita GDP in Thailand has been more than six times that of Cambodia in most years.³² The Human Development Index (HDI), developed by the United Nations Development Programme (UNDP) to assess the overall socio-economic development of a country, ranked Cambodia 143 in 2015, whereas Thailand ranked 93.³³

With the collapse of the Soviet Bloc in the early 1990s, Cambodia lost much of the economic support it had received from former allies. The political uncertainties and reforms that followed led to uneven economic development. It also marked the beginning of significant levels of labour migration, both regular and irregular, from the country.

The economic growth that Cambodia has experienced in recent years has failed to benefit large parts of the population, especially those with limited education, training and skills as well as those living in rural areas. In 2015, 79 per cent of the population lived in rural areas.³⁴ Recent economic changes have also caused greater socio-economic disparities and job competition, which several sources see as the

³¹ World Bank, 'Open Data' <data.worldbank.org>.

³² See further Section V.1.2 below; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 21; IOM, *Analyzing the Impact of Remittances from Cambodian Migrant Workers in Thailand on Local Communities in Cambodia* (2010) 23; Jerrold W Hugué & Aphichat Chamrathirong, 'Introduction' in Jerrold W Hugué & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand* (2011) 1, 1.

³³ UNDP, 'International Human Development Indicators' (2015) <<http://hdr.undp.org/en/countries>>; see also, Ashley G Blackburn et al, 'Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia' (2010) 20(1–2) *Women & Criminal Justice* 105, 108.

³⁴ World Bank, 'Open Data' <data.worldbank.org>; Jenna K Holliday, 'Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience' (2012) 40 *Asian Journal of Social Science* 464, 466.

cause for the rise in irregular economic activities, irregular labour migration and trafficking in persons.³⁵

The Cambodian economy's many weaknesses have been attributed to structural deficits, poor infrastructure, particularly in rural areas, and a workforce with limited education. The productivity of Cambodia's agricultural sector, which constituted 28.6 per cent of the country's GDP in 2015,³⁶ remains hampered as many fields are not adequately irrigated, resulting in few and limited harvests. Small farms often do not generate enough produce to feed a whole family of farmers.³⁷ Rural areas also have an oversupply of workers and insufficient employment opportunities. The high costs associated with running a business in Cambodia and malpractices in the business sector have been cited as further factors that lead to emigration.³⁸

Questions have also been raised about the sustainability of Cambodia's economic growth and its short and long-term benefits to the local environment and its population. Much of the growth has been attributed to foreign investment and the exploitation of natural resources, which are finite and often associated with large-scale environmental destruction.³⁹

Availability of work, labour demand

The limited availability of regular paid work in Cambodia makes it necessary for some people to migrate and look for work abroad.⁴⁰ Although official unemployment rates in urban and rural areas of Cambodia are traditionally quite low many people do not have full-time work. Even if they do, wages are often too low to support workers and their families. Unemployment is also considerably higher among young people aged 15 to 24 who, in 2012, comprised 63 per cent of Cambodia's total labour force.⁴¹

Population growth adds further pressure to Cambodia's already tight job market. Some sources

³⁵ IOM, *Analyzing the Impact of Remittances from Cambodian Migrant Workers in Thailand on Local Communities in Cambodia* (2010) 23; AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies*, 273, 277; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14.

³⁶ United States, Central Intelligence Agency, 'The World Factbook: Cambodia', <<https://www.cia.gov/library/publications/the-world-factbook/geos/cb.html>>.

³⁷ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 30; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 13; citing Cambodia, Ministry of Water Resources and Meteorology (MOWRM), *Strategic Development Plan 2009-2013* (2009).

³⁸ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 5.

³⁹ Cf Duncan McDuie-Ra, 'Insecurity Within and Outside the State: The Regional and Local Dynamics of Environmental Insecurity in the Mekong' in Benny Chen Guan Teh (ed), *Human Security: Securing East Asia's Future* (2012) 75, 118.

⁴⁰ See generally, Naparat Kranrattansuit, *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam* (2014) 98; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 135.

⁴¹ Cambodia, *Policy on Labour Migration for Cambodia* (2014) 25.

suggest that the job market increases by as many as 250,000–300,000 people each year.⁴² In 2015, 31.43 per cent of Cambodia’s population was under the age of 14 and 19.71 per cent of the population was aged 15 to 24. Population growth stood at 1.58 per cent that year.⁴³ This population increase exceeds job growth, leaving many young people looking for work and forcing them to consider emigrating to find a job.⁴⁴ A 2014 study stresses that with “few prospects for economic growth, the Cambodian Government is struggling to provide adequate employment for its young population, leaving many young Cambodians susceptible to the grasp of traffickers.”⁴⁵

Greater economic development and job opportunities in neighbouring Thailand, a demand for unskilled migrant workers and geographical proximity explain why many Cambodians are drawn to Thailand. As the Thai economy has continued to grow, the demand for low-skilled labour has also increased. Many employers have been unable to satisfy this demand domestically through Thai labourers and have turned to recruiting Cambodian migrant workers.⁴⁶ In recognition of the need to formalise the mass employment of Cambodian migrant workers, the Thai government in the late 2000s instituted a program to bring more migrant workers from Cambodia to Thailand. By the end of 2010, 51,966 Cambodians arrived in Thailand under this scheme and were engaged in paid employment in Thailand.⁴⁷

Interviews conducted in Cambodia for the purpose of this report confirm that migration to Thailand is driven by necessity, as many individuals and families are unable to find employment and sustainable income. Although many people would prefer to work in Cambodia and stay with their families, there are few jobs in many parts of Cambodia. For those working in the agricultural sector, there is no work outside the harvest season and long droughts often further reduce the demand for labour. As a result, many people of working age, especially those with limited skills and training, “are sitting around with nothing to do, slowly starving to death”, as one interview respondent commented. Experts interviewed for this study stress that migration to Thailand is, for many Cambodians, necessary for basic survival.

⁴² Jenna K Holliday, ‘Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience’ (2012) 40 *Asian Journal of Social Science* 464, 466; ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013) 5; Cambodia, *Policy on Labour Migration for Cambodia* (2014) 12; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 1; Chan Sophal, ‘Economic Costs and Benefits of Labour Migration: Case of Cambodia’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118.

⁴³ United States, Central Intelligence Agency, ‘The World Factbook: Cambodia’, <<https://www.cia.gov/library/publications/the-world-factbook/geos/cb.html>>.

⁴⁴ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 4.

⁴⁵ Deanna Davy, ‘Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia’ (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 801.

⁴⁶ Chan Sophal, ‘Economic Costs and Benefits of Labour Migration: Case of Cambodia’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 120, 122.

⁴⁷ Andy Hall, ‘Migration and Thailand: Policy, Perspectives and Challenges’ in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand* (2011) 17, 21.

Wages and remittances

Labour migration from Cambodia primarily serves to improve a migrant's personal economic position and, by way of remittances, that of their families.⁴⁸ The prospect of higher wages and the ability to support family members through remittances are generally cited as the main reasons for which Cambodian nationals migrate to Thailand.⁴⁹

A World Bank study found that in 2010, per capita income in Cambodia ranged between USD 700 and 800 per annum. In the same period, the per capita income in Thailand was approximately USD 5,000, six times higher than in Cambodia.⁵⁰ Other sources similarly suggest that wages in Thailand are usually between two and seven times higher than in Cambodia.⁵¹ Although Cambodian nationals generally earn at least 20–30 per cent less than Thai nationals for the same position, these higher levels of income nevertheless draw many Cambodians to Thailand. Importantly, many employers are willing to provide jobs to workers who will accept lower pay.⁵² Several studies show that most Cambodians find they can earn higher wages in Thailand than in Cambodia, even if they are paid below minimum standards.⁵³

There is conflicting information as to whether irregular Cambodian migrants earn lower wages than individuals moving through official channels. An ILO study published in 2008 found it was more

⁴⁸ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 7; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 56; Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 3.

⁴⁹ UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 18; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118–119.

⁵⁰ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 8; see also Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 26, with reference to 2009 World Bank data.

⁵¹ Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 7; Naparat Kranrattansuit, *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam* (2014) 102; Cambodia, *Policy on Labour Migration for Cambodia* (2014) 12–13.

⁵² Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 48; see also, Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 135, 139–141.

⁵³ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 19; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 449; Yongyuth Chalamwong & Raphaella Prugsamat, 'The Economic Role of Migration: Labor Migration in Thailand: Recent Trends and Implications for Development' (2009) 24(3) *TDR Quarterly Review* 3, 5.

common for Cambodian labour migrants entering Thailand through formal channels to receive lower remuneration than it was for migrants using irregular channels.⁵⁴ The ILO concludes that irregular migrants may save money on initial fees for migration and, once in Thailand, also seem to be able to achieve the same or even higher incomes than those of regular migrants.⁵⁵

On the other hand, a 2013 study of net economic returns for Cambodian workers in Thailand found that the average net return over two years was just USD 600 for irregular workers compared to USD 2,380 for regular workers.⁵⁶ While another study found a less significant discrepancy, it also confirmed that regular migration was still more beneficial. The average net return for Cambodians who arrived and worked in Thailand legally was USD 2,704 over two years, according to the study. Persons who arrived irregularly but were in possession of valid papers earned USD 2,394, while persons who arrived irregularly with no papers earned USD 2,352.⁵⁷

Remittances

Remittances are important for many Cambodians and increasingly contribute to the country's national economy. For many families, remittances received from relatives abroad are the main source of income, helping them to cover daily expenses, pay for health care and repay debts.⁵⁸

Estimates of the volume of remittances sent from Thailand to Cambodia vary greatly, but it is generally believed to amount to several hundred million US dollars each year.⁵⁹ In 2015, the World Bank estimated USD 397.42 million in remittances was sent to Cambodia from abroad, constituting approximately 2.2 per cent of the country's GDP. This represented an increase of more than USD 220 million from 2013, when USD 176 million in remittances was sent to Cambodia. As shown in Figure 3 below, approximately USD 233 million in remittances was sent from Thailand alone in 2015.

⁵⁴ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 57.

⁵⁵ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 13.

⁵⁶ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 73; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 147.

⁵⁷ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 72; see also UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 96–97.

⁵⁸ Cambodia, *Policy on Labour Migration for Cambodia* (2014) 19; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 9; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 7; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 60.

⁵⁹ See also, UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 3; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 10, 46; Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 5; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 119.

Figure 3: Migrant remittance flows, Thailand to Cambodia 2012–2015⁶⁰

	Total in million USD
2015	233
2014	224
2013	103
2012	23

Existing communities; prior migration by family and friends

The existence of Cambodian diaspora and established social networks of Cambodians throughout Thailand further contribute to emigration. Remittances sent by migrants in Thailand to relatives and friends in Cambodia and “success stories” about the migrants’ lives and careers in Thailand provide many would-be migrants with further incentives and information to move to Thailand.⁶¹ Survey results published in 2015 by the United Nations Action for Cooperation against Trafficking in Persons (UN-ACT) found that, among Cambodian workers in Thailand who had been deported, the vast majority knew of others who had migrated to Thailand when they made the decision to emigrate.⁶²

Cambodians’ networks of contacts in Thailand may encourage and facilitate the movement of irregular migrants from Cambodia, provide information on the means and methods of migration and assist with securing accommodation and employment at the destination. This assistance may reduce the costs and risks associated with migration.⁶³ Interviews conducted in Cambodia for the purpose of this report confirmed that personal contacts and stories of prior migration to Thailand have a significant influencing factor on Cambodians’ decisions to migrate irregularly to Thailand.

In this context, it is important to note that known and reported risks associated with irregular migration to Thailand and stories of abuse and negative experiences by prior migrants sometimes do little to deter would-be migrants. Many migrant workers who return to Cambodia, voluntarily or forcibly, often immediately plan to re-migrate even if they had negative experiences in Thailand. The factors that spur migrants to leave Cambodia frequently outweigh the known risks. Instead of seeking help and

⁶⁰ World Bank, ‘Migration and Remittances Data’ <<http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>>.

⁶¹ Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 447, 449; Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 27; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 9, 18; Shalika S Hegde et al, ‘Unsafe Abortion as a Birth Control Method: Maternal Mortality Risks Among Unmarried Cambodian Migrant Women on the Thai-Cambodia Border’ (2012) 24(6) *Asia Pacific Journal of Public Health* 986, 992–993.

⁶² UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 18.

⁶³ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 15; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 39; Hossein Jalilian & Glenda Reyes, ‘Migrants of the Mekong: Wins and Losses’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14.

returning to the home community, many people are willing to endure dangerous and difficult working conditions in Thailand in order to earn higher wages and send money to their families.⁶⁴

Microfinance schemes and other personal debt

A further factor influencing emigration appears to be personal or family debt. A 2016 study of returning migrant workers from Cambodia found that 40.6 per cent of respondents cited financial debts as the main reason for leaving Cambodia.⁶⁵

Interviews conducted in Cambodia for the purpose of this report found that many Cambodians, especially in rural areas, have rapidly increasing microfinance loans that they are unable to repay. Microfinance schemes from both not-for-profit and for-profit institutions have become increasingly popular in Cambodia. For-profit institutions are registered and tend to charge higher interest rates than their not-for-profit counterparts, usually approximately 5-10 per cent per month, which can result in interest payments of 60 per cent to more than 100 per cent per year. Not-for-profit microfinance institutions charge approximately 3 per cent interest per month. In return for the loan, both types of institutions require collateral from borrowers, such as land or house deeds, though only an identification card is required for smaller loan amounts (around USD 50).

Interviews conducted for this study suggest that most Cambodians engage for-profit microfinance institutions because the procedures are faster and less complex and borrowers sometimes do not meet the requirements set by not-for-profit institutions. Not-for-profit lenders generally require stringent proof of identity, such as a birth certificate, and have longer waiting and approval periods. Furthermore, for many borrowers, the loan they are seeking to take is not their first loan and not-for-profit microfinance institutions have more checks in place for ensuring borrowers do not have existing microfinance or other debts during the loan application process. For these reasons, many Cambodians sign up for loans with for-profit microfinance lenders, which visit urban and rural parts of the country to actively recruit borrowers.

For many Cambodians, microfinance loans often do not lead to financial relief. Instead, they only serve to push borrowers further into poverty. As one interview respondent noted, for-profit institution microfinance loans at interest rates of 60 to 100 per cent interest per annum are “not designed to be paid off; they are designed to bring ongoing profit to the microfinance lender while ensuring that the borrower and the borrower’s family are stuck in a never-ending cycle of poverty, debt and desperate loan interest repayments.”

Interviews conducted in Cambodia for this report further revealed that microfinance loans are sought for a range of reasons. Common expenses include money to pay for medical bills, education, or to purchase farming equipment and fertilizer for crops. In a more recent phenomenon, villagers have borrowed money from microfinance institutions to pay for a family member’s drug or gambling debts. Families will sometimes also need loans to pay to get a family member out of prison for drug-related offences.

High interest rates and the lack of flexibility for loan repayments place great stress on borrowers and their families. The fact that many borrowers are illiterate and do not fully understand the consequences of the high interest rates is deliberately exploited by some lenders, some of whom deliberately neglect to record loan payments or record lower payments than were actually made. The responsibility for the loan often does not just rest on the person who took it out, but also on the

⁶⁴ World Vision, *The Vulnerability Report: Human Trafficking in the Greater Mekong Sub-region* (2014) 9.

⁶⁵ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 14.

extended family, including children and other family members who provide their signatures or thumb prints on loan documents as guarantors. This leads to generations of a family being indebted to microfinance lenders.

The nexus between microfinance debt, migration and trafficking in persons is not currently well documented or explored in research literature but warrants further attention and analysis.

2.2.2 Availability of legal avenues of migration

Although regular migration to Thailand has been an option for Cambodian workers since 2003, when the two governments signed a Memorandum of Understanding (MoU), irregular migration remains the predominant form of migration. This is because irregular migration is more readily available, more flexible, faster and less expensive for prospective migrants. Much of the recruitment takes place informally, outside official channels. The services offered by irregular labour migration agents and smugglers are widely seen as being much more affordable and efficient than those offered through the limited official labour migration scheme.⁶⁶

Limitations of legal migration frameworks

On 31 May 2003, Cambodia signed a *Memorandum of Understanding on Cooperation in the Employment of Workers* with Thailand to enable and facilitate labour migration between the two countries and protect labour migrants from fraud and exploitation.⁶⁷ The lifetime of the MoU was initially limited to five years, but has since been extended several times. The MoU's central goal is to create an official channel for Cambodia to send migrant workers to Thailand. It also seeks to protect the safety and basic rights of labour migrants, as well as allow them to send income to their home country. The workers are obliged to abide by local laws and meet certain other criteria when they apply for and work abroad; otherwise their employment may be terminated and their work permits cancelled. Workers migrating under the MoU are allowed to live and work in Thailand for two years, with the possibility of a two-year extension.⁶⁸

⁶⁶ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118, 173–174; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 9; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38 *Philippine Journal of Development* 1, 1; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 22.

⁶⁷ *Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Cooperation in the Employment of Workers* (2003) available at <http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=93356&p_country=THA&p_count=441&p_classification=17&p_classcount=59> (accessed 20 October 2016).

⁶⁸ See further, ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1–3, 8–9; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 9; Pracha Vasuprasat, *Inter-state Cooperation on Labor Migration: Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 3–4; Srawooth Paitoonpong, 'Managing International Labor Migration in ASEAN: Thailand (Immigration)' (2011) 70 *Philippine Journal of Development* 163, 178.

Figure 4: Number of labour migrants from Cambodia to Thailand using regular channels, 2006–2014⁶⁹

Year	Number
2014	13,802 (to 18 Nov)
2013	13,468
2012	26,390
2011	16,837
2010	11,224
2009	3543
2008	2116
2007	5670
2006	445

Figure 4 shows that the number of Cambodian workers migrating to Thailand through regular channels has increased significantly over the last decade.⁷⁰ The low number of migrants moving from Cambodia in 2006 was due to the fact that it took several years after the MoU signing in 2003 to establish agencies and procedures to recruit migrant workers, as well as set up the mechanisms through which they could migrate and find employment in Thailand.⁷¹ In total, 99,401 Cambodian nationals, including 58,806 men and 40,595 women were recruited through the MoU between 2003 and June 2014.⁷²

According to other sources, by the end of 2008, only 8,231 Cambodian workers had been sent to Thailand through official channels;⁷³ by the end of 2010, 51,966 labour migrants had been recruited from Cambodia under the MoU.⁷⁴ A 2013 report by the ILO suggests the percentage of labour migrants entering Thailand through formal channels from Cambodia is considerably higher than from other countries.⁷⁵

Since the signing of the MoU in May 2003, the Cambodian government has established a range of laws, regulations, as well as extensive policies and administrative procedures to recruit labour migrants, process their applications, issue relevant documents and enable them to enter and remain in Thailand lawfully. Today, labour migration between the two countries is governed by a complex set of rules

⁶⁹ Cambodia, *Policy on Labour Migration for Cambodia* (2014) 16; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 2.

⁷⁰ See also, Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 9.

⁷¹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 8.

⁷² Thailand, Ministry of Labour, Department of Employment, Office of Foreign Workers Administration, cited in Cambodia, *Policy on Labour Migration for Cambodia* (2014) 17.

⁷³ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118, 122.

⁷⁴ Jerrold W Huguet et al, 'Thailand Migration Profile' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011: Migration for development in Thailand*: (2011) 7, 10.

⁷⁵ Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 2.

addressing the many aspects of the recruitment, transportation and employment process.⁷⁶

Despite the many changes and improvements that have been made to the system since the MoU was first signed, much, if not most, of the labour migration from Cambodia to Thailand continues to flow through irregular channels. A 2013 report suggests that less than 10 per cent of Cambodian workers have migrated to Thailand using the legal channels established by the MoU.⁷⁷

The current legal migration system has also been inflexible in responding to changing demand and supply. The limited number of issued work permits has not been able to match the high number of Cambodians seeking to work abroad.⁷⁸ Similarly, the system cannot adequately respond to increased demand for Cambodian workers in Thailand, especially if employers have short and medium-term vacancies to fill. For instance, after a labour recruitment system was formally set up in late 2005, Thailand requested 17,470 workers from Cambodia, but received only 570 workers. Between 2006 and August 2007, demand increased to 36,733 workers, but only 5,282 were supplied.⁷⁹ This mismatch has been one of the main reasons workers and employers frequently turn to irregular migration channels and the services offered by smugglers and traffickers.⁸⁰

It should be emphasised that migration through formal channels does not necessarily protect workers from exploitation, especially if migrants go into debt to cover the high costs associated with using these channels, as the following section shows.⁸¹

⁷⁶ See further, ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 6–8; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 21; Jenna K Holliday, ‘Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience’ (2012) 40 *Asian Journal of Social Science* 464, 467; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 21–23.

⁷⁷ Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 13.

⁷⁸ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 5.

⁷⁹ Pracha Vasuprasat, *Inter-state Cooperation on Labor Migration: Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 13; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 11.

⁸⁰ ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013) 19; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 5, 13; Hing Vutha et al, ‘Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach’ (2011) 38(70) *Philippine Journal of Development* 1, 8.

⁸¹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 68-69; see also UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 4; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1, 13.

Costs

The costs associated with legal channels of migration and labour recruitment in Cambodia are considerably higher than for irregular channels. Official avenues are considered too expensive for migrants from lower socio-economic backgrounds or are only affordable if migrants take up loans and enter debt. This leads many migrants to resort to informal recruitment agents and migrant smugglers.⁸²

Estimates of the costs for labour migration from Cambodia to Thailand through official channels range between THB 20,000 and 25,000, depending on the time the estimate was made and whether the estimate is inclusive of all costs for documents and travel.⁸³ Cambodians migrating through official channels have to pay approximately USD 120 to obtain a passport, in addition to the fees charged by their recruitment agency.⁸⁴

Interviews conducted for this report revealed that irregular migration to Thailand from Cambodia is inexpensive or possibly even free, depending on whether migrants make the journey on foot or independently. Many migrants do not require the services of smugglers to undertake the journey to Thailand.

Available literature suggests that irregular migration from Cambodia to Thailand costs migrants approximately THB 2,500–3,000.⁸⁵ Some sources suggest that the cost of migration through formal channels is 1.5 times higher than the costs for irregular migration, constituting the equivalent of one month's earnings in Thailand.⁸⁶ The ease of irregular crossing deters many migrants and creates an incentive to use informal channels and, in some cases, accept the promises and offers made by smugglers and traffickers.⁸⁷ So long as irregular migration remains the less expensive alternative, the

⁸² ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 21; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 9.

⁸³ Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 6.

⁸⁴ ILO, *Inter-state Cooperation on Labor Migration. Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 15.

⁸⁵ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 121; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 69–70; Pracha Vasuprasat, *Inter-state Cooperation on Labor Migration: Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 15; see also, ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 16; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 2; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 6.

⁸⁶ Philip Martin, *Migration in the Asia-Pacific Region* (2009) 26, 31.

⁸⁷ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 458; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 1, 14; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 66.

number of Cambodians migrating to Thailand irregularly is expected to remain high.⁸⁸

Interviews conducted in Cambodia for this report consistently identified the high costs associated with regular migration as the main factor deterring would-be migrants from using these channels. The interview respondents identified a range of costs associated with regular migration as a barrier to legal migration. These costs include acquiring a birth certificate or similar document, and paying for a passport, recruitment agency fees, travel costs, as well as paying for accommodation costs while staying in Phnom Penh or other cities to source the required documents, waiting for receipt of the documents and meeting with brokers and other individuals that migrants engage to coordinate their journeys and employment permits. These costs, interview respondents highlighted, add up to sums of money that most would-be migrants cannot afford. In addition, the process of applying for regular migration often takes Cambodians away from home and make them unable to work, which is a further disincentive for pursuing regular migration channels.

To reduce the initial costs for would-be migrants in Cambodia, labour recruitment agencies, Thai employers, or both, often provide loans and advance payments. Under these schemes, migrants contribute approximately USD 100 to an overall fee of USD 700. The rest is covered by the agency or employer and later deducted over several months from the workers' salaries. Workers who migrate to Thailand under the MoU must agree to the recruitment agency recovering some of the fees by deducting money from their earnings in Thailand. On average, about 20 per cent is deducted from a migrant's salary in the first 10 to 12 months of employment, amounting to approximately 2,000–3,700 THB a month. In some cases, Thai employers advance the fees and then levy migrants to recover these expenses.⁸⁹ Many would-be migrants are lured into these schemes without realising they may lose up to a third of their monthly wages (approximately 2,000 of 6,000 THB per month). They often end up in debt, forced to work long days and excessive hours to discharge their debts and support their families. The debts also make the migrants vulnerable to exploitation and trafficking as they create a fear of loss of employment and force migrants to accept employment conditions they would otherwise reject.⁹⁰

⁸⁸ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 70; see also, Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 27; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 14.

⁸⁹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 29, 51, 68–69; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 26, 31; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 6; Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 9, 17; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 16; Pracha Vasuprasat, *Inter-state Cooperation on Labor Migration: Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 15.

⁹⁰ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 147, 173; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 13, 16; ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 55; Aungkana Kmonpetch, 'The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand' (2011) 104 *Kyoto Working Papers on Area Studies: G-COE Series 1*, 12.

Bureaucracy

Bureaucracy and long waiting periods also serve as further deterrents from legal migration. In interviews conducted in Cambodia for this report, respondents repeatedly emphasised that the procedures for obtaining relevant documents, registering with agencies and authorities were extremely cumbersome. Most migrants found it easier to use informal channels and simply cross into Thailand without the necessary papers.

The formalities and documents needed to obtain official permits are complex: It takes on average three to six months until passports and permits are issued. At a cost of USD 120, Cambodian passports are considered expensive for most nationals. In order to apply, Cambodian nationals also need to produce a range of identity documents, which many people do not have, or are very expensive and difficult to obtain. These factors have been identified as the main reasons for why few migrant workers ever apply for or own a passport.⁹¹

Some labour recruitment procedures also do not seem to be standardised. Some licensed recruitment agencies remain unsure about procedures they need to follow, especially if they are newly licensed.

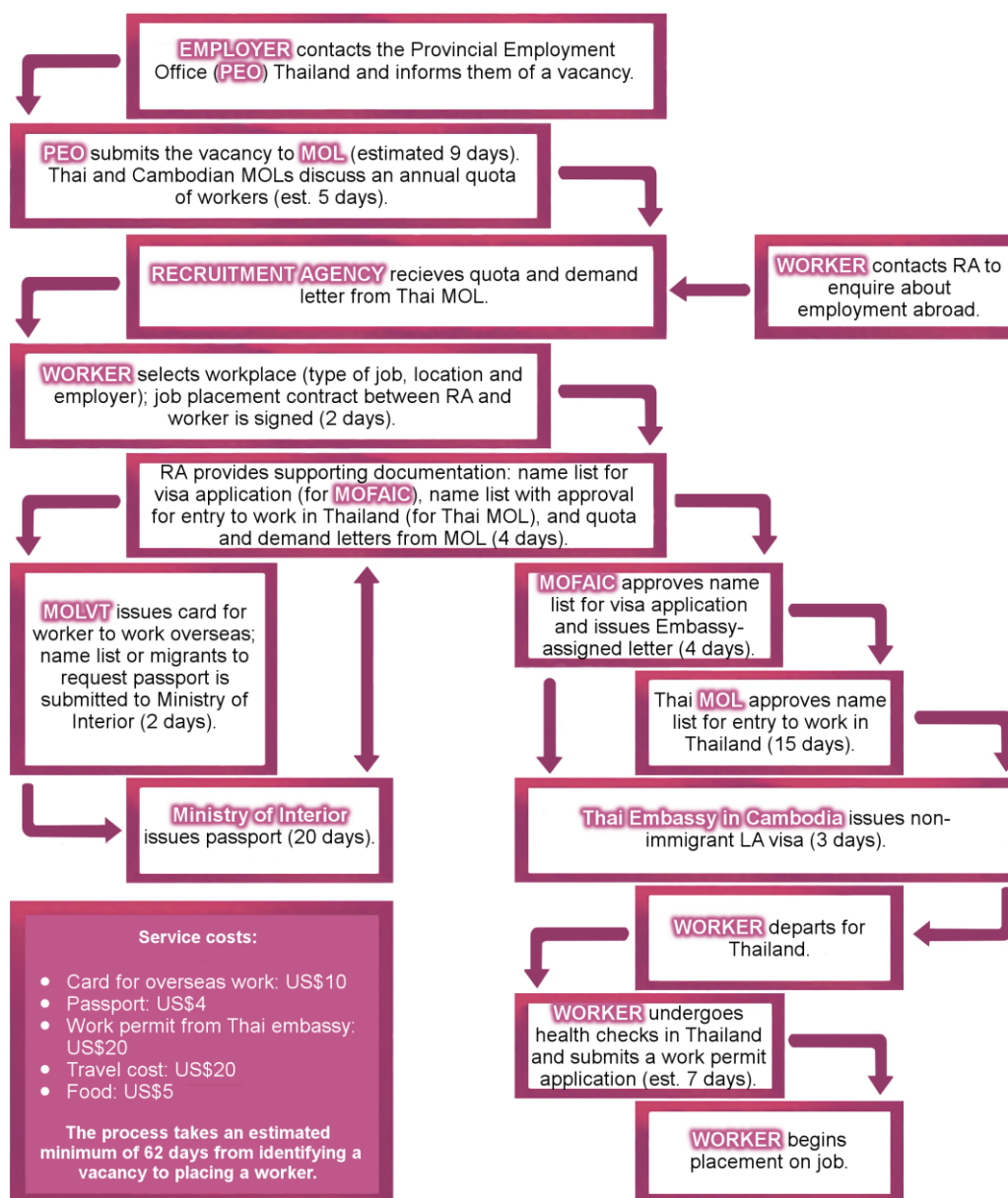
A further deterrent inherent in the official labour migration scheme stems from the fact that, even with a work permit, migrants are only allowed to remain in Thailand for two years. The permit may be renewed once, but workers eventually have to return to Cambodia. They are then barred from participating in the program for a set period, before they have to go through the entire application and registration process again.⁹²

Figure 5 below, which is reproduced from a 2015 ILO publication, shows the steps involved in the formal recruitment and placement process for Cambodian migrant workers under the labour migration MoU between Cambodia and Thailand.

⁹¹ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 13.

⁹² Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 88–89; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 458; Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 62; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 31; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 53; Amarjit Kaur, 'Labour migration trends and policy challenges in Southeast Asia' (2010) 29(4) *Policy and Society* 385, 395.

Figure 5: MoU recruitment and placement process for workers from Cambodia (as of 2014)⁹³



The small number of recruitment agencies operating in Cambodia has reportedly contributed to slow approval processes. By 2009, for instance, six years after the MoU was signed, only 12 recruitment agencies were operational after six others had to close down in July 2006.⁹⁴ The number rose to 31 by 2010 and to 39 by 2013. An Association of Cambodian Recruitment Agencies (ACRA), which says it represents the majority of agencies, was established in 2009 and seeks to ensure members comply with minimum standards set out in a code of conduct.⁹⁵

⁹³ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 36.

⁹⁴ Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 7.

⁹⁵ Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 2, 8.

A report published by the ILO in 2008 found that the primary reason Cambodian workers in Thailand had chosen to use irregular channels of migration was speed and ease of use.⁹⁶ More recent sources confirm that the bureaucracy and complexity of the recruitment and migration process continue to be cumbersome. As a result, many migrants do not understand relevant procedures. Would-be migrants receive insufficient information and explanation and, thus, show no interest in using official channels. This was observed especially among labour migrants from poor or rural backgrounds.⁹⁷ Some migrants use brokers to assist in the process, which further adds to the costs associated with legal migration. In some cases, brokers trick would-be migrants into giving them money with no service received in return.⁹⁸

For some professions, legal migration can also involve mandatory training, which comes at an additional cost to the migrants and further complicates the recruitment process. This is the case, for instance, for domestic workers who must undergo pre-departure training with a Cambodian recruitment agency for a period of three to six months without pay.⁹⁹

By law, recruitment agencies are required to provide training on the work systems, skills, customs, traditions and the basic laws of the country receiving the worker.¹⁰⁰ Standardised pre-departure training and manuals for a range of professions are under development to inform migrants about their rights, workplace practice and remittances, and provide them with information about the culture and customs of the host country. Information, advice and counselling are offered through newly established migrant resource centres, and information campaigns are run at schools and in local communities.¹⁰¹ At the time of writing there was no further information about the extent to which these measures have been implemented, about the costs, if any, to the migrants, or about the effect the measures may have on levels of regular and irregular migration from Cambodia to Thailand.

The existing labour migration MoU between Cambodia and Thailand does not permit recruitment into specific industries, despite some industries having a particularly high demand for workers. It has also been reported that permits are not issued or renewed for Cambodian nationals over the age of 35.¹⁰²

⁹⁶ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 22–23; see also Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 6; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 13.

⁹⁷ Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 9; see also, UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 43.

⁹⁸ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 75–76.

⁹⁹ ILO, *Inter-state Cooperation on Labor Migration. Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 15.

¹⁰⁰ UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 24.

¹⁰¹ Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 13.

¹⁰² Chenda Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 211; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 459.

Furthermore, official channels, insofar as they do exist, are usually reserved for persons possessing a certain level of education or standard of skill. Many would-be migrants do not meet these prerequisites.¹⁰³

To avoid lengthy bureaucracy and slow procedures, many migrants enter into vague contracts that do not specify their rights and obligations. Sometimes, these contracts do not even specify the type of work to be undertaken abroad. Labour migrants are particularly vulnerable to exploitation in these circumstances.¹⁰⁴ According to a 2016 report, 19 per cent of labour migrants experience one or more forms of abuse and exploitation. Among these, 83 per cent are undocumented labour migrants.¹⁰⁵

Legalisation of status

The possibility of migrants legalising their status after arrival has also enhanced the appeal of migrating to Thailand irregularly. A Nationality Verification System permits Cambodian nationals who are working in Thailand without regular status to have their nationality verified by their own government, protecting them from being deported as undocumented migrants. Though originally intended as a temporary possibility while procedures for regular migration from Cambodia to Thailand were being implemented, it continues to operate sporadically today.¹⁰⁶ The system has allowed a number of irregular Cambodian migrants to remain in Thailand lawfully.¹⁰⁷ According to Thai authorities, 73,793 irregular Cambodian migrants regularised their status by the end of December 2012, entitling them to temporary residence.¹⁰⁸

2.2.3 Displacement, forced migration and trafficking

Kidnapping and other forms of forced or coerced migration

Cases of kidnapping, insofar as they occur and are reported, usually refer to trafficking in children, girls in particular. They involve situations in which victims are taken from remote villages or hill tribes. In such cases, traffickers confiscate any identity documents and exercise close control over their victims during the journey to Thailand.¹⁰⁹

¹⁰³ Chenda Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 211; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 459.

¹⁰⁴ UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 32–33

¹⁰⁵ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 22.

¹⁰⁶ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 173.

¹⁰⁷ See further, Section V.5.3 below.

¹⁰⁸ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 77, 132; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 22.

¹⁰⁹ Zrinka Gugić, 'Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU' (2014) 30 *Pravni Vjesnik God* 355, 364.

Natural disasters and environmental factors

Several sources link irregular labour migration to natural disasters such as floods and droughts that destroy harvests, land, homes and livelihoods. In the last two decades, flooding and droughts have affected some parts of Cambodia, resulting in crop failure and lost harvests. Flooding is particularly common in low-lying areas along the Mekong. Floods in late 2011 inundated many paddy fields and destroyed important infrastructure, causing internal displacement and creating further incentives for emigration.¹¹⁰ Fields and villages along the Mekong can be flooded for several months during heavy monsoon seasons. At other times, Cambodia experiences very severe drought, causing insufficient irrigation. The construction of new dams further upstream on the Mekong has further exacerbated this problem.¹¹¹

There is growing concern that the effects of climate change may lead to more extreme weather patterns with prolonged periods of rain or drought. These factors push many farmers into debt and landlessness, forcibly displacing some and causing others to look for work elsewhere. Some cross into Thailand to take up employment in the agricultural industry while others, unable to find similar work, seek work in Thailand's construction and garment industries.¹¹²

The level of deforestation in Cambodia has also become a particularly contentious issue. Logging has created some benefits: It has contributed to job creation in rural areas and the clearing of land has helped establish new farms and farmland. However, deforestation often occurs at unsustainable and uncontrolled levels and can lead to environmental degradation, higher risks of flooding, and mudslides. Furthermore, many of the jobs associated with logging are short-term and workers must migrate to look for employment elsewhere once contracts are completed. This has led to further displacement and emigration from Cambodia.¹¹³

¹¹⁰ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 30; Naparat Kranrattansuit, *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam* (2014) 99; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 13.

¹¹¹ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 120; Cambodia, Ministry of Water Resource and Meteorology, *Climate Change Strategic Plan for Water Resources and Meteorology* (2012) 7–8.

¹¹² Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 9; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 120–121; So Sovannarith et al, 'Labour Migration in Rural Livelihoods' in Brett M Ballard (ed), *Annual Development Review 2006–07* (2007) 149, 157–158; Chan Sophal, *Review of labour migration management, policies and legal framework in Cambodia* (2009) 3; Cambodia, Ministry of Water Resources and Meteorology, *Climate Change Strategic Plan for Water Resources and Meteorology* (2012) 7–8, 11–12.

¹¹³ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 121–122.

2.3 Types of trafficking

Trafficking in persons from Cambodia to Thailand involves both male and female victims. Men are most commonly exploited by way of forced labour or other forms of labour exploitation in Thailand's agricultural, fishing and construction industries. Women are mostly trafficked for exploitation in the domestic service, hospitality and sex industries. The following sections outline the available information, separated by type of trafficking and industry, and explore various forms of trafficking of adults and children from Cambodia to Thailand.

2.3.1 Sexual exploitation

There is limited up-to-date research on trafficking in persons, especially women, from Cambodia to Thailand for the purpose of sexual exploitation. It is difficult to gauge from the available sources the extent of this phenomenon or make general observations about its *modi operandi* and characteristics. Some sources are contradictory. Some suggest sex trafficking is the most prevalent form of trafficking of female Cambodian nationals to Thailand, while others state it is declining.¹¹⁴ Recent sources point to a “casino belt” in coastal areas near the Thai border and in the very north of Cambodia close to Thailand, describing the area as a “haven” for sex tourists and as locations to which many Cambodian and Vietnamese women have been trafficked.¹¹⁵

Recent literature, as well as interviews conducted in Cambodia and Thailand for the purpose of this report, suggests that trafficking in persons from Cambodia to Thailand for sexual exploitation has declined in recent years. Interview respondents suggested that there has been a perceivable decline in the number of Cambodian trafficking victims identified in Thailand since 2012. Respondents further emphasised that the decline in official numbers of identified victims in the sex industry may be the result of a number of factors, including the international community's increasing focus on labour trafficking, changes in the *modi operandi* of traffickers and the fact that law enforcement efforts may have pushed sex trafficking further underground.

Recent research suggests that most Cambodian victims of trafficking in Thailand—approximately 80 per cent—are male.¹¹⁶ Instead of being a major source of women and girls trafficked in Thailand's sex sector, Cambodia has become a destination country for sex trafficking from Viet Nam. It also experiences high levels of internal trafficking.¹¹⁷

¹¹⁴ Hing Vutha et al, *Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 17; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12; Aungkana Kmonpetch, ‘The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand’ (2011) 104 *Kyoto Working Papers on Area Studies: G-COE Series* 1, 11.

¹¹⁵ Peter Munro, ‘Harbouring the illicit: borderlands and human trafficking in South East Asia’ (2012) 58 *Crime, Law & Social Change* 159, 167–170.

¹¹⁶ Chenda Keo, *Human Trafficking in Cambodia* (2014); UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20–22.

¹¹⁷ See further, Chenda Keo, *Human Trafficking in Cambodia* (2014); UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20–22; Peter Munro, ‘Harbouring the illicit: borderlands and human trafficking in South East Asia’ (2012) 58 *Crime, Law & Social Change* 159, 167.

Recruitment and first contact

Traffickers often target vulnerable communities, individuals, and in particular, women, who are easily lured with promises of work and money, who can be controlled without much effort, and who are least likely to seek protection from law enforcement and other authorities.¹¹⁸

Despite the promises recruiters make, it should be stressed that the majority of Cambodian women who seek to work in the sex sector in Thailand appear to do so voluntarily and are aware they are being recruited for sex work. Many women contact recruiters for that purpose. Some also have prior experience in the sex industries in Cambodia or other countries and hope to find more work, higher pay and better working conditions in Thailand. Several sources stress that recruitment generally does not involve—and does not require—the use of force or coercion. Deception and exploitation mostly occur once they start working in Thailand.¹¹⁹

Profile of victims

The majority of persons trafficked for sexual exploitation from Cambodia to Thailand are women, most of them young adults in their late teens or early twenties.¹²⁰ Women who are trafficked for sexual exploitation come from both rural and urban backgrounds in locations across Cambodia.¹²¹

While gender discrimination may be a cause of emigration, education and family conditions reportedly have little impact on the risk of being trafficked. Several reports note that women have lower risks of being trafficked to Thailand than men because they are less likely to employ brokers to find work.¹²²

Arrangements and departure

In cases of sex trafficking, it is difficult to gauge the extent to which traffickers, smugglers, or migrants themselves make the arrangements to leave Cambodia and travel to Thailand. A 2010 study, for instance, suggests that Cambodian women migrate to Thailand more independently than men, use

¹¹⁸ AKM Ahsan Ullah & Mallik Akram Hossain ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 282.

¹¹⁹ Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 206; see also, Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 235; Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

¹²⁰ ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013) 24; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 5.

¹²¹ United States, Department of State, *Trafficking in Persons Report 2016* (2016) 119; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 110.

¹²² UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 49–50, 70. See also, Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 206.

smugglers less frequently and thus run a lower risk of being trafficked.¹²³ A 2009 publication highlights that most victims experience exploitation only at the end of the migratory journey:

Less frequently, smuggled women and girls become victims of trafficking into commercial sex work during their migratory journey. Usually, the migratory process itself is not exploitative, but once foreign women and girls arrive in Thailand, they are particularly vulnerable to exploitation because of their lack of knowledge and experience.¹²⁴

According to some sources, many Cambodian women enter Thailand for short periods to work in the sex industry. This has been reported, for instance, from areas near the city of Poipet where Cambodian girls cross local rivers, forests and fields to engage in employment in the sex sector for several weeks and then return.¹²⁵ The extent, if any, to which such cases amount to trafficking is not clear from the available sources.

2.3.2 Labour trafficking

Most irregular migration from Cambodia to Thailand involves labour migration of men and women. Such migration can lead to trafficking if the migrant workers are exploited, deceived, or abused when they are first recruited, during their journey, or, most commonly, once they take up employment in Thailand. The following sections explore the available information relating to the recruitment of labour migrants and arrangements for trafficking made in Cambodia.

Recruitment and first contact

Labour migration from Cambodia to Thailand may occur through legal channels, but most Cambodian workers prefer the faster, cheaper and more efficient informal channels for moving and finding work in Thailand.¹²⁶ There is no standard way in which smuggled labour migrants and trafficked persons first come into contact with the people who will take them to Thailand. In some cases, migrants seek out smugglers; in others, smugglers actively recruit migrants.¹²⁷

Awareness of legal avenues of labour migration to Thailand appears to be widespread: Both public media and recruitment agents advertise formal avenues for labour migration. As of January 2015, there were 44 registered recruitment agencies in Cambodia who send workers to Thailand. Media ranging from newspapers to television, radio, and information sessions are used to advertise employment opportunities in Thailand and to promote the official channels available to work abroad. Flyers, brochures and other information packages are utilised to spread the word further, and officials and

¹²³ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 49–50; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11.

¹²⁴ Jayagupta Ratchada, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47(2) *International Migration* 227, 235.

¹²⁵ Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 30.

¹²⁶ See further, Section II.2.2 above.

¹²⁷ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 10–11.

subcontractors travel through rural areas to recruit workers.¹²⁸

Nevertheless, most Cambodian migrant workers choose to use irregular channels. In the fishing industry, for instance, labour migration appears to take place largely outside regulated migration channels.¹²⁹ Interviews conducted in Cambodia for the purpose of this report also revealed many migrants have a general understanding of the risks and dangers associated with irregular migration to Thailand but frequently decide that these risks and dangers are greatly outweighed by the perceived benefits of migration.

The use of unlicensed brokers appears to be the most common way for would-be migrants to start organising their departure from Thailand.¹³⁰ Potential migrants using irregular avenues of migration usually learn about job opportunities abroad through families, friends, word of mouth or unlicensed brokers. These brokers often come from the same areas as the migrants they recruit, which enable them to seek out specific groups and individuals. It also creates an element of trust, as migrants and their families may have known or been aware of the broker for some time. Brokers usually have information about job situations in Thailand and use their connections to Thai employers, other brokers and Thai authorities to arrange the irregular migration and job placement.¹³¹ Migrants who previously worked in Thailand and returned to Cambodia may also be involved in the recruitment process. These migrants share their experiences and encourage others to follow in their footsteps by providing them with contacts and information about travelling to and working in Thailand.¹³²

Labour exploitation and trafficking are more likely to occur through these irregular migration channels. However, even recruiters, agents and others working in official labour migration schemes similarly often have no control over the wages and working conditions that Cambodian workers experience once in Thailand. Exploitation and trafficking can thus occur regardless of the way in which workers are recruited.

It is worth noting that recent literature contains next to no examples of instances in which irregular migrants from Cambodia were deceived or otherwise tricked into moving to Thailand. Nearly all migrants from Cambodia enter Thailand voluntarily. Whether or not the circumstances amount to trafficking will, in most cases, depend on the situation the migrants encounter once they reach Thailand and whether their employers or others exploit them.¹³³

¹²⁸ Jenna K Holliday, 'Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience' (2012) 40 *Asian Journal of Social Science* 464, 468; UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 24; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 19.

¹²⁹ Annuska Derks, 'Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand' (2010) 38 *Asian Journal of Social Science* 915, 921.

¹³⁰ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 15.

¹³¹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 24, 26.

¹³² Annuska Derks, 'Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand' (2010) 38 *Asian Journal of Social Science* 915, 922; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

¹³³ Jerrold W Hugué & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

Profile of victims

Gender

Most reports about labour trafficking from Cambodia to Thailand are about men who often work for minimal pay and in harsh conditions in Thailand's fishing, construction and agricultural industries.¹³⁴ Women, on the other hand, are most commonly trafficked into the domestic services, garment, or hospitality sectors in Thailand. Some sources also suggest it is not uncommon for Cambodian women to be trafficked into Thailand's construction and agricultural industries and only the fishing industry is more male-dominated.¹³⁵

Men are more likely to be deceived, exploited and trafficked than women, according to several studies. This has been observed in the agricultural, construction and other industries. Though the exact reasons and circumstances for this are not well-explored, it appears that men, especially young men, are more likely to use brokers than women. The use of brokers and the way migrants reach Thailand greatly increases the risk of being trafficked.¹³⁶ Some sources, however, reject these observations and argue that Cambodian women are more vulnerable to labour trafficking because they are less likely to demand workplace rights and often work as domestic servants in private homes where exploitation is more likely to occur.¹³⁷

Age (adults)

Most Cambodian men and women migrating through regular and irregular channels to Thailand are

¹³⁴ Bruno Maltoni, *Review of Labour Migration Dynamics in Cambodia* (2006) 25; AKM Ahsan Ullah, Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 5, 17; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 98; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 5; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 11; Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

¹³⁵ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 139; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 93.

¹³⁶ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 44, 49–51, 82; Rebecca Miller & Sebastian Baumeister, 'Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?' (2013) 2 *Anti-Trafficking Review* 15, 22; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 52.

¹³⁷ UNIAP, *Exploitation of Cambodian men at sea, SIREN case analysis, CB-02* (28 September 2007) 1; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 451.

young adults under the age of 29. Labour migration and trafficking very rarely involves men and women aged 40 or older. Younger labour migrants tend to be more likely to use brokers, smugglers or other aid during the migration process and, as mentioned, are believed to be at greater risk of becoming victims of trafficking.¹³⁸

Background

Available information regarding family, educational and economic background of Cambodian nationals who are trafficked in Thailand for labour purposes are incomplete, and at times, conflicting. According to some sources, the decision to migrate is often driven by family circumstances, such as the need to support relatives after a main income-earner passed away or the need to pay school fees or debts. Family circumstances can also include “broken” families and alienation.¹³⁹ Other sources, however, contend that family conditions have little impact.¹⁴⁰

Information about Cambodian migrant workers’ level of education varies between different studies and samples. A 2006 World Bank publication found that Cambodian labour migrants have slightly higher educational levels than the overall population in Cambodia and are higher than those of migrants from Lao PDR and Myanmar.¹⁴¹ This was supported by a 2015 UN-ACT study, which found that in a particular sub-set of Cambodian labour migrants (those who were deported from Thailand), education levels are rising and are considerably higher now than in the late 2000s. This was true for both men and women.¹⁴² A 2016 study of returning migrant workers in Cambodia found that less than half had completed primary education and about 12 per cent of respondents had no schooling at all.¹⁴³

Cambodians who migrate to Thailand through irregular channels tend to have lower education levels than those migrating through regular channels.¹⁴⁴ People with lower levels of education and literacy are widely believed to be more vulnerable to exploitation and trafficking, as they possess less knowledge and understanding of the conditions they can expect in Thailand and often have naïve beliefs about the levels of income and living arrangements awaiting them. They are also more likely to be deceived by traffickers and fall victim to the promises made by them. The level of prior knowledge

¹³⁸ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 12; Aree Jampaklay et al, ‘Gender and migration from Cambodia, Laos and Myanmar to Thailand’ in IOM, *Gender and Labour Migration in Asia* (2009) 193, 200; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 12; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 70.

¹³⁹ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 106.

¹⁴⁰ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 49, 70.

¹⁴¹ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 9, 40.

¹⁴² UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 13.

¹⁴³ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 12.

¹⁴⁴ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 12.

of migration does not, however, reduce vulnerability to trafficking.¹⁴⁵

Socio-economic background can influence a migrant's final destination. Poorer Cambodians tend to only migrate shorter distances across the border, while those who can afford it migrate deeper into Thailand, especially to Bangkok and other big cities.¹⁴⁶

Irregular migration and labour trafficking affects people from all parts of Cambodia, including urban and rural areas. In absolute numbers, most irregular labour migrants come from the more populated central and southern parts of Cambodia.¹⁴⁷ Research on the trafficking of Cambodian nationals into Thailand's fishing industry reveals that many victims come from provinces to the east and southeast of Phnom Penh, including Svay Rieng, Prey Veng, Kandal and Kampong Cham.¹⁴⁸

Arrangements and departure

Licensed or non-licensed recruitment agencies are usually responsible for making arrangements for Cambodians to enter Thailand. These agencies provide migrant workers with the relevant documents and arrange transportation to Thailand, where the workers then meet other agents and their future employers. A 2015 ILO study found that a growing number of "labour consulting companies" have been established in Thailand, especially in border areas. These companies cater specifically to migrant workers who enter the country irregularly in search of employment. Sometimes they work directly with other agencies or recruiters in Cambodia, but they also offer their services to those who enter Thailand independently. These companies work in a legal grey area that is not sufficiently regulated by existing laws.¹⁴⁹

2.3.3 Trafficking in children

Trafficking in children from Cambodia to Thailand is a phenomenon that has been documented for some time and appears to be quite widespread.¹⁵⁰ The available information mostly points to trafficking in children for the purposes of labour, sexual exploitation and forced begging in Thailand.

Purposes of child trafficking

Trafficking in children within Cambodia often involves the trafficking of young girls from rural to urban

¹⁴⁵ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 70, 71; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 52; Max Tunon & Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy* (2013) 6.

¹⁴⁶ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 145; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 7.

¹⁴⁷ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 11; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 110.

¹⁴⁸ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 66.

¹⁴⁹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 19–20.

¹⁵⁰ See generally, Deanna Davy, 'Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia' (2014) 34 (11) *International Journal of Sociology and Social Policy* 793, 799–800.

areas for the purpose of sexual exploitation. There is some evidence that children, girls and boys, aged 12 and younger are also taken to Thailand to engage in commercial sex work. In some instances, parents accept money for transferring their daughters, who are then put to work in the sex industry, while in other cases children are hired to work in the agricultural sector, domestic services or other industries but ultimately end up in Thailand's sex industry. Some also work in the sex industry in addition to other employment.¹⁵¹

Cambodian children are also trafficked to Thailand for labour exploitation. This includes Thailand's fishing and seafaring industries, street flower vendors and other forms of exploitative labour.¹⁵² Trafficking of child labourers from Cambodia into Thailand seems particularly common in border areas, where several hundred children are believed to enter Thailand every day to work in agriculture, in markets or in seafood processing. In some cases, Cambodian children also work as guides to help others cross the border irregularly in areas away from official border control points.¹⁵³

Child trafficking from Cambodia to Thailand may also be done for the purpose of forced begging. A 2007 study estimated that more than 10,000 Cambodian children are beggars in Thailand.¹⁵⁴ While some Cambodian children remain in border areas to their home country where they beg in markets or in the streets, most are taken to Bangkok or to tourist areas such as Pattaya. It is not clear whether Cambodian children are taken to Thailand specifically for the purpose of begging, whether they turn to begging later and only if they cannot find other ways to earn money or whether they are children born to Cambodian parents in Thailand.¹⁵⁵

¹⁵¹ Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 169; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 25; Deanna Davy, 'Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia' (2014) 34(11) *International Journal of Sociology and Social* 793, 802; June Kane, 'What the economic crisis means for child labour' (2009) 9 *Global Social Policy* 175, 182

¹⁵² UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 9; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 17;

¹⁵³ Utit Sankharat, 'Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand' (2013) 9(11) *Asian Social Science* 24, 25.

¹⁵⁴ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 27–28, citing Thailand Development Research Institute, Chalamwong, Paitoonpong, *Reviewing the Poverty Impact of Regional Economic Integration in the Greater Mekong Sub-region* (2007); see also Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 17; Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284.

¹⁵⁵ Iveta Cherneva, 'Human Trafficking for Begging' (2011) 27 *Buffalo Human Rights Law Review* 25, 31; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Chen Guan Teh (ed), *Human Security: Securing East Asia's Future* (2012) 75, 85–86.

Recruitment and first contact

Child trafficking may occur with or without parents' consent and knowledge of the circumstances. Teenagers sometimes independently choose to migrate to Thailand to earn money. In other cases, they are assisted or encouraged by parents or family friends. In other cases still, parents are deceived about why their child is recruited and transfer their child without knowing they will be trafficked.¹⁵⁶

Children recruited to work in Thailand may be tricked or lured by traffickers. The traffickers initially manipulate children by gaining their trust and loyalty.¹⁵⁷ Several sources have recounted stories of young girls being kidnapped from remote areas of Cambodia and taken to Thailand, where they were then forced to engage in sex work. Just how common such cases are is unclear.¹⁵⁸

Parents often look to local brokers, believing they will provide safe transportation, accommodation and care to their children and connect them to job opportunities in Thailand that are safe and free from exploitation. Because children are often recruited and transferred through informal, irregular channels, this belief is rarely reflective of actual conditions. Most networks seek to profit off of the child and frequently make false representations about the type of work the child will be performing and the amounts of money paid to them or their families. All too frequently, children and young girls in particular are “siphoned” into sex work once they arrive in Thailand. This is not to say that unaccompanied migration by children is any more desirable because it, too, exposes children to harm and exploitation at all stages.¹⁵⁹

Some children migrate from Cambodia to Thailand with a parent, usually their mother. A 2011 report found that about 80 per cent of Cambodian child beggars in Thailand arrived with their mothers.¹⁶⁰ The remaining 20 per cent arrived with people to whom they were not related. The report concluded that

¹⁵⁶ Peter Munro, ‘Harbouring the illicit: borderlands and human trafficking in South East Asia’ (2012) 58 *Crime, Law and Social Change* 159, 169; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 25; Ahsan AKM Ullah & Mallik Akram Hossain, ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286; Aree Jampaklay, ‘Migration and Children’ in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011: Migration for development in Thailand*: (2011) 95, 99.

¹⁵⁷ Ahsan AKM Ullah & Mallik Akram Hossain, ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286; Utit Sankharat, ‘Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand’ (2013) 9(11) *Asian Social Science* 24, 26.

¹⁵⁸ Zrinka Gugić, ‘Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU’ (2014) 30 *Pravni Vjesnik God* 355, 364; Emmanuel Obuah, ‘Combating Global Trafficking in Persons: The Role of the United States Post-September 2001’ (2006) 43 *International Politics* 241, 248.

¹⁵⁹ Hans van de Glind & Anne Kou, ‘Migrant children in child labour: A vulnerable group in need of attention’ in Moussa Harouna Sambo & Fabrizio Terenzio (eds), *Children on the Move* (2013) 27, 33.

¹⁶⁰ Aree Jampaklay, ‘Migration and Children’ in Jerrold W Huguet, Aphichat Chamrathirong (eds), *Thailand Migration Report 2011: Migration for development in Thailand* (2011) 95, 99.

child begging is an issue more closely related to “vulnerable migration” than trafficking.¹⁶¹

Finally, children’s ages are sometimes manipulated in documents used to migrate through official channels. In such cases, parents may collude with recruitment agencies or bribe officials to issue fraudulent documents.¹⁶²

Profile of victims

Trafficking in children from Cambodia to Thailand involves both girls and boys. Both sexes appear to be represented equally among trafficked children. Younger children are often trafficked into industries that involve less skill while older teenagers work in slightly more skilled positions. A small-scale study conducted in 2013 involving 24 children in the Rong Kluea Market area in the Aranyaprathet District in Thailand, near the Cambodian border, for instance, found that boys aged between 8 and 15 take up jobs peddling goods and fruit. Girls aged 10 to 16 often work in retail and girls aged 14 to 18 often work in the sex industry.¹⁶³

Children who are trafficked from Cambodia to Thailand come from a range of backgrounds. Information about the circumstances that make them more vulnerable to recruitment by traffickers is very scattered. Some children come from poor rural areas and farming families who do not own land or have suffered poor harvests or crop losses. Some girls who are trafficked to engage in sex work may often choose to leave their families out of shame over early sexual experiences. Others come from “broken homes” where parents are separated or where domestic violence is rife. Education levels among trafficked children are low; few have attended, let alone completed, primary or secondary education before they are trafficked.¹⁶⁴

2.3.4 Other types of trafficking

Other forms and purposes of trafficking in persons from Cambodia to Thailand are not well documented and do not appear to occur on a large scale.

In 2014, reports emerged of a case involving three Cambodian nationals who sought to sell their kidneys in Thailand. A Cambodian female was later convicted and sentenced in Phnom Penh for offences relating to trafficking and exploitation for convincing them to do so. The woman allegedly operated a “transplant-brokering ring” for over a year and also forged identity documents stating the intended donors were relatives of recipients in Thailand, a requirement under Thai law. Two relatives of the accused were also convicted on conspiracy charges.¹⁶⁵ This report is, at present, an isolated one

¹⁶¹ Aree Jampaklay, ‘Migration and Children’ in Jerrold W Hugué, Aphichat Chamrathirong (eds), *Thailand Migration Report 2011: Migration for development in Thailand* (2011) 95, 99. See also Iveta Cherneva, ‘Human Trafficking for Begging’ (2011) 27 *Buffalo Human Rights Law Review* 25, 33; see also, June Kane, ‘What the economic crisis means for child labour’ (2009) 9 *Global Social Policy* 175, 182.

¹⁶² UNIAP, *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia* (2011) 28.

¹⁶³ Utit Sankharat, ‘Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand’ (2013) 9(11) *Asian Social Science* 24, 30.

¹⁶⁴ Utit Sankharat, ‘Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand’ (2013) 9(11) *Asian Social Science* 24, 28, 30; Deanna Davy, ‘Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia’ (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 799.

¹⁶⁵ Sek Odom, ‘Woman Gets 15 Years for Kidney Trafficking’, *The Cambodia Daily* (online), 28 March 2015.

and there is currently no information to suggest trafficking in persons for the purpose of organ removal from Cambodia to Thailand takes place on a significant scale.

2.4 Means and routes for irregular migration and trafficking

According to a 2013 UNODC publication, most migration from Cambodia to Thailand is irregular and it has been estimated that approximately 83 per cent of migrants from Cambodia entering Thailand irregularly are smuggled.¹⁶⁶ Smugglers offer a variety of services to Cambodian migrants travelling to Thailand, including transportation, securing work permits and jobs and escorting the migrants to their destination.¹⁶⁷

2.4.1 Means and methods of irregular migration and trafficking to Thailand

Means of transportation

Cambodia and Thailand are connected by road and air. Several ferry services also connect the two countries along the Mekong River and in coastal areas. Passenger rail services only exist on the Thai side of the border and do not cross into Cambodia. The shared border is approximately 800 km in length and has several official control points situated along main roads. Many more informal border crossings points exist and are frequently used by locals. Many areas along the border are very remote and run through wetlands or jungles, which make it difficult, if not impossible, to patrol them.¹⁶⁸ Available sources suggest irregular migrants are often driven to or guided to the border, walk across the border and are then met by other vehicles on the Thai side.¹⁶⁹

Interviews conducted for this report revealed that because the border can be crossed with ease in many locations, it is also not always necessary to employ smugglers to cross from Cambodia into Thailand irregularly. Many migrants make the journey independently or form small groups to enter Thailand, which may also involve families.

¹⁶⁶ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12, 13.

¹⁶⁷ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 10.

¹⁶⁸ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 15; Rhoda Margesson, 'Displaced Populations in Burma's Borderlands: When Are Borders a Significant Barrier of Means of Protection?' in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 201; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 10.

¹⁶⁹ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 145; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 10, 14, 15; see also, UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 204 UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (28 September 2007) 2.

Clandestine smuggling and trafficking methods

Available information suggests that the Cambodian-Thai border is usually crossed clandestinely, meaning migrants do not pass through official control points. The great majority of migrant workers enter Thailand without a passport and less than 45 per cent carry any kind of identification document.¹⁷⁰ If smugglers and traffickers are involved, they try to conceal a migrant's movements from law enforcement and border authorities. Covert crossings usually take place away from main roads and border control points. Smugglers may guide the migrants across the border in remote areas or, in some cases, conceal them in truck loading areas or in other vehicles.¹⁷¹

If migrants cross from Cambodia into Thailand independently or in small groups, they usually do so through fields, forests, rivers and other areas with few border patrols. This often happens at night to avoid detection by authorities on either side of the border. Once they are dropped off in Cambodia, migrants often have to walk for hours until they are picked up, sometimes by trucks where they have to hide amongst cargo to avoid detection.¹⁷² There are also several control points along the border that are not staffed at all times, which make it possible to cross into Thailand with no travel or identity documents.¹⁷³

Fraudulent travel and identity documents

There is little evidence to suggest that fraudulent travel or identity documents are widely used to facilitate irregular entry into Thailand. The ease with which the border can be crossed in many places makes it unnecessary to resort to the use of forged documents. It is also likely sophisticated forgeries are too expensive for most irregular migrants from Cambodia. In interviews conducted in Cambodia for this report, respondents mentioned that children are sometimes provided with documents declaring they are adults, though it is not known if this occurs on a significant scale.

Overt and lawful transportation methods

Not all migration from Cambodia to Thailand is covert and unlawful. Overt migration generally refers to methods that may be detectable by border guards and law enforcement. This is the case, for instance, when migrants present themselves to immigration and customs officials at the border or make contact with authorities after they enter Thailand without passing border controls.

¹⁷⁰ Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 16.

¹⁷¹ Annuska Derks, 'Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand' (2010) 38 *Asian Journal of Social Science* 915, 922; Srawooth Paitoonpong & Yongyuth Chalamwong *Managing International Labour Migration in ASEAN: A Case of Thailand* (2012) 34.

¹⁷² Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 145; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 10, 14, 15; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 204.

¹⁷³ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68; Srawooth Paitoonpong & Yongyuth Chalamwong *Managing International Labour Migration in ASEAN: A Case of Thailand* (2012) 34; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Philippine Institute of Development Studies, Discussion Paper Series No 2011-2 (2011) 42.

A significant number of migrants enter Thailand overtly and lawfully, many doing so on a daily basis for work or personal visits. In border areas, local residents can easily obtain border passes that permit them to cross into Thailand and stay (and work) in Thai provinces neighbouring the border. This is a simple way to cross the border lawfully. Although the practice violates border pass conditions, Cambodian nationals who intend to move deeper into Thailand and stay there for long periods also sometimes use this method.¹⁷⁴ Some Cambodians also use their valid passports to enter Thailand. Migrants holding valid border passes or passports are also less likely to employ smugglers to cross into Thailand and more commonly use licensed brokers.¹⁷⁵

Earlier parts of this chapter have shown that some migrants go through official recruitment and labour migration channels, leave Cambodia and enter Thailand lawfully and with the required papers, but may nevertheless fall victim to traffickers. Interviews conducted in Cambodia for the purpose of this report confirmed many migrants enter Thailand voluntarily and lawfully and only experience exploitation some time after they have taken up employment.¹⁷⁶

2.4.2 Common routes

The border between Cambodia and Thailand is long and porous in many places. Most irregular migration routes into Thailand follow main roads connecting the two countries. Other routes run in the vicinity of towns along the border in north-western parts of Cambodia/south-eastern parts of Thailand. One common route leads from Prey Veng to Battambang and Poipet and then across the border to Aranyaprathet Province in Thailand. Other routes commonly used go through other parts of Banteay Meanchey Province in Cambodia or through Kampot to Koh Kong in Thailand. Routes are not always the shortest and most convenient ways to enter Thailand and may involve a range of transportation methods, including by land, across rivers or by sea. Some migrants (and their smugglers) may follow the border for some time before they find the right location and moment to cross into Thailand.¹⁷⁷

Irregular migration and smuggling of migrants from Cambodia to Thailand involve both long-term migration of people wishing to remain and settle in Thailand, as well as migrant workers who only want to stay in Thailand temporarily, including people who cross the border on a regular basis. This is particularly the case with people living in border regions who cross into Thailand to take up employment in agriculture, work at local markets and shops and sometimes in the Thai sex industry. The creation of free-trade zones along some parts of the border has reportedly made it easier for

¹⁷⁴ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 9.

¹⁷⁵ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27; Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 15.

¹⁷⁶ See also UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11.

¹⁷⁷ IOM, *Trafficking of Fishermen in Thailand* (2011) 25; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 5; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 18–19, 204; Ahsan AKM Ullah & Mallik Akram Hossain ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283–284; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 49, 57 UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (28 September 2007) 2.

migrants to cross the border in pursuit of employment.¹⁷⁸

Some migrants commute to Thailand on a daily basis while others stay for two or three weeks at a time. As migrants become more experienced in when, where and how to best cross the border, they may also do so without the aid of migrant smugglers.¹⁷⁹ A 2015 report notes that levels of irregular migration from Cambodia to Thailand vary significantly between seasons and greater numbers of irregular migrants cross between April and August, which may be a result of higher labour demand during Thailand's harvest seasons.¹⁸⁰

For migrants from border areas, crossing into Thailand is a short and one-stop journey that can be done in a matter of hours, sometimes less. Those coming from southern and eastern parts of Cambodia usually take two or three stops before they enter Thailand. This often involves short stays in Phnom Penh and towns near the border such as Poipet, Boeung Trakoun or Malai.¹⁸¹ According to a 2011 publication, some Cambodians first travel by boat or air to Malaysia and then continue north through the Malay Peninsula to Kota Bahru before they cross into Thailand. This seems to be a route used to traffic rather than smuggle migrants from Cambodia.¹⁸²

2.4.3 Entry into Thailand

Entry points into Thailand

Cambodian nationals smuggled into Thailand sometimes arrive in the country in remote areas in south-eastern parts of Thailand or, in a small number of cases, via Malaysia. Border crossings in western parts of Cambodia seem to be more frequent than in the north, partly because the crossings are in a more direct line and closer to Thailand's main urban centres, particularly Bangkok. The crossing at Poipet in Cambodia and the surrounding rivers and rural areas in the border region separating Cambodia from neighbouring Sa Kaeo province in Thailand have been identified as places where Cambodian migrants

¹⁷⁸ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 70; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 18–19; Utit Sankharat, 'Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand' (2013) 9(11) *Asian Social Science* 24, 28.

¹⁷⁹ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 145.

¹⁸⁰ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 19.

¹⁸¹ UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 67.

¹⁸² Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283–284.

are most commonly smuggled into Thailand.¹⁸³ The crossing at O'Smach in the north-east of Cambodia has been identified as a place for trafficking Cambodian women to Suring province and other parts of Thailand.¹⁸⁴

Irregular migration into Thailand may occur through main border control points when they are not adequately staffed and controlled. Some lanes at these border crossings are kept open for travellers and drivers with border passes and are therefore sometimes not controlled. In populated areas spread across the border, workers and local people can often cross freely without any controls, a situation that may be used by smugglers and traffickers to bring irregular migrants into Thailand.¹⁸⁵

Cambodian migrants who only seek short term employment in Thailand or who commute to Thailand on a daily basis for agricultural work may use any point along the border to cross into Thailand. Some hold border passes, which can be valid for as little as one week or as long as two years. These passes enable migrant workers to cross through official control points without much delay. Migrants often make their own way to the border and are then met on the Thai side by their employers, who take them to the farms and sites where they work.¹⁸⁶

Complicity and corruption of border officials

There have been longstanding allegations that border guards and law enforcement officials have been bribed to facilitate the smuggling and trafficking of migrants from Cambodia to Thailand. Some sources cite statements by victims of trafficking who say trafficking of women into Thailand frequently occurs

¹⁸³ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 448 Srawooth Paitoonpong & Yongyuth Chalamwong *Managing International Labour Migration in ASEAN: A Case of Thailand* (2012) 25; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 5; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 24; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 30; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 68; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 14.

¹⁸⁴ Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 170; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 24.

¹⁸⁵ Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 5; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 42; Srawooth Paitoonpong, 'Managing International Labor Migration in ASEAN: Thailand (Immigration)' (2011) 70 *Philippine Journal of Development* 163, 173–174.

¹⁸⁶ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 29; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 5.

with the knowledge and complicity of these officials.¹⁸⁷ In interviews conducted in Cambodia for the purpose of this report, several respondents acknowledged the vulnerability of border guards to bribes and the need to do more against corrupt and other unethical behaviour by immigration officials.

Corruption and bribery may occur at any stage of the smuggling and/or trafficking process and at any checkpoint. It may occur along major transportation corridors or at border crossings. In some instances, migrants are required to pay fees of anywhere between USD 6.50 and USD 260 to continue their journey.¹⁸⁸

2.5 Exploitation

Exploitation can occur at any stage during the journey to Thailand and may involve the conditions of travel, treatment by traffickers or situations of debt bondage that may arise from fees associated with the recruitment, transportation and transfer of the migrants. More commonly, exploitation occurs once migrants arrive in Thailand and find employment or are forced to work.

2.5.1 Conditions of travel

Smuggling and trafficking from Cambodia frequently does not occur along the fastest and most convenient routes and many irregular migrants suffer hardships or are exposed to dangers along the way. Though the journey to Thailand usually does not involve long distances, migrants may encounter many obstacles that prolong their journey and create uncertainty about how and whether they will reach their intended destination. A 2011 study into trafficking to Thailand involving 94 respondents found 67 per cent of trafficked Cambodians took between five and 10 days to reach their destination in Thailand, 12 per cent less than five days and the remaining 21 per cent between 10 and 20 days.¹⁸⁹

The journey from Cambodia to Thailand can be very hazardous, especially if migrants have to walk through difficult terrain and/or attempt to make the journey at night. Smugglers have abandoned migrants for fear of being detected by border guards or police patrols.¹⁹⁰ Smuggling in trucks is no less dangerous, especially if migrants are placed in concealed compartments where they may suffocate or

¹⁸⁷ Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 72.

¹⁸⁸ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 60.

¹⁸⁹ Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284–286

¹⁹⁰ Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 18; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68.

dehydrate.¹⁹¹ In a recent study involving interviews with 667 migrant workers who had moved from Cambodia to Thailand, 90 per cent of respondents complained about not receiving sufficient food and overexposure to heat and sunlight during their journey to Thailand.¹⁹²

It needs to be stressed that most migrants are not completely unaware or merely naïve about the conditions of their travel to Thailand and of the dangers irregular migration and border crossings entail. Many know that their chosen method of entering Thailand is associated with risks but nevertheless opt to use means and methods that may place their health and lives in jeopardy.¹⁹³

2.5.2 Treatment by traffickers

Deception

Recent literature contains few examples of irregular migrants from Cambodia being deceived or otherwise tricked into moving to Thailand. Nearly all migrants from Cambodia enter Thailand voluntarily. Whether or not the circumstances amount to trafficking depends on the situation migrants encounter once they reach Thailand.¹⁹⁴

Control

During their journey, migrants are often at the mercy of their smugglers and traffickers, especially if they receive no information about the routes and modes of transportation used and if they have to surrender their travel and identity documents to traffickers. These circumstances give traffickers much greater control and increase the risk that migrants will be maltreated, cheated or arrested if they are found without required documents.¹⁹⁵ The risk that smugglers and traffickers will demand additional payments from the migrants or their families increases if migrants are handed from one smuggling or trafficking group to another or if they become stranded along the way.¹⁹⁶

Physical and sexual abuse

It is not clear how commonly migrants travelling from Cambodia to Thailand experience abuse and ill treatment by their smugglers. A 2011 study involving interviews with 94 respondents found that 63 per cent reported being sexually abused and 29 per cent reported being verbally abused during their journeys. 57 per cent reported they were served meagre food and 36 per cent were threatened by their traffickers. The risks of abuse are even greater if the migrants are transferred between trafficking networks at the border or anywhere else along the route. This appears to be a common practice, with 43 per cent reporting they had been handed over from one group to another three to four times along

¹⁹¹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 128–129.

¹⁹² Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 19.

¹⁹³ See also, ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 41.

¹⁹⁴ Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 5.

¹⁹⁵ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 27; Zrinka Gugić, 'Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU' (2014) 30 *Pravni Vjesnik God* 355, 364.

¹⁹⁶ Cf Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68.

the route.¹⁹⁷

Other sources report that persons trafficked from Cambodia to Thailand, women in particular, are sometimes beaten, raped or robbed.¹⁹⁸ By contrast, a 2014 survey of 1,738 Cambodian nationals found fewer than 5 per cent of young Cambodian labour migrants reported physical violence or sexual abuse during their journey to Thailand.¹⁹⁹

2.5.3 Payments and debts

Payments by migrants and family members

Smuggling fees may be paid upfront by migrants to the person or people recruiting them. If migrants are unable to afford this option, they may also pay their employer or smuggler in Thailand later. In some instances, employers pay recruiters upfront, then recover the money from migrants later.²⁰⁰

There is some disagreement about how often Cambodian migrants and their families are able to cover the costs associated with irregular migration to Thailand, as well as how frequently migrants and their families have to take up loans or agree to debt bondage situations. Both practices and the combination of upfront payments and loans seem to be used. In many cases, migrants and their families have to sell some of their belongings, property or other household assets to pay smuggling fees or make the required down payments.²⁰¹ Interviews conducted in Cambodia for the purpose of this report also point to migrants using their savings or taking loans to pay smugglers' fees.

Several studies suggest it is more common for female migrants to pay the fees for labour migration to Thailand using their own money, while men use brokers and borrow money more frequently.²⁰² This, as the following section shows, can be attributed to the higher fees male migrants have to pay compared to Cambodian women seeking to migrate to Thailand for work.

¹⁹⁷ Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 285.

¹⁹⁸ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 27.

¹⁹⁹ World Vision, *The Vulnerability Report: Human Trafficking in the Greater Mekong Sub-region* (2014) 9.

²⁰⁰ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27; cf Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 19.

²⁰¹ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 51–52; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 145–146; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 12.

²⁰² UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 22; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 53.

Information on fees

Among the available sources, there is general consensus that the fee charged by smugglers for irregular migration from Cambodia to Thailand amounts, on average, to approximately USD 100—significantly less than the USD 700 regular migrants tend to pay for regular migration to Thailand.²⁰³ With fees averaging around USD 74, female migrants are said to pay less than male migrants as men employ brokers more commonly than women.²⁰⁴

Estimates for the costs associated with transportation (sometimes also including food, water and accommodation) range from as a little as USD 4 to as much as USD 850.²⁰⁵ More recent estimates tend to be higher, as inflation may have increased prices in recent years. A 2015 study by UN-ACT also found that fees increased from THB 2,777 in 2009 to THB 2,908 in 2010, and to just over THB 3,000 in 2013.²⁰⁶ Figure 6 below lists the available estimates and sources on this point. Smugglers who arrange irregular journeys to Thailand make an estimated profit of USD 10–30 per migrant and a further USD 6–15 (THB 200–500) per worker if they recruit migrants for particular employers in Thailand.²⁰⁷

Figure 6: Fees for irregular migration from Cambodia to Thailand, estimates

Currency, estimated fee	Year of estimate	notes	Source
USD 70-100	2012		C Sophal, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), <i>Costs and Benefits of Cross-Country Labour Migration in the GMS</i> (2012) 142, 145

²⁰³ Aniceto C Orbeta jr & Kathrina Gonzales *Managing International Labor Migration in ASEAN: Themes from a Six-Country Study*, Philippine Institute for Development Studies, Discussion Paper Series No 2013–26 (2013) 14; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 121; Habibul Haque Khondker, *Migration, Displacement, and Precarity in a Globalised World*, Working Paper, ISA eSymposium for Sociology (2013) 6–7; Annuska Derks, 'Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand' (2010) 38 *Asian Journal of Social Science* 915, 917; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 71; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 22.

²⁰⁴ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13, 19; see also, UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 53; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 22.

²⁰⁵ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 142; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 53.

²⁰⁶ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 22.

²⁰⁷ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 142, 145; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 71.

USD 50–100	2012	Brokerage fee only	J Holliday, 'Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience' (2012) 40 <i>Asian Journal of Social Science</i> 464, 469
USD 79	2012		H Jalilian & G Reyes, 'Migrants of the Mekong: Wins and Losses' in H Jalilian (ed), <i>Costs and Benefits of Cross-Country Labour Migration in the GMS</i> (2012) 1, 68
USD 100	2011		H Vutha et al, <i>Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach</i> (2011) 14.
USD 100–200	2006	Upfront payment to recruiter	B Maltoni, <i>Review of Labour Migration Dynamics in Cambodia</i> (2006) 28
THB 1,050–4,300	2008	Total fee paid to recruiters	ILO, <i>The Mekong Challenge: An Honest</i> (2008) 52
THB 5,361	2011	Without documents	S Paitoonpong, <i>Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)</i> (2011) 33
THB 4,116	2011	With documents	
THB 3,000–5,000	2010		A Derks, 'Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand' (2010) 38 <i>Asian Journal of Social Science</i> 915, 917.
THB 2,958	2010	Men	UNIAP, <i>Human Trafficking Sentinel Surveillance</i> (2010) 53
THB 2,304	2010	Women	

Actual fees depend on several factors. Fees tend to be higher if migrants require documents (fraudulent or genuine) to enter Thailand or if they are smuggled without valid documents. Fees are lower if the migrants possess valid travel and identity documents. The costs also increase if brokers are involved in connecting migrants to employers in Thailand and in organising relevant checks and permits for them. Figure 7 sets out the average fees paid by irregular workers from Cambodia for the services offered by brokers and contrasts them with the fees paid by migrant workers using official legal channels.

Figure 7: Average fixed costs incurred by sample Cambodian migrant worker in Thailand, USD²⁰⁸

service	Irregular migration with documents	Irregular migration without documents	Legal migration
Brokerage fee	33	136	625
Passport	4	–	110
Border pass	26	–	–
Physical check-up	–	–	10
Transportation	77	81	2
Others	10	–	–
Total	150	217	747

Figure 7 shows that the costs for irregular migration are considerably lower than those for legal labour migration. Further, migrants who possess valid documentation face lower costs than those who need to be smuggled clandestinely or who need to be furnished with fraudulent papers. Other sources

²⁰⁸ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 67.

confirm that average fees for irregular labour migration from Cambodia to Thailand with the use of brokers range between USD 100 and 200, far less than the fees for legal avenues.²⁰⁹

Debt and debt bondage

Many Cambodian migrants cannot afford to pay the fees associated with migrating to Thailand upfront and instead have to borrow money. Because many would-be migrants cannot obtain loans from financial institutions in Cambodia for this purpose, they often depend on brokers, traffickers or employers in Thailand who offer loans or advance payments to cover the costs and then recover that money once the migrant has taken up employment.²¹⁰ The costs for accommodation, food and electricity in Thailand are often part of the package and lead migrants to think they can move to Thailand at next to no cost and then quickly repay any money owed.²¹¹

While it is not clear just how many migrants rely on loans,²¹² there is ample evidence to show it is common practice for Thai employers to cover all or some of the costs for the labour migrants and then deduct this money from the workers' salaries once they are in Thailand²¹³. This practice is used for both regular and irregular migration. For migrants using legal channels, fees amount to about three to four months' wages. In addition, some recruitment agencies also charge a percentage of up to 20 per cent of a migrant's monthly earnings during their first year of employment in Thailand.²¹⁴ In some cases, families in Cambodia have to help repay the loans, especially if migrants cannot find adequately remunerated work in Thailand.²¹⁵

In theory, migrants should be able to repay their debts within a few months,²¹⁶ but the reality for many

²⁰⁹ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 10; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 173; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 91.

²¹⁰ See generally, IOM, *Trafficking of Fishermen in Thailand* (2011) 24; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 67–68; UNIAP, *Human Trafficking Sentinel Surveillance, Poipet, Cambodia 2009–2010* (2010) 108; Rebecca Miller & Sebastian Baumeister, 'Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?' (2013) 2 *Anti-Trafficking Review* 15, 22; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 53.

²¹¹ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 32.

²¹² See Section II.5.3.1 above.

²¹³ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 18; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 147.

²¹⁴ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 18; Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 147.

²¹⁵ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 52.

²¹⁶ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 22.

migrants is vastly different. The debt in which many Cambodian migrants find themselves once they reach Thailand becomes especially difficult if the migrants lose their jobs or want to change employers. If their stay in Thailand is irregular, they also run the risk of being apprehended by Thai authorities, returned to Cambodia and left in significant debt with no prospect of paying it off.²¹⁷

These circumstances make regular and irregular migrants from Cambodia particularly vulnerable to exploitation and trafficking. Their situation often amounts to debt bondage, which leaves them with little choice but to remain with their employers and traffickers and work long hours for little pay. Many traffickers exploit these vulnerabilities and use force, threats and coercion as a means to recoup the debts. In these circumstances, it is not uncommon for traffickers to further inflate debt with additional fees for accommodation and other services or to charge excessive interest rates. Interviews conducted in Cambodia for the purpose of this report revealed many migrants have their freedoms restricted if they cannot repay loans on time. Some migrants have to work for several years to get out of debt.²¹⁸

Debt bondage seems to be particularly common among women who are trafficked from Cambodia to Thailand for the purpose of sexual exploitation. Many women find themselves in trafficking situations once brothel owners or traffickers demand repayment of inflated debts for bringing them to Thailand. Original fees are further increased by adding excessive charges for accommodation, food and items such as clothing, thus extending the period of debt servitude.²¹⁹ A similar observation has been made in relation to children who are trafficked into Thailand's agriculture industry.²²⁰

2.6 Perpetrators

2.6.1 Profile of individual perpetrators

Age, gender, and background

The individuals involved in trafficking in persons from Cambodia to Thailand are men and women of all ages. Existing research highlights the fact that a considerable number of women are involved as

²¹⁷ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 18; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

²¹⁸ See also Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, and Regulatory approach* (2011) 17; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 330; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 27; Aungkana Kmonpetch, 'The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand' (2011) 104 *Kyoto Working Papers on Area Studies: G-COE Series 1*, 12.

²¹⁹ Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 278, 282; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20; Aungkana Kmonpetch, *The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand*, *Kyoto Working Papers on Area Studies No 106* (2011) 11.

²²⁰ Hans van de Glind & Anne Kou, 'Migrant children in child labour: A vulnerable group in need of attention' in Moussa Harouna Sambo & Fabrizio Terenzio (eds), *Children on the Move* (2013) 27, 35.

perpetrators and that female offenders are, on average, older than male offenders.²²¹ Statistics from 2008, for instance, show 77 per cent of all people incarcerated for trafficking in persons in Cambodia that year were women. Trafficking was the offence with the highest percentage of female perpetrators.²²²

Interviews conducted for the purpose of this report found that most smugglers are Cambodian, while traffickers in Thailand are predominantly Thai nationals. The involvement of Cambodian smugglers often stops at the Cambodia-Thailand border, where the smugglers hand migrants to Thai smugglers to continue the journey.

Perpetrators generally tend to be from one of two backgrounds. Commonly, they are relatives or friends of migrants. They try to encourage migration and link them with the people who will arrange transportation and employment in Thailand. Trafficking in women and children is said to be frequently carried out by people close to the victims, “who may be relatives, neighbours, known villagers, boyfriends, powerful persons, procurers and/or friends”.²²³ Interviews conducted for this report suggested it is very unclear to what extent these friends and acquaintances know whether the would-be migrant would be exploited after their arrival in Thailand.

Shared experience was another common thread among perpetrators. Many perpetrators were once themselves smuggled to Thailand, worked and lived there for some time and now use their own experience, knowledge and contacts to bring other Cambodians to Thailand and link them with employers or traffickers. Perpetrators in this category will often share information about the routes and methods they used to enter Thailand, about the people they encountered and about the industries in which they worked.²²⁴ These perpetrators operate mostly independently. Although many of them have contacts to other people assisting in the smuggling process, they are generally not part of larger, organised networks and do not simultaneously engage in other organised criminal activities.²²⁵ The services offered by these “pioneer migrants or brokers” are also generally much simpler and cheaper than those carried out by sophisticated smuggling or trafficking schemes run by large criminal organisations.²²⁶

²²¹ Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 209.

²²² Cambodian League for the Promotion and Defense of Human Rights, *Prison Conditions in Cambodia 2008: Women in Prison* (2009) 7; also cited in Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 208.

²²³ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 29, 70; see also, UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 27; Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 203; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 110; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 21.

²²⁴ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 70.

²²⁵ United States, Department of State, *Trafficking in Persons Report 2015* (2015) 110; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12, 21.

²²⁶ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 2, 5.

Perpetrators of both backgrounds have a common characteristic: they are in a position of trust such that would-be migrants either know the perpetrator from their local areas or through other relatives and friends, or trust the perpetrators because they, too, were once Cambodian nationals migrating to Thailand in search of work and better opportunities. There are also some indications that the people who recruit migrants and connect them to employers and traffickers in Thailand are only involved in these early stages of the smuggling and trafficking processes and are usually not the people who exploit victims once they have reached their destination in Thailand.²²⁷

The involvement of former migrants in the facilitation of irregular migration may involve former victims of trafficking who sometimes use their experience and networks to recruit other victims and facilitate their entry to Thailand.²²⁸ This may be surprising given the hardship and exploitation many victims would have experienced, but the fact that a considerable number of victims of trafficking later turn into traffickers themselves has also been observed elsewhere. The failure to provide former victims with meaningful alternatives when they exit their trafficking situation is seen as one of the reasons some victims later engage in trafficking themselves.²²⁹

Other research into the profile of persons convicted for trafficking in persons from Cambodia to Thailand found that about 80 per cent of perpetrators were Khmer and 20 per cent non-Khmer (i.e. Vietnamese or Thai). About 50 per cent were married at the time of incarceration, about 70 per cent or more had no or only primary schooling and around 80 per cent came from poor or very poor backgrounds.²³⁰

Motivation

Information on the reasons individual perpetrators become involved in trafficking in persons from Cambodia to Thailand and about what would be required to change their motivation is limited.

Some evidence shows that perpetrators come from poor backgrounds. This highlights the financial motivation of trafficking in persons offences. Interviews conducted for the purpose of this report determined that “recruiters in Cambodia will be paid about THB 2,500 for each person they recruit”. The fact that some migrants who were once themselves smuggled or trafficked to Thailand later engage in these activities further suggests that their experience tells them these activities are

²²⁷ Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 210; Jenna K Holliday, ‘Turning the Table on the Exploitative Recruitment of Migrant Workers: The Cambodian Experience’ (2012) 40 *Asian Journal of Social Science* 464, 469.

²²⁸ Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 205; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 27.

²²⁹ See generally, UNODC, *Global Report on Trafficking in Persons 2012* (2012) 29; UN.GIFT, ‘Profiling the Traffickers’, background paper to the *Vienna Forum to Fight Human Trafficking*, Vienna, 13–15 February 2008, 5–6; Andreas Schloenhardt & Jarrod Jolly, *Trafficking in Persons in Australia* (2013) 34–35; Edi C M Kinney, ‘Appropriations for the Abolitionists: Undermining Effects of the U.S. Mandatory Anti-Prostitution Pledge in the Fight Against Human Trafficking and HIV/AIDS’ (2006) 21 *Berkeley Journal of Gender, Law and Justice* 158, 189.

²³⁰ Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 209.

sufficiently lucrative. Research into the motivation of convicted Cambodian traffickers shows that trafficking activities are more profitable than legitimate work, especially for people who, as shown earlier, have limited education and skills.²³¹

Studies that interviewed both recruiters and traffickers further found that some recruiters see their activities as a way to lift people out of poverty and provide them with opportunities they otherwise would not have.²³²

2.6.2 Smuggling and trafficking groups and networks

Available research suggests smuggling and trafficking activities are not organised in a sophisticated manner. This is largely because sophisticated planning is not necessary to arrange the irregular journey across the border and to connect migrants with employers in Thailand. As earlier sections of this report show, the distances that need to be travelled are relatively short and thus private vehicles or public transportation may be used. Many smuggling and trafficking ventures frequently involve crossing the border on foot and border controls can easily be avoided or border guards bribed. Interviews conducted in Cambodia for the purpose of this report confirmed that most smuggling and trafficking activities to Thailand are low-level and informal and do not involve sophisticated criminal enterprises. Interview respondents emphasised that for trafficking in persons activities to occur, there must be at least some organisation of perpetrators on both sides of the border. As one respondent commented:

There are three different types of actors in the trafficking process: brokers at village level in Cambodia, smugglers at the border and the traffickers on the Thai side. They work together; it's organised. If individuals get caught, it's because they were operating outside this organised system.

The fact that most Cambodian migrants voluntarily seek to reach Thailand, at least initially, also means that it is unnecessary to maintain tight control over the migrants along the journey or to coerce them to cross the border. While many smugglers and traffickers show a considerable level of professionalism and routine (and some perpetrators use their own prior trafficking and smuggling experience), it is unlikely for complex hierarchical criminal organisations to set up and operate in this environment.²³³

The significant role played by relatives and friends in facilitating irregular migration to Thailand further indicates it is not common for transnational criminal organisations to be involved in trafficking.²³⁴ A survey of people convicted and jailed for trafficking in persons offences in Cambodia found the majority of traffickers operated independently. Some were linked to small-scale networks and only one of the persons surveyed claimed to have been a member of a large organised crime syndicate.²³⁵

²³¹ Chenda Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 211, 216.

²³² ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 71.

²³³ Chenda Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 205; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 21.

²³⁴ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 52; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 70.

²³⁵ Chenda Keo et al, 'Human Trafficking and Moral Panic in Cambodia' (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 214.

The people involved in smuggling and trafficking migrants from Cambodia to Thailand do not, however, operate in complete isolation and it is unlikely single individuals carry out the entire process on their own. Most commonly, perpetrators operate within flexible networks of contacts that connect the place of origin with transit points and the destination.²³⁶

Some of these networks, especially those operating in Thailand, are said to be well established and have been in operation for some time.²³⁷ This enables them to arrange journeys faster and quickly connect new migrants to employers. Interviews conducted for the purpose of this report revealed it is also not uncommon for groups and networks on either side of the border to collaborate with each other if and when the need arises. Many of the persons involved in the smuggling of irregular migrants to Thailand only operate on an ad hoc basis and are paid on a fee-per-service basis.

The level of sophistication of the smuggling and trafficking networks further depends on the services sought by their clientele. Many migrants require no more than some assistance in acquiring documents or crossing the border, which does not warrant the involvement of a large network of skilled criminals. Others may need forged documents or may want to be set up with employers in specific industries, which will require a greater number of facilitators and contacts than individual perpetrators or small local groups are able to offer.²³⁸

2.6.3 Legal and semi-legal operators

In the context of smuggling and trafficking operations from Cambodia to Thailand, it is often difficult to differentiate between criminal operators and individuals and businesses that offer legal or semi-legal services. This is particularly the case with labour hire agencies and recruitment agents, which play an important role in facilitating both regular and irregular migration from Cambodia to Thailand.

Although Cambodia has instituted a licensing system that authorises private businesses to recruit Cambodian workers for Thai employers, some service providers do not fully comply with regulatory requirements. Others operate completely outside the licensing system. But even when labour recruitment agents operate within the legal framework, it is not uncommon for Cambodian workers who use official channels to end up in trafficking situations once they reach Thailand. A 2008 study, which involved interviews with 177 formal and 160 informal workers, found 64 per cent of “informal migrants” working in Thailand said their recruiter had provided them with safe passage to Thailand, while only 41 per cent of migrants who used formal channels responded that way.²³⁹

The higher fees for using official channels often create more debt burden for migrants, making them

²³⁶ Ahsan AKM Ullah & Mallik Akram Hossain, ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283; Chenda Keo et al, ‘Human Trafficking and Moral Panic in Cambodia’ (2014) 653 *Annals of the American Academy of Political and Social Science* 202, 215.

²³⁷ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 14; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 92, 104.

²³⁸ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11–12; cf Andy Hall, ‘Migration and Thailand: Policy, Perspectives and Challenges’ in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand* (2011) 17, 18.

²³⁹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 47.

even more vulnerable to exploitation and leaving them little choice but to comply with the demands of their employers, even if they are underpaid and work in sub-standard conditions. Moreover, the use of official channels also entails the risk that agents lead their clientele into the hands of employers who exploit them.²⁴⁰

2.6.4 Persons aiding and facilitating smugglers and traffickers

Corrupt officials

The corruption of border guards, police and other officials plays a vital part in enabling and facilitating irregular migration from Cambodia to Thailand. Allegations of the involvement of corrupt individuals in trafficking in persons and smuggling of migrants are long-standing. Some sources suggest that trafficking in persons, especially trafficking in women and children, could not occur with the ease and on the scale it does without corruption.²⁴¹

In some instances, traffickers, smugglers or migrants themselves may offer payments to officials to turn a blind eye to irregular border crossings or fraudulent documents. In other cases, officials may actively request or extort bribes to enable trafficking and smuggling.²⁴² Migrants may also bribe police officers during the recruitment process to acquire the necessary documents or to be permitted to leave Cambodia and work abroad. In some cases, police officers have assisted migrants with transportation and enabling them to enter Thailand and find employment.²⁴³

Estimates about the money paid to bribe border guards and other officials vary greatly and are not very reliable. Migrants paid bribes of between USD 6.50 and USD 260 to avoid arrest by officials they encountered along their journey, according to a 2010 publication.²⁴⁴

It is difficult to gauge just how endemic corruption is in the context of smuggling and trafficking across the Cambodian-Thai border. Much of the available evidence is scattered, unsystematic and anecdotal and there are, at present, no reliable and comprehensive studies on the levels and characteristics of corruption in Cambodia and Thailand with a specific focus on trafficking and smuggling. Some sources nevertheless argue corruption is inextricably linked to all forms of trafficking in persons and that it provides evidence for the existence of transnational organised crime groups and their level of

²⁴⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8.

²⁴¹ See generally, Ahsan AKM Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286–287; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 22; United States, Department of State, *Trafficking in Persons Report 2016* (2016) 119.

²⁴² United States, Department of State, *Trafficking in Persons Report 2011* (2011) 111; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20; Deanna Davy, 'Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia' (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 803.

²⁴³ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 72, 96.

²⁴⁴ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 59, cited in UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11.

sophistication.²⁴⁵ Based on the available source material, it is difficult to justify these conclusions.²⁴⁶

Travel agents, carriers, et cetera

Smuggling of migrants and trafficking in persons from Cambodia to Thailand involve a range of individuals and businesses that may not be directly connected to the perpetrators and their networks but offer specialised services needed to transport migrants, transfer funds or otherwise facilitate irregular migration. These may include travel agencies, bus and transport companies, taxis and drivers, other transport providers, hoteliers and other accommodation providers, as well as financial institutions and agents used to transfer money. Using informal agents appears to be particularly common for remittance transfers.²⁴⁷

Other persons supporting trafficking

Trafficking to and within Cambodia, especially trafficking in women and girls, has frequently been linked to the rapidly growing casino industry that sprawls along several border areas. Prostitution and instances of trafficking for sexual exploitation are quite common in the vicinity of these designated gambling areas, involving mostly Cambodian and Vietnamese women and girls. There have been some allegations that these casinos and their powerful owners, some of whom are Chinese nationals, are associated with smuggling and trafficking activities across Cambodia's borders.²⁴⁸ There currently is no specific information suggesting the gambling industry fuels, supports or otherwise facilitates the smuggling of migrants or trafficking in persons from Cambodia to Thailand.

²⁴⁵ Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 166, with further references.

²⁴⁶ Kritaya Archavanitkul & Andy Hall, 'Migrant Workers and Human Rights in a Thai Context' in Jerrold W Huguett & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand* (2011) 63, 68.

²⁴⁷ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 13.

²⁴⁸ Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 168.

3 Lao People's Democratic Republic (PDR)

3.1 Overview and data



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

The Lao People's Democratic Republic (PDR) has a long history of migration, especially labour migration, to neighbouring Thailand. It is easy to cross the long and porous border between Lao PDR and Thailand, which is marked by the Mekong River for long stretches. Many Lao nationals cross into Thailand on a daily basis or for short periods of time if and when job opportunities arise. In 2010, IOM

estimated 6,000 migrants cross from Lao PDR into Thailand every day.²⁴⁹ Extensive cross-border trade and frequent border crossings in the populated areas along the Mekong make it difficult, if not impossible, to thoroughly control all entries and departures and to clearly identify regular and irregular migration.²⁵⁰

Despite the scale and history of irregular migration from Lao PDR to Thailand, the patterns and levels of smuggling of migrants and trafficking in persons remain quite poorly documented and researched.²⁵¹ Some of the available literature is outdated and some sources make speculations unsupported by sustainable evidence. As a result, many facets of trafficking in persons from Lao PDR to Thailand remain unknown and require additional research and analysis.

3.1.1 Irregular migration

Various sources contain figures relating to the number of labour migrants, irregular migrants and trafficked persons from Lao PDR in Thailand. Estimates of the total number of labour migrants from Lao PDR working in Thailand range between 100,000 and 500,000.²⁵² In interviews conducted in Lao PDR for the purpose of this report, some respondents said that as many as 1.2 million labour migrants from Lao PDR may be living in Thailand. Emigration from Lao PDR tends to increase considerably in years of weak economic growth. A 2013 report noted that between 2005 and 2010 Lao PDR experienced a net annual loss of 15,000 people from migration.²⁵³

Just how many Lao labour migrants in Thailand have an irregular status is not exactly known. Although estimates vary greatly, there is general consensus that irregular migration from Lao PDR into Thailand occurs on a very significant scale and irregular movements may outnumber legal cross-border

²⁴⁹ IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 30–31.

²⁵⁰ Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 17.

²⁵¹ See also, United States, Department of State, *Trafficking in Persons Report 2016* (2016) 237.

²⁵² Brendan Howe & Kearnin Sims, 'Human Security and Development in the Lao PDR — Freedom from Fear and Freedom from Want' (2011) 51(2) *Asian Survey* 331, 342; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 192, 235; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 9; cf Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 211.

²⁵³ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 118; cf Didier Bertrand, 'Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization' in Pierre le Roux et al (ed), *The Trade in Human Beings for Sex in Southeast Asia: A General Statement of Prostitution and Trafficked Women and Children* (2010) 157, 158.

movements.²⁵⁴ UNODC estimates that, on average, approximately 44,000 migrants are smuggled from Lao PDR to Thailand each year.²⁵⁵ Other sources suggest between 32,792 and 110,854 irregular Lao migrants work in Thailand.²⁵⁶

3.1.2 Trafficking in persons

Trafficking in persons from Lao PDR to Thailand is widespread, according to the available literature.²⁵⁷ However, very few cases of trafficking from Lao PDR to Thailand are officially identified each year, as shown in Figure 8.

Figure 8: Estimates of the number of trafficked persons from Lao PDR to Thailand

year	estimate (number)	Notes	Source
2014	157	trafficked persons from Lao PDR repatriated by Thai authorities.	World Vision Laos, <i>Analysis of Trafficking in Laos</i> (2015) 1
2014	103	trafficked persons from Lao PDR identified and returned by Thai authorities.	United States, Department of State, <i>Trafficking in Persons Report 2014</i> (2014) 240
2014	108	Trafficked persons from Lao PDR identified by Thai authorities	Government of Thailand, <i>2014 Thailand Situation and Progress Report on Prevention and Suppression of Trafficking in Persons</i> , 45.
2010	145	trafficked persons from Lao PDR identified and returned by Thai authorities.	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion Resource Book</i> (2013) 122
2009	195	trafficked persons receiving assistance by Thai Bureau of Anti-Trafficking in Women and Children shelters, 31 December 2009	UNIAP, <i>Mekong Region Country Datasheets Human Trafficking</i> (2010) 25

In 2010, the Immigration Bureau of Thailand along with officials from the Ministry of Social

²⁵⁴ Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 235; Roy Huijsmans, 'Unpacking the Gender Paradox in Lao Households' Migration Decision-making Processes', paper presented at the *Workshop on Householding in Transition: Emerging Dynamics in 'Developing' East and Southeast Asia*, 25–26 July 2011, 4.

²⁵⁵ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8.

²⁵⁶ Sravooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 13; Hing Vutha et al, *Irregular Migration from Cambodia: Characteristics, Challenges and Regulatory Approach*, Working Paper No 58, Cambodia Development Resource Institute (2011) 10–11; also cited in Sravooth Paitoonpong & Yongyuth Chalamwong, *Managing International Labor Migration in ASEAN: A Case of Thailand* (2012) 11

²⁵⁷ AKM Ahsan Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 276.

Development and Human Security interviewed and screened 371,456 irregular migrants using standardised manual guidelines. Among those migrants, only 79 people were identified as actual or potential victims of trafficking, including 31 Lao nationals who were confirmed victims of trafficking and 18 Lao nationals who were potential victims.²⁵⁸ A similar process in 2012 involving 397,167 interviewees identified 34 Lao victims of trafficking, comprising nine men, 11 women, five boys and nine girls.²⁵⁹

During the course of this research, data on the number of Lao nationals trafficked to Thailand and returned to Lao PDR from 2011 to 2015 was obtained from the Lao PDR Ministry of Labour and Social Welfare. These figures, shown in Figure 9, may not reflect the true number of people trafficked to Thailand but are indicative of the small number of people identified as victims of trafficking and returned to their country of origin. The figures also show the majority of victims are women, many of them minors.

Figure 9: Number of trafficked persons returned from Thailand to Lao PDR, 2011–2015, Lao PDR, Ministry of Labour and Social Welfare (2016)

year	adult male	male < 18 y.o.	adult female	female < 18 y.o.
2015	4	2	23	78
2014	0	0	42	115
2013	9	7	23	71
2012	26	9	44	125
2011	10	8	59	126

Figures from Lao PDR authorities show that in 2008, 38 trafficking cases involving 23 alleged offenders and 49 victims were investigated. In 2009, this number rose to 50 cases involving 74 alleged offenders and 103 victims.²⁶⁰ More recent data was not available at the time of writing and it is not clear how many of the reported cases involve trafficking to Thailand.

3.2 Causes of irregular migration and trafficking

Irregular migration from Lao PDR to Thailand is, for the most part, driven by economic considerations and the desire to find employment in Thailand.²⁶¹ While this is true for most migrants, the reasons for and circumstances of migration are generally more complex and cannot always be explained by plain economic factors. The following sections explore and differentiate the principal factors that drive migration, both regular and irregular, from Lao PDR to Thailand.

²⁵⁸ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 14.

²⁵⁹ Thailand, *Thailand's Annual Report on Efforts and Progress on the Implementation of Anti-Human Trafficking Action Plan in 2012 for the U.S. Department of State's preparation of Trafficking in Persons Report of 2013*, 12–13.

²⁶⁰ UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 15.

²⁶¹ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 8; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 38.

3.2.1 Push and pull factors

General economic situation

The early 1990s, which saw the beginning of an “open door policy” and the dawn of greater regional integration, marked the beginning of large-scale emigration from Lao PDR.²⁶² To this day, most migration involves Lao workers, both men and women, who move to neighbouring Thailand in search of work and higher wages. At the time, Thailand offered better pay, more diverse employment opportunities and considerable labour demand for workers from a range of Southeast Asian nations. This continues to be the case today, as poverty levels in Thailand remain considerably lower and Gross Domestic Product (GDP) figures and human development much higher than in Lao PDR.²⁶³

Over the last decade, Lao PDR has seen strong economic growth, as shown in Figure 10. Per capita GDP has doubled over the last decade and foreign investment, especially from China, has led to a boom in the resource sector, extensive construction projects across the country and improvements to national infrastructure connecting main urban centres.

Figure 10: Economic indicators, Cambodia 2006–2015 (World Bank, 2016)²⁶⁴

	GDP at market prices, million USD	GDP per capita, USD	GDP annual growth, %	Unemployment, % of total work force
2015	12,327	1,810	7.0%	n.a.
2014	11,997	1,750	7.5%	1.4%
2013	11,192	1,700	8.5%	1.3%
2012	9,359	1,450	8.0%	1.4%
2011	8,283	1,300	8.0%	1.4%
2010	7,181	1,150	8.5%	1.4%
2009	5,832	948	7.5%	1.4%
2008	5,444	900	7.8%	1.4%
2007	4,222	711	7.6%	1.4%

²⁶² See further, Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 9; Hossein Jalilian & Glenda Reyes, ‘Migrants of the Mekong: Wins and Losses’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao PDR’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 213–214, 235; Srawooth Paitoonpong & Yongyuth Chalamwong, *Managing International Labor Migration in ASEAN: A Case of Thailand* (2012) 9.

²⁶³ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao PDR’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 196–197; Hossein Jalilian & Glenda Reyes, ‘Migrants of the Mekong: Wins and Losses’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 22–23; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 3–4.

²⁶⁴ World Bank, ‘Open Data’ <data.worldbank.org>

	GDP at market prices, million USD	GDP per capita, USD	GDP annual growth, %	Unemployment, % of total work force
2006	3,453	591	8.6%	1.4%

Although Lao PDR has been one of Southeast Asia's fastest growing economies for some time, the country remains one of the region's poorest and is on the list of least developed countries by the United Nations Development Programme (UNDP).²⁶⁵ This is largely due to the fact that other economies, especially those of neighbouring countries, including Thailand, grew earlier, faster and more sustainably at a time when Lao PDR's present economic boom was only getting started.²⁶⁶

Economic development in Lao PDR has been very uneven. Many parts of the country as well as many segments of society have experienced little, if any, improvement to their economic situation in recent years. Much of the economic development has been limited to urban centres and to resource and tourism sectors and has not benefited the broader population. Furthermore, the economic boom has caused a considerable rise in the cost of living, such that many people are in a worse economic situation today than they were before the present boom.²⁶⁷

As a result, the economic disparities between Lao PDR and Thailand continue to be one of the most important factors motivating migration between the two countries. In interviews conducted in Lao PDR for the purpose of this report, general poverty was consistently identified as the main reason for migration, both regular and irregular, to Thailand. The long and porous border and the growing number of transportation links make both legal and irregular migration to Thailand an attractive and easy option.²⁶⁸

Availability of work, labour demand

The availability of jobs, many of which require few or no qualifications, and the high demand for labour in certain industries are the main pull factors drawing Lao migrant workers to Thailand. These factors combine with the lack of income-generating opportunities and, as mentioned, widespread poverty in Lao PDR, especially in rural areas, small towns and villages.²⁶⁹ Migrant workers from Lao PDR also tend to be in particular demand in Thailand because they find it easier to communicate with Thais and encounter less cultural and language barriers than migrant workers from other countries such as

²⁶⁵ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 52.

²⁶⁶ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 16.

²⁶⁷ See generally, Duncan McDuie-Ra, 'Insecurity Within and Outside the State: The Regional and Local Dynamics of Environmental Insecurity in the Mekong' in Benny Teh Cheng Guan (ed) *Human Security: Securing East Asia's Future* (2012) 75, 118; Inthasone Phetsiriseng, 'Gender Concerns in Migration in Lao PDR' — *Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 5.

²⁶⁸ See also Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 118.

²⁶⁹ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 199. See Section III.2.1.1 above.

Cambodia and Myanmar.²⁷⁰

Formal paid employment is not very common in Lao PDR, where most people are self-employed. Most low-skilled and unskilled labourers work as short-term temporary workers on daily, weekly or monthly wages with little to no job security or other job protections. Industrialisation in Lao PDR is still very limited and education levels are generally low among rural populations. This means that most available work is short-term and poorly paid, making it difficult for many workers to earn enough money to feed and support their families.²⁷¹ A recent survey of Lao labour migrants found many migrants, about 23.3 per cent of the sample, were unemployed before moving to Thailand. A further 41.9 per cent were farmers working on their own land but generating too little crop and income to feed their families.²⁷²

Populating growth in Lao PDR remains high, which further fuels the push for emigration. The population is very young and the labour force continues to grow much faster than the number of available jobs. As a result, many young people cannot find suitable employment and income. Many leave their local areas in search for jobs in Lao PDR's urban centres, but opportunities and job security are also limited in the main cities.²⁷³

Neighbouring Thailand, on the other hand, has a much more advanced and industrialised economy. In the second half of the 20th century, Thailand's economy expanded considerably while Lao PDR's economy stalled. Though Lao PDR's economic growth over the past 15 years has somewhat reduced the economic disparity between the two countries, it has not created enough jobs to absorb the country's growing local labour force, nor provide Lao nationals with adequate wages. Interviews conducted in Lao PDR for the purpose of this report confirmed that the inability to find work at home is one of the main reasons Lao nationals move to Thailand. Despite the fact that many migrants are aware of the dangers associated with irregular migration and the risks of falling victim to trafficking, many desire to find work in Thailand. In these circumstances, the push factors for migration strongly prevail.

Thailand's level of labour demand and labour migration fluctuates from year to year depending on the strength of the Thai economy and its ability to absorb foreign workers.²⁷⁴ Research published in 2012 shows that in 2004 alone, the Thai economy needed 300,000 migrant workers in addition to the 1.3

²⁷⁰ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 13.

²⁷¹ Inthasone Phetsiriseng, 'Gender Concerns in Migration in Lao PDR' — *Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 5.

²⁷² IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 6.

²⁷³ ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 5; UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 11–12; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 19–20; ADB, *Migration in the Greater Mekong Subregion, a background paper for the Fourth Greater Mekong Subregion Development Dialogue* (2009) 9.

²⁷⁴ Hing Vutha et al, *Irregular Migration from Cambodia: Characteristics, Challenges and Regulatory Approach*, Working Paper No 58, Cambodia Development Resource Institute (2011) 31; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 8.

million migrants from Cambodia, Lao PDR and Myanmar working in the country at that time.²⁷⁵ A 2015 study by the International Labour Organization (ILO) predicts Thailand's labour demand will continue to grow as the country's working age population reduces by up to 150,000 workers each year and rising education levels among Thai nationals push more and more Thais out of low and unskilled labour-intensive positions.²⁷⁶ At the same time, population growth in Lao PDR has been predicted continue to exceed the capacity of the local labour market to absorb additional workers, such that emigration to Thailand will likely continue on a large scale for years to come.²⁷⁷

Wages and remittances

In addition to more employment opportunities, Thailand's higher wages, even if working irregularly, is a further pull factor for migrant workers from Lao PDR. Most migrants move to Thailand hoping to improve their income as well as their economic position and that of their families.²⁷⁸

A 2016 IOM report found that 59.5 per cent of 1,209 respondents reported not earning any income at all before migrating to Thailand.²⁷⁹ Regardless of their legal status in Thailand, Lao nationals can earn much higher wages than in their home country. A report published by the World Bank in 2012 found that average per capita income in Thailand is five times higher than in Lao PDR.²⁸⁰ Two studies published in 2012 found Lao migrants working in Thailand received average monthly salaries of approximately USD 131, including payment for working overtime and on Sundays, which many migrants choose to do to increase their salaries. Monthly wages in Lao PDR, on the other hand, ranged between USD 65 and USD 84. Even though these wages are well below minimum average wages in

²⁷⁵ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 199.

²⁷⁶ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15–16; cf World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 14.

²⁷⁷ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 29.

²⁷⁸ Hing Vutha et al, *Irregular Migration from Cambodia: Characteristics, Challenges and Regulatory Approach*, Working Paper No 58, Cambodia Development Resource Institute (2011) 31; Mary Rose Geraldine A Sarausad, *Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand* (2011) 3; UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR*, (2009) 9–10.

²⁷⁹ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 7.

²⁸⁰ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 8.

Thailand, they are still nearly twice as high as those paid in Lao PDR.²⁸¹

The available information further suggests there is little to no financial advantage for Lao nationals to go through official channels and secure a work permit for employment in Thailand. Research in 2012 found irregular migrant workers from Lao PDR earned on average USD 1,331 in Thailand over a two-year period, while regular workers only received USD 960 for the same period.²⁸²

Remittances

The ability to remit money to families in Lao PDR is a major factor for migrants to seek employment in Thailand. Lao nationals who witness others in their community receive remittances from relatives working in Thailand often feel they need to follow in the paths of earlier migrants to improve their social status and that of their families.²⁸³

Although wages, employment opportunities and working conditions in Thailand may be much worse than first hoped, the majority of migrant workers from Lao PDR are nevertheless able to earn enough money to have savings and send remittances to their home country. A 2014 report shows that even among children and young people from Lao PDR working in Thailand, 82 per cent were able to transfer remittances to their families.²⁸⁴ Even those who encountered abuse, exploitation and trafficking in Thailand were able to generate some income and remit money to their home country.²⁸⁵

Estimates of the total value of remittances sent from Thailand to Lao PDR vary greatly, not least because many funds are transferred through informal channels or are carried in cash across the border. Few migrant workers have bank accounts in Lao PDR. Many migrants avoid using formal banking systems to avoid fees and losses involved in foreign currency conversions. Instead, most Lao migrants send their remittances through friends, relatives or informal agents. Some migrants also deposit money into Thai bank accounts before withdrawing cash at banks or ATMs near the border and carrying Thai currency into Lao PDR. Although these practices violate reporting requirements and, if detected, may incur penalties and fines, they are nevertheless considered to be safer and cheaper than international money transfers through banks. This also explains why remittances are underreported

²⁸¹ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses'. in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 47; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 221–222; cf Holly High, 'Dreaming beyond borders: the Thai/Lao borderlands and the mobility of the marginal' in Martin Gainsborough (ed), *On The Borders of State Power: Frontiers in the Greater Mekong Sub-Region* (2008) 75, 92.

²⁸² Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 226.

²⁸³ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 30.

²⁸⁴ World Vision, *The Vulnerability Report, Human Trafficking in the Greater Mekong Sub-region* (2014) 8; see also, Linda Deelan & Pracha Vasuprasat, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar* (2010) 9.

²⁸⁵ Inthasone Phetsiriseng, 'Gender Concerns in Migration in Lao PDR' — *Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 7.

and reliable estimates are difficult to come by.²⁸⁶

A 2010 ILO study found labour migrants from Lao PDR sent, on average, about THB 26,000 in remittances to their home country over the two years prior. The specific amounts remitted vary greatly, with some 29 per cent remitting less than THB 10,000 and another 29 per cent remitting more than THB 50,000 per year.²⁸⁷ A further study of Lao workers in Thailand published in 2016 found that on average, workers remitted approximately THB 40,000 per migrant per year.²⁸⁸

In 2006, UNDP estimated that some USD 100–150 million is transferred from Thailand by Lao workers each year.²⁸⁹ A 2016 study by IOM estimates that as much as THB 11.59 billion or USD 331 million may be remitted from Thailand to Lao PDR each year.²⁹⁰ Data provided by the World Bank, shown in Figure 11 below, is more modest, estimating approximately USD 40 million was transferred per year in 2013, 2014 and 2015.

Figure 11: Migrant remittance flows, Thailand to Lao PDR 2010–2015²⁹¹

	Total in million USD
2015	39.89
2014	39.89
2013	39.82
2012	16.11
2011	15.16
2010	5.67

Existing communities; prior migration by family and friends

The Mekong River, which divides the two countries in many parts, is a main trade route and cross-river trading has a long tradition. Short-term migration is particularly common in areas along the border where people cross from one country to the other for work, to visit relatives and friends, to engage in

²⁸⁶ Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 81; Linda Deelan & Pracha Vasuprasat, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar* (2010) xi, 13.

²⁸⁷ Linda Deelan & Pracha Vasuprasat, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar* (2010) 9.

²⁸⁸ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 25.

²⁸⁹ Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 75, 81.

²⁹⁰ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 25.

²⁹¹ World Bank, 'Migration and Remittances Data' (2016).

trade or for other purposes on a regular basis.²⁹²

Although both Thailand and Lao PDR have their own distinct cultures, languages and script, the two countries share many similarities. It is also reasonably easy to understand and communicate in Thai for most people from Lao PDR, especially those who are descendants of the Tai ethnic group. This is reportedly why some Thai employers prefer to work with Lao migrants over other migrant groups who have greater difficulties understanding, speaking and reading Thai language.²⁹³

Existing migrant communities from Lao PDR in Thailand provide a further pull factor for other migrants, as these communities can assist with local contacts, accommodation, tips about employment and can provide a social network for newly arrived migrants. Many migrant workers first learn about opportunities available in Thailand from relatives and friends who have left Lao PDR and established themselves in Thailand or from migrants who return to Lao PDR for short visits.²⁹⁴ Also important in this context are the remittances sent by migrants, which provide evidence for many would-be migrants that Thailand is a country of opportunity and wealth.²⁹⁵

Other pull factors

Many migrants from Lao PDR are led by the belief that Thailand offers them economic opportunities and prosperity not similarly available in their home country. This belief often stems from Thai television shows and other broadcasts that are widely accessible and extremely popular across Lao PDR. These

²⁹² Didier Bertrand, 'Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization' in Pierre Le Roux et al (ed), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 157; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 191.

²⁹³ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 29; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 38; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 193–195; Sverre Molland, 'The Perfect Business': Human Trafficking and Lao-Thai Cross-Border Migration' (2010) 41(5) *Development and Change* 831, 837.

²⁹⁴ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 38; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 14.

²⁹⁵ Sverre Molland, 'The Perfect Business': Human Trafficking and Lao-Thai Cross-Border Migration' (2010) 41(5) *Development and Change* 831, 838. See further, Section III.2.1.3 above.

shows portray Thailand as a modern and exciting country, full of wealth and opportunities.²⁹⁶ Many migrants aspire to improve their material wealth by moving to Thailand, believing they will be able to improve their overall lifestyle, afford modern conveniences or buy land or houses. Young migrants and those with limited education are particularly impressionable about the lifestyle they can expect in Thailand. Moreover, for many young people, traditional family structures hold less importance than in previous generations and many feel less inclined to remain in their local areas and in established community structures. This feeling is even stronger if unemployment is high and opportunities for post-primary education are limited.²⁹⁷

Interviews conducted in Lao PDR for the purpose of this report also identified a lack of awareness about the reality of living as a migrant working in Thailand as an important contributor to the smuggling of migrants and trafficking in persons. As one interview respondent commented, “Thailand is perceived as heaven on earth”. While it would be too simplistic to portray migrants as naïve, interview respondents further stressed that many migrants and their families have false perceptions or incomplete information about everyday life in Thailand and sometimes base their decision to migrate merely on hearsay, on the stories of prior migrants and on images they have seen on television. Those who actively recruit migrants from Lao PDR often fuel these images even further and create expectations greatly removed from the reality migrants can expect in Thailand.

Natural disasters, such as flooding, and poor harvests, sometimes created by locusts, were also identified in interviews conducted for the purpose of this report as further push factors for migration to Thailand. Additional literature on the scale and impact of natural disasters and environmental factors on irregular migration from Lao PDR to Thailand was not available at the time of writing.

3.2.2 Availability of legal avenues of migration

Many Lao migrants use irregular avenues to enter, settle and find employment in Thailand because of the limited availability of legal avenues to migrate from Lao PDR to Thailand, as well as the costs, time, inflexibility and bureaucracy associated with them.²⁹⁸ A 2012 World Bank report predicts that, given the long and porous border between the two countries, irregular migration will continue to prevail so

²⁹⁶ Inthasone Phetsiriseng, ‘Gender Concerns in Migration in Lao PDR’ — *Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 6–7; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8; Sverre Molland, ‘The Perfect Business’: Human Trafficking and Lao-Thai Cross-Border Migration’ (2010) 41(5) *Development and Change* 831, 837; UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR*, (2009) 9–10; Didier Bertrand, ‘Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization’, in Pierre Le Roux et al (ed), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 160–161.

²⁹⁷ UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 51, 56.

²⁹⁸ Rebecca Miller & Sebastian Baumeister, ‘Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?’ (2013) 2 *Anti-Trafficking Review* 15, 21; Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 121; ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 19; UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 22; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 2.

long as formal channels for migration remain unattractive options.²⁹⁹

Limitations of legal migration frameworks

Lao PDR began to regulate labour migration and offer formal, legal avenues for migrant workers to move to Thailand when many informal channels were already well-established. As of January 2015, there were 13 registered agencies operating in Lao PDR that are licensed to send migrant workers abroad, up from nine in February 2007.³⁰⁰

The *Memorandum of Understanding on Cooperation in the Employment of Workers* (MoU) between the Governments of Lao PDR and Thailand was signed on 18 October 2002 to enable legal labour migration into Thailand and to ensure that migrant workers entering the country through official channels obtain the same protection and benefits as Thai workers.³⁰¹ Since that time, both countries have established policies and procedures to enable and control labour migration. However, these frameworks have been frequently criticized for remaining incoherent, inefficient and unable to meet the demands of both Lao nationals and Thai employers for workers. Most migrants consider formal procedures to be too expensive and complicated, and as a result, continue to use irregular channels to move to Thailand and find employment.³⁰²

Although it took nearly three years to implement the MoU, the number of Lao workers migrating to Thailand under the agreement grew quickly in the late 2000s. Between 2000 and 2009, 11,957 Lao migrant workers arrived in Thailand under the MoU.³⁰³ From October 2002 to the end of 2010, a total of 25,507 workers were recruited from Lao PDR.³⁰⁴ As of November 2014, 21,289 migrant workers

²⁹⁹ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 33; see also, Didier Bertrand, 'Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization' in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 158

³⁰⁰ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 19; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 28.

³⁰¹ ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 36; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 11; ILO, *The Mekong Challenge – An honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 2, 23.

³⁰² Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses', in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 82; ADB, *Migration in the Greater Mekong Subregion, a background paper for the Fourth Greater Mekong Subregion Development Dialogue* (2009) 19.

³⁰³ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 61.

³⁰⁴ Jerrold W Huguet et al, 'Thailand Migration Profile' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011: Migration for development in Thailand: Overview and tools for policy makers* (2011) 7, 10.

from Lao PDR were in Thailand with work permits issued under the bilateral MoU.³⁰⁵

Despite this growth, the World Bank observed in 2006 that the capacity of Lao PDR (and that of neighbouring countries) to set up an efficient system to recruit and inform migrant workers was very limited and the country lacked the necessary human, financial and technical resources.³⁰⁶ Today, the capacity for official labour migration from Lao PDR to Thailand still remains too low to meet demand and supply. A 2012 World Bank report suggests only 10 per cent of Thailand's requests for migrant workers from Lao PDR are met through formal processes under the existing MoU.³⁰⁷ Research published in 2013 citing official figures from Thailand's Ministry of Labour came to a similar conclusion:

A total of 6,374 Lao workers (3,937 men and 2,437 women) had entered Thailand under this [official] process as at January 2008. By March 2010, the total number had increased to 10,753 Lao workers and by March 2012 had reached 15,603. However, despite this increase, the number still fell far short of the 75,229 workers originally requested by Thai employers during that time period.³⁰⁸

In 2008, the ILO estimated only 7 per cent of the demand in Thailand for migrant workers from Lao PDR was met by people migrating through official channels. In industries such as food processing, the garment industry and work in small industrial plants, migrants entering through formal channels made up only 6 per cent of employers' demands for workers. Of the 62,094 migrant workers requested by Thai employers from Lao PDR by September 2007, only 4,448 were actually placed.³⁰⁹ In 2007, only 5,400 people or 2.7 per cent of all Lao migrant workers moved to Thailand under the labour migration MoU between the two countries.³¹⁰

Costs

One of the principal reasons many migrant workers prefer irregular over official channels of migration from Lao PDR to Thailand are the expenses associated with formal avenues of recruitment and migration. On average, the estimated total financial costs of migrating to and working in Thailand regularly are 1.7 times higher than the costs for doing the same irregularly.³¹¹

Most sources report that the fees associated with official migration channels range between

³⁰⁵ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 6.

³⁰⁶ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 13.

³⁰⁷ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 34; see also World Vision Laos, *Analysis of Trafficking in Laos* (2015) 2.

³⁰⁸ Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 121.

³⁰⁹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 20–21; see also, Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR – Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 6; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 11.

³¹⁰ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 192.

³¹¹ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 69–70.

THB 12,700 and THB 21,000 or USD 492–783. This amounts to the equivalent of about four to six months' wages in Thailand, while the costs of irregular migration are equivalent to only one month's pay.³¹² Interviews conducted in Lao PDR for the purpose of this report also confirmed these estimates, with most respondents suggesting that legal migration to Thailand costs Lao nationals a minimum of USD 500.

A 2012 study found that migrant workers from Lao PDR in possession of travel and identity documents can pay as little as USD 56 for irregular migration to Thailand, or USD 106 if they need additional papers. Those migrating through formal channels, on the other hand, pay estimated fees totalling USD 626, including brokerage fees of USD 484, passport fees of USD 42, USD 37 for physical check-ups, USD 46 for transportation, and USD 16 for other expenses.³¹³ A 2013 study found similar results, suggesting that migration through informal channels costs between THB 2,500 and 3,000 compared to the THB 20,000 or more for migration using official procedures.³¹⁴ Another publication similarly estimates that

agency and management fees in Laos are about 10,000 baht. Additional expenses when they arrive in Thailand is about 5,000 baht, 1,800 baht a year for a work permit, 100 baht for an application fee, 600 baht for medical check-up, and transportation cost from the borders to work place.³¹⁵

³¹² ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 17; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 25–26, 31; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 29, 51; Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 122; Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 84; Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 15; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 6.

³¹³ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 67; see also Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 122 citing ILO, 2009; Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 84 citing Lao PDR, Ministry of Labour and Social Welfare; and Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 16.

³¹⁴ Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 121–122.

³¹⁵ Sravooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011–28, Philippine Institute for Development Studies (2011) 61–62; see also Mon Myat, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 38; Amarjit Kaur, 'Labour migration in Southeast Asia: migration policies, labour exploitation and regulation' (2010) 15 *Journal of the Asia Pacific Economy*, 6, 17; Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 12–13.

Because few migrants are able to pay the fees associated with formal recruitment and migration services in advance, recruitment agencies and prospective employers usually cover all of the expenses and recoup them later when migrants earn money in Thailand. The Thai employers normally advance 50 per cent of the cost to agencies in Lao PDR as initial expenses and the remaining 50 per cent after workers have arrived in Thailand.³¹⁶ Some would-be migrants are also charged fees in advance, further adding to the overall costs of migration.³¹⁷ Recruitment agencies in Lao PDR recover some of their costs by charging a levy on the migrants' monthly income over the duration of their contract, which is capped at 15 per cent under Lao PDR law (though it is not clear if they can also charge additional fees for health checks, documents, et cetera).³¹⁸ These liabilities create a considerable burden for migrant workers and can, in some cases, place them in situations of debt bondage.³¹⁹ Many would-be migrants opt to use irregular avenues of migration in the face of these consequences.³²⁰

Some migrant workers prefer irregular over formal channels because it saves them payment of income taxes and social security contributions, amounting to approximately 14 per cent of their income. Using irregular channels can also help migrants avoid fees for health examinations, work permits and payments into Thailand's repatriation fund.³²¹

Thai employers often prefer to hire irregular workers since they pay workers lower wages and avoid

³¹⁶ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 15; Philip Martin, *The Economic Contribution of Migrant Workers to Thailand* (2007) 6.

³¹⁷ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011–28, Philippine Institute for Development Studies (2011) 61–62; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 9–10; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27, 30.

³¹⁸ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 17; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68, 83; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 31.

³¹⁹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8; Sverre Molland, 'Safe Migration, Dilettante Brokers and the Appropriation of Legality: Lao-Thai 'Trafficking' in the Context of Regulating Labour Migration' (2012) 85(1) *Pacific Affairs* 117, 132; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 34.

³²⁰ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 53.

³²¹ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 68; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR, in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 205.

taxes and certain overhead costs.³²² Employers in Thailand also prefer to recruit migrants informally because of the high upfront fees they must pay to recruit workers through formal channels. Some employers also fear that migrants may leave or change employers before the initial costs can be recovered.³²³

Bureaucracy

The cumbersome and slow bureaucratic processes involved in formal recruitment and migration further deter many migrants.³²⁴ Moreover, formal channels are not seen as ensuring better-paying jobs and greater protection in Thailand. A 2010 publication notes that “another reason for migrants to shun the formal recruitment system is that the value of services provided by the agency may not be commensurate with the costs they have to pay, especially the long waiting period, and the poor protection of their rights when they encounter problems in the host country.”³²⁵ Migrants who arrived in Thailand through informal channels found it less difficult to find employment and were more satisfied with their work than migrants who arrived through formal avenues, according to a 2008 study.³²⁶ However, just like informal channels, the use of official recruitment and migration services, too, can lead to exploitation and trafficking.³²⁷

Figure 12, which is reproduced from a 2015 ILO publication, shows the steps involved in the formal recruitment and placement process for Lao migrant workers under the labour migration MoU between Lao PDR and Thailand.

³²² Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao PDR’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 233–234.

³²³ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 20.

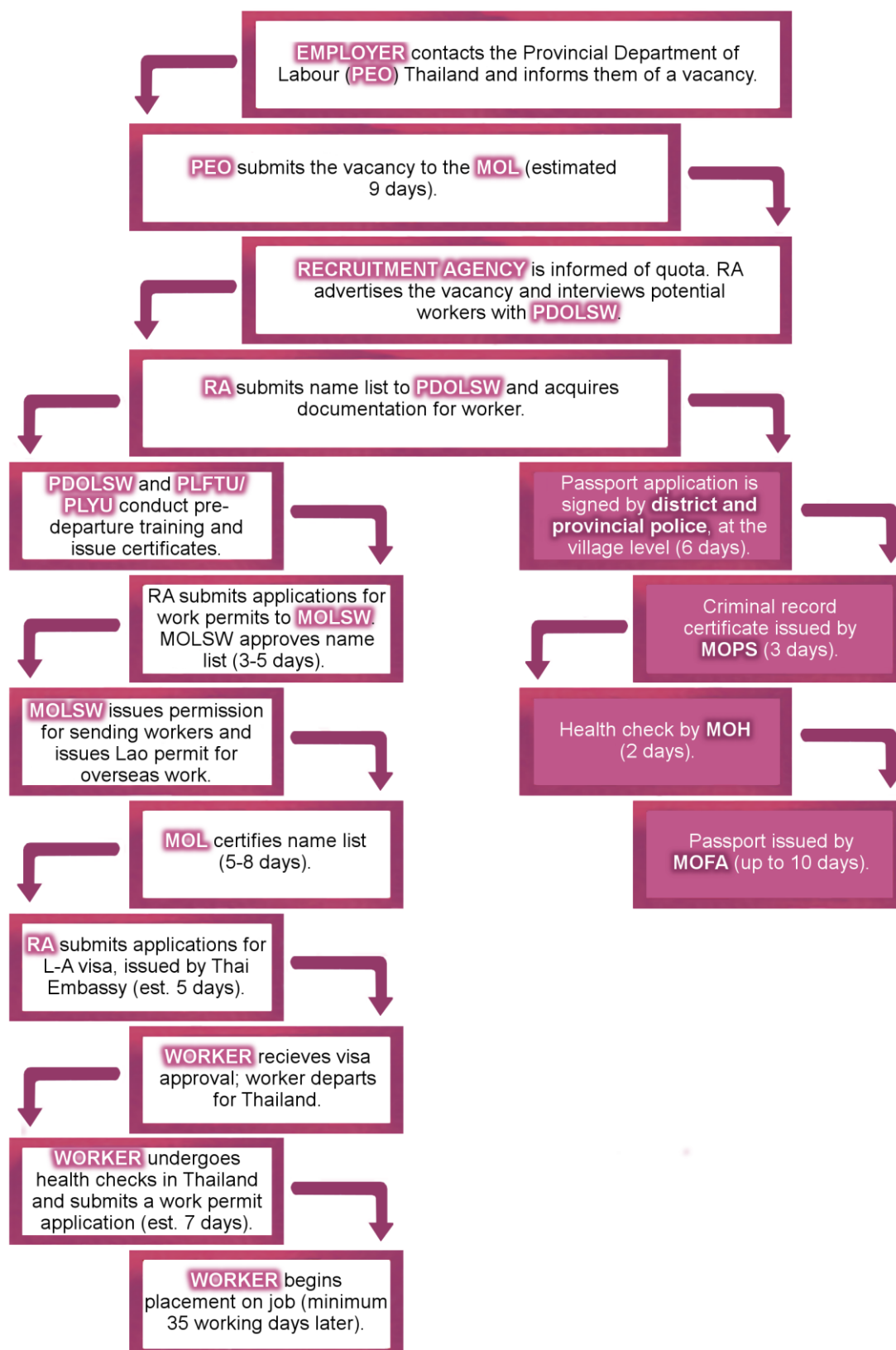
³²⁴ A schematic outline of the recruitment and placement process for workers from Lao PDR under the MoU (current as of 2013) can be found at ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 37.

³²⁵ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries*, ILO Asian Regional Programme on Governance of Labour Migration Working Paper No 16 (2010) 17.

³²⁶ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 61.

³²⁷ Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 121; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 10; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8.

Figure 12: MoU recruitment and placement process for workers from Lao PDR (as of 2014)³²⁸



The process to apply for and obtain the relevant permits and placements to migrate and work in Thailand regularly can take anywhere between 55 and 90 days. This does not include the time needed to obtain and prepare certain documents from local authorities and the time many applicants need to travel from rural and remote areas to the urban centres where processing takes place. As a result, the entire process can take as long as six months or more.³²⁹ In interviews conducted in Lao PDR for the purpose of this report respondents also stressed that it is very complicated for Lao nationals to obtain identity documents and passports and that passports applications are associated with high costs and very long waiting periods.

Work permits issued through official channels are also only valid for two years, adding a further obstacle for migrants. Permits may be extended once—and at times the Government of Lao PDR has permitted further extensions—but once they expire, migrants are barred from applying for a new work permit for three years.³³⁰ This leads some returning workers to look for ways to migrate irregularly and deters others from using formal channels in the first place. Furthermore, work permits are restricted to specific industries or employment sectors and, while workers are permitted to change employers, they are usually not permitted to change industry or sector.³³¹

The Lao PDR government restricts migration through formal channels to specific jobs and professions. This system frustrates Thai employers who seek workers to meet particular demands.³³² A 2008 ILO study, for instance, reported that Thai employers requested a total of 45,357 domestic workers from Lao PDR, but none were approved because Lao authorities considered domestic work to be unskilled work and did not recognise it as a sector for formal migration. Professions considered ineligible for migration to Thailand tends to disadvantage female migrant workers, leaving many women with no choice but to use informal channels to emigrate. This, in turn, places them at greater risk of deception, exploitation and trafficking. Similar risks exist for the many male migrants working in Thailand's fishing

³²⁸ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 37.

³²⁹ Pracha Vasuprasat, *Inter-state Cooperation on Labour Migration: Lessons learned from MOUs between Thailand and neighbouring countries* (2008) 17; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 88; Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 62; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 31; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27; Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 122; cf World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 33.

³³⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8.

³³¹ Amarjit Kaur, 'Labour migration in Southeast Asia: migration policies, labour exploitation and regulation' (2010) 15 *Journal of the Asia Pacific Economy* 6, 17.

³³² ADB, *Migration in the Greater Mekong Subregion, a background paper for the Fourth Greater Mekong Subregion Development Dialogue* (2009) 17.

industry.³³³ Interviews conducted in Lao PDR for the purpose of this report confirmed that many migrants are deterred by the complexity and restrictions associated with formal migration channels. Respondents further highlighted that persons under the age of 18 often resort to irregular migration because they are not eligible for migration through formal channels.

While most of the recruitment and migration process remains in the hands of government agencies, some private operators have gained authorisation to recruit migrants and, once approved by the administration, transport them to Thailand. Private businesses have brought some flexibility and offer migrants more choices, but the businesses and subcontracted employments agents are reportedly poorly regulated and considered unreliable.³³⁴ For these reasons, many would-be migrants in Lao PDR who learn about job opportunities in Thailand resort to informal channels that have no or limited waiting periods, document requirements and formalised recruitment processes.³³⁵

It needs to be stressed that not all labour migration from Lao PDR to Thailand is irregular and many migrants, recruitment agencies and employers are law-abiding. Furthermore, while official labour migration channels are slow and cumbersome, some improvements have been made over the years. Some elements of the process operate moderately well and the recruitment processes for some professions run more smoothly than others.³³⁶

Legalisation of status

The Thai government has taken initiatives to legalise the status of irregular migrant workers in the country, as well as established procedures for workers to register with authorities and obtain permits to remain and work in the country lawfully.³³⁷ These legalisation or registration processes, known as the Nationality Verification System, have been set up at times when labour demand was particularly high and labour supply from sending countries such as Lao PDR was low. Several thousand Lao nationals have been able to legalise their status in Thailand, most of them working as domestic workers or in manufacturing, sales and wholesale or agricultural sectors.³³⁸ During the 2011 registration period (15 June to 14 July 2011), 104,928 Lao migrants registered with Thai authorities.³³⁹

³³³ ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 24; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

³³⁴ Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 121; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15.

³³⁵ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 24.

³³⁶ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27–28.

³³⁷ See further, Section V.5.3 below.

³³⁸ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 9; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 13.

³³⁹ Mekong Migration Network (MMN) & Asian Migrant Centre (AMC), *Migration in the Greater Mekong Subregion Resource Book* (2013) 132.

Among the principal factors deterring many irregular migrants from legalising their status in Thailand are the costs associated with some aspects of the process and the requirement to produce certain documents, which can be expensive to obtain. The issuance of temporary passports needed to acquire legal status in Thailand can cost USD 500–700, which represents several months' wages for the average Lao migrant worker, a 2013 publication found. Some migrants have no choice but to take out loans to pay these fees, while others instead opt to remain in the country irregularly.³⁴⁰ A further study found that in 2011, registration fees in Thailand ranged between THB 2,980 and 3,800. Such costs are beyond the means of most irregular migrant workers in the country.³⁴¹

3.2.3 Displacement, forced migration, and trafficking

Political causes and other push factors

Political causes and other factors causing forced displacement and emigration today tend to play a minor role in irregular migration and trafficking in persons from Lao PDR to Thailand. Several sources point to the fact that, for most migrants, the decision to migrate to Thailand is a voluntary one, led by the desire to pursue opportunities and improve their personal position and that of their families.³⁴²

A small number of sources explore how discrimination, and in some cases, persecution, has caused Hmong ethnic groups in Lao PDR to emigrate. For the last 30 years, there has been some degree of ethnic tension and instances of reprisals against Hmong people. These hostilities are a legacy of the Viet Nam War, when United States agencies recruited ethnic Hmong to support the fight against North Vietnamese forces. This, together with the uneven distribution of wealth and other push economic factors, has led some Hmong to leave Lao PDR and settle in Thailand.³⁴³

Kidnapping and other forms of forced or coerced migration

There is very little available evidence of instances in which persons have been kidnapped or otherwise forced or coerced by individual criminals, criminal organisations, and other non-state actors to move to Thailand. A 2010 Human Rights Watch report contained some examples of women, some of them teenagers, who were intimidated, threatened and forced to migrate. These women were initially lured by advertisements and brokers to particular locations, then forced into vans or other vehicles and driven to Thailand where they were made to work in the sex industry.³⁴⁴ However, examples of this kind appear to be rather exceptional. One source contains statements about girls being kidnapped

³⁴⁰ Rebecca Miller & Sebastian Baumeister, 'Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?' (2013) 2 *Anti-Trafficking Review* 15, 22.

³⁴¹ Human Rights Watch, *Ad Hoc and Inadequate Thailand's Treatment of Refugees and Asylum Seekers*, (2012) 79–80.

³⁴² Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 26.

³⁴³ Pei Palmgren, 'Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia' (2011) 5(5) *Sociology Compass* 323, 325; Pooja Theresa Stanslas, 'Transborder Human Trafficking in Malaysian Waters: Addressing the Root Causes' (2010) 41(4) *Journal of Maritime Law and Commerce* 595, 599; AKM Ahsan Ullah and Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South-East Asian Studies* 273, 283

³⁴⁴ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 53–54.

from their hill tribe villages and taken to Thailand, where they were abused and forced to work, but the source contains few specific details to validate these claims.³⁴⁵

Available information confirms the overall impression that, even in situations resulting in trafficking, including trafficking for the purpose of sexual exploitation, a migrant's initial decision to work abroad is a voluntary one. Furthermore, exploitation and trafficking usually arise only after the person has reached Thailand.³⁴⁶

3.3 Types of trafficking

Trafficking in persons from Lao PDR to Thailand occurs in a range of sectors. Labour trafficking and other forms of forced labour and labour exploitation appear to be most prevalent, especially in the domestic services industry and for low-skilled work in Thailand's agriculture and manufacturing industries. Trafficking for the purpose of sexual exploitation is also quite common, while other forms of trafficking do not appear to occur on a large scale.³⁴⁷ The following sections explore the different types of trafficking and the industries in which they occur.

3.3.1 Sexual exploitation

Lao women and girls are trafficked to Thailand for the purpose of sexual exploitation.³⁴⁸ Official data and reliable estimates about the number of persons trafficked from Lao PDR to Thailand for sexual exploitation are not available. This is due in part to the hidden nature of trafficking in persons and of some parts of the sex industry. Sexual exploitation may occur in bars, brothels, strip clubs and similar premises visible in many cities in Thailand, but it may also take place in private homes or other places where it is more difficult to detect. Statistics and estimates are also unavailable because it is often difficult to differentiate between Thai and Lao migrants working in the sex industry.³⁴⁹

Recruitment and first contact

There are various ways in which Lao nationals are trafficked for the purpose of sexual exploitation, ranging “from the ones who have been lured and sold into prostitution to the ones who were left knowing that they were taking risks, and others who went to prostitute themselves and were found to

³⁴⁵ See Zrinka Gugić, ‘Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU’ (2014) 30 *Pravni Vjesnik God* 355, 364.

³⁴⁶ See further, Sections V.3 and V.4 below.

³⁴⁷ See generally, UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the LAO PDR*, (2009) 8.

³⁴⁸ See generally, AKM Ahsan Ullah & Mallik Akram Hossain ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283; Zrinka Gugić, ‘Human Trafficking under the Veil of Sex Tourism in Thailand — Reactions of the EU’ (2014) 30 *Pravni Vjesnik God* 355, 362.

³⁴⁹ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 28, 30.

be caught up in trafficking,” according to one author.³⁵⁰

Some migrants are led into the Thai sex industry with the aid of agents and brokers operating in Lao PDR. It is unclear to what extent and how these agents advertise their services and how overtly it is communicated that they are recruiting for the sex industry. Several sources suggest some agents provide very little information about the type of work and the working conditions migrants can expect in Thailand. It is not uncommon for people to be deceived or tricked into prostitution and arrive in Thailand completely unaware of the fact they will be forced to engage in sex work.³⁵¹ Interviews conducted in Lao PDR for the purpose of this report confirmed some victims are tricked into working in Thailand’s sex industry while others entering the sex trade have a general understanding of the type of work and the working conditions they can expect.

Current and former sex workers who return to Lao PDR for visits or after they finish their employment in Thailand also play a significant role in recruiting women in their home towns.³⁵² It has been noted that families in Lao PDR often know full well their daughters will be taking up employment in the sex industry when they depart for Thailand.³⁵³ Research conducted in Nong Khai, the province of Thailand that borders the Lao capital Vientiane, found that sex workers are often paid about THB 1,000 if they can recruit women in Lao PDR or that a THB 4,000 advance is paid to family members for the recruitment of sex workers.³⁵⁴ The literature does not, however, clarify whether these women acting as ad hoc recruiters know whether the women and girls they are recruiting will be exploited, or indeed if any of the recruiters or recruits are exploited or trafficked at all.

³⁵⁰ Didier Bertrand, ‘Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization’ in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 164.

³⁵¹ Didier Bertrand, ‘Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization’ in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 165; Ratchada Jayagupta, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 235; Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 27; Sverre Molland, ‘Safe Migration, Dilettante Brokers and the Appropriation of Legality: Lao–Thai ‘Trafficking’ in the Context of Regulating Labour Migration’ (2012) 85(1) *Pacific Affairs* 117, 133–134.

³⁵² Sverre Molland, ‘The Value of Bodies: Deception, Helping and Profiteering in Human Trafficking Along the Thai–Lao Border’ (2010) 34(2) *Asian Studies Review* 211, 222; Sverre Molland, ‘“The Perfect Business”: Human Trafficking and Lao–Thai Cross–Border Migration’ (2010) 41(5) *Development and Change* 831, 831; see also, Ronald Weitzer, ‘New Directions in Research on Human Trafficking’ (2014) 653 *Annals of the American Academy of Political and Social Science* 6, 17.

³⁵³ Didier Bertrand, ‘Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization’ in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 170.

³⁵⁴ Sverre Molland, ‘The Value of Bodies: Deception, Helping and Profiteering in Human Trafficking Along the Thai–Lao Border’ (2010) 34(2) *Asian Studies Review* 211, 219–220.

Profile of victims

The majority of Lao nationals who are trafficked to Thailand for sexual exploitation are women or girls.³⁵⁵ A study by UNICEF involving interviews with 253 trafficked persons in Lao PDR found about 35 per cent of respondents had been forced into prostitution.³⁵⁶ Examples of Lao men who are trafficked for sexual exploitation are almost non-existent in the available literature.

There is no comprehensive information about the social, family, education and economic background of women and girls trafficked from Lao PDR into Thailand's sex industry. Generally, the women and girls appear to have limited education and come from poor backgrounds in both urban and rural areas; some are from ethnic minority groups.³⁵⁷ In interviews conducted in Lao PDR for this report, respondents suggested that in recent years, more victims originated in the north of Lao PDR than from the south of the country.

Arrangements and departure

Migration to locations immediately across the border from Lao PDR requires very little organisation and planning and is sometimes initiated by the migrants themselves. Some migrants simply walk or take transportation to the border and are then met by people who take them to their place of employment. For movement into other parts of Thailand, migrants usually require some assistance with documents and transportation. Because official channels do not permit migration for the purpose of commercial sex work, some agents register their clients as domestic workers. Once in Thailand, Lao nationals are then led to positions in the hospitality, entertainment and sex industry.³⁵⁸

The literature generally agrees it is uncommon for trafficking to occur at the recruitment and transportation stage. Usually, trafficking occurs after the migrants commence work in Thailand, where they encounter working conditions that fall short of their expectations and the promises made to them. Some victims are also supplied with illicit drugs such as methamphetamines to increase their dependency on traffickers and to endure the physical and psychological pain and long working

³⁵⁵ Cf ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 24. See further Section III.3.3.1 below.

³⁵⁶ UNICEF & Lao PDR, Ministry of Labour and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 8, also cited in Brendan Howe & Kearnin Sims, 'Human Security and Development in the Lao PDR — Freedom from Fear and Freedom from Want' (2011) 51(2) *Asian Survey* 331, 342; see also, Didier Bertrand, 'Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization' in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 162.

³⁵⁷ Didier Bertrand, 'Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimization' in Pierre Le Roux et al (eds), *The Trade in Human Beings for Sex in Southeast Asia* (2010) 157, 162–163; Zrinka Gugić, 'Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU' (2014) 30 *Pravni Vjesnik God* 355, 364.

³⁵⁸ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 25, 30.

hours.³⁵⁹

3.3.2 Labour trafficking

Labour trafficking is the most prevalent form of trafficking in persons from Lao PDR to Thailand. Most irregular migrants from Lao PDR can be found in the agricultural, construction, hospitality and retail sectors of Thailand,³⁶⁰ though exploitation and trafficking are more common in some industries than in others.³⁶¹ A 2010 report by UNIAP found Lao nationals are most commonly exploited in the domestic services, agriculture and garment industries of Thailand.³⁶²

Recruitment and first contact

Both formal and informal avenues are used to promote employment opportunities in Thailand and recruit workers from Lao PDR. Advertisements in the public media and notices by agents are widely used to promote regular migration channels. For irregular migration channels, where the risk of trafficking may be higher, word of mouth, brokers and recruitment through family and friends are more common. Former migrant workers or workers who return to Lao PDR for visits are also often used to recruit additional workers from their home communities and to furnish would-be migrants with information about Thailand and with contacts to agents, employers or authorities who can provide further assistance.³⁶³ Brokers, too, may travel to local communities in rural and remote parts of Lao PDR to approach would-be migrants and promise them opportunities in Thailand.³⁶⁴ Another method mentioned in interviews conducted in Lao PDR for this report involves recruiters simply waiting along bridges or roads that cross from Lao PDR into Thailand. In such cases, migrants cross the border and then approach a recruiter who will connect them with employers in Thailand.

Profile of victims

Irregular labour migration from Lao PDR to Thailand involves more women than men. This is particularly the case among the many Lao nationals who move to Thailand to work in the domestic

³⁵⁹ Ratchada Jayagupta, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47(2) *International Migration* 227, 235.

³⁶⁰ Hing Vutha et al, *Irregular Migration from Cambodia: Characteristics, Challenges and Regulatory Approach*, Working Paper No 58, Cambodia Development Resource Institute (2011) 10; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 13; UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the LAO PDR*, (2009) 29.

³⁶¹ See further Section [...] below.

³⁶² UNIAP, *Mekong Region Country Datasheets Human Trafficking* (2010) 13.

³⁶³ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 24, 26–27.

³⁶⁴ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 56.

services and garment industries.³⁶⁵ Irregular male migrants tend to work in construction and agricultural sectors and, in smaller numbers, in Thailand's fishing industry.³⁶⁶ Irregular migrants may encounter labour trafficking, labour exploitation and forced labour in any industry, though it appears women are at greater risk of trafficking than men.³⁶⁷ Interviews conducted in Lao PDR for the purpose of this report revealed that women comprise about 90 per cent of all victims of trafficking in persons who are repatriated from Thailand to Lao PDR.

Most women and men trafficked to Thailand from Lao PDR come from rural areas. Many migrants previously worked in agriculture or owned small farms or small lots of land in Lao PDR but could not generate enough income for themselves and their families and thus decided to move to Thailand.³⁶⁸ A 2010 report by UNIAP identified Champasak, Saravan and Savannakhet provinces and the capital Vientiane as the main places of origin for migrants from Lao PDR who have been trafficked to Thailand.³⁶⁹

The education levels of irregular migrant workers from Lao PDR in Thailand are quite low; lower than, for instance, those of irregular migrants from Cambodia. Levels of education tend to be particularly low among those working in Thailand's construction and fisheries sectors. Many come from poor rural areas where literacy levels are below the national average.³⁷⁰ Because of their limited knowledge and education, migrants may be dependent on their employers, potentially making them more vulnerable

³⁶⁵ Nicola Piper, 'Overview: Gender and Labour Migration in Asia, in IOM, *Gender and Labour Migration in Asia* (2009) 21, 26; Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 211; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 9, 56.

³⁶⁶ Aungkana Kmonpetch, *The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand* (2011) 3; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 21; United States, Department of State, *Trafficking in Persons Report 2014* (2014) 239; United States, Department of State, *Trafficking in Persons Report 2013* (2013) 228.

³⁶⁷ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12.

³⁶⁸ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 7.

³⁶⁹ UNIAP, *Mekong Region Country Datasheets Human Trafficking* (2010) 14; see also, Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 77.

³⁷⁰ Hossein Jalilian, *Costs and Benefits of Cross-Country Migration in the GMS* (2012) 145; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12; IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 12; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56; see, however, ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 36, which suggests that education levels of Lao labour migrants are higher than those of Cambodians.

to exploitation.³⁷¹ On the other hand, Lao nationals, especially those from lowland Lao PDR, are able to communicate in Thailand quite easily, which gives them a slightly greater degree of independence than labour migrants from Cambodia and Myanmar who often cannot read or speak Thai.³⁷²

Arrangements and departure

Most Lao labour migrants do not require any assistance or prior arrangements to leave for Thailand. If migrants require assistance, it is usually sourced through friends or relatives.³⁷³ In interviews conducted in Lao PDR for the purpose of this report, respondents stressed that migration to Thailand does not often involve smugglers. Border passes can be easily obtained and “the border is so porous, that smugglers are only needed if migrants seek to move to a third country.”

When migrant smuggling does occur, migrants are guided to the border and then transferred to Thai smugglers. Thai smugglers then transport migrants to their prospective employers and provide or organise accommodation. These transportation services to and from the border usually cost approximately THB 2,500–3,000, which may be paid by Thai employers to recruiters and smugglers and later deducted from a migrants’ income.³⁷⁴

3.3.3 Trafficking in children

Purposes of child trafficking

Trafficking in children from Lao PDR to Thailand is done mostly for the purpose of sexual exploitation or forced labour. The extent to which Lao children, most of them girls, are trafficked to Thailand to work in the sex industry is not documented in any detail, though there are reports broadly identifying the problem.³⁷⁵ Children are trafficked for sexual exploitation in brothels, massage parlours, bars,

³⁷¹ AKM Ahsan Ullah & Mallik Akram Hossain ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 63.

³⁷² Cf Lao PDR, Committee for Planning and Investment, National Statistics Centre & UNDP, *International Trade and Human Development Lao PDR 2006: The Third National Human Development Report* (2006) 77.

³⁷³ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People’s Democratic Republic* (2016) 9.

³⁷⁴ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao PDR’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 194; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 27.

³⁷⁵ Deanna Davy, ‘Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia’ (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 802; Elizabeth Bernstein & Elena Shih, ‘The Erotics of Authenticity: Sex Trafficking and ‘Reality Tourism’ in Thailand’ (2014) 21(3) *Social Politics* 430, 445; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 19; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 215; Brendan Howe & Kearnin Sims, ‘Human Security and Development in the Lao PDR — Freedom from Fear and Freedom from Want’ (2011) 51(2) *Asian Survey* 331, 342.

hotels and private residences.³⁷⁶

Several sources suggest trafficking in children from Lao PDR to Thailand for labour exploitation is more common than trafficking for sexual exploitation.³⁷⁷ As is the case of adults, Lao children usually are exploited in the domestic services, factory work, hospitality, fishing and the agricultural sectors. Exploitation and abuse in the domestic service sector, which usually involves girls, appears to be particularly common and severe.³⁷⁸

Some reports also point to children being trafficked from rural parts of Lao PDR to engage in forced begging in Thailand. This appears to be a problem particularly in Bangkok and Thailand's main tourist areas, such as Pattaya.³⁷⁹ This topic is presently not very well documented and requires further research.

Recruitment and first contact

Most migrant children, especially those who are adolescents, initiate going to Thailand themselves or respond to recruitment by brokers or through social media, according to most sources. This has also been confirmed in interviews conducted in Lao PDR for the purpose of this report. Interview respondents identified apps such as Line as frequently used today to communicate with brokers and to organise the journey to Thailand.

The migration of children, similar to that of adults, is motivated by the desire to improve their economic situation and the perception they can find better employment and opportunities in Thailand. Some children are persuaded or encouraged by their parents to work abroad in order to send remittances back to their families, but some children also decide to migrate without first soliciting parental consent.³⁸⁰

The methods used to recruit children are not fundamentally different from those used to recruit adults: both are lured with promises of a better life and opportunities abroad. Parents, people from the local community and elders may also play a significant role in recruiting and encouraging children to emigrate. Because of their limited knowledge and experience, children are easily tricked into agreeing

³⁷⁶ United States, Department of State, *Trafficking in Persons Report 2015* (2015) 331.

³⁷⁷ Roy Huijmans, 'Children Working Beyond Their Localities – Lao children working in Thailand' (2008) 15(3) *Childhood* 331, 341 with further references; cf World Vision, *The Vulnerability Report, Human Trafficking in the Greater Mekong Sub-region* (2014) 8.

³⁷⁸ United States, Department of State, *Trafficking in Persons Report 2015* (2015) 215; AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284; Roy Huijmans, 'Children Working Beyond Their Localities – Lao children working in Thailand' (2008) 15(3) *Childhood* 331, 341–344; UNICEF, Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 33

³⁷⁹ AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs,' in Benny Teh Cheng Guan (ed.), *Human Security: Securing East Asia's Future* (2012), 75, 85–86.

³⁸⁰ Roy Huijmans, 'Children Working Beyond Their Localities – Lao children working in Thailand' (2008) 15(3) *Childhood* 331, 341; World Vision, *The Vulnerability Report, Human Trafficking in the Greater Mekong Sub-region* (2014) 8.

to situations that may lead them into trafficking.³⁸¹

Profile of victims

Most child trafficking victims from Lao PDR are between 12 and 18 years old. On average, trafficked boys tend to be older than girls. Trafficking in girls is much more common than trafficking in boys.³⁸² The higher levels of victimisation of girls compared to boys has been attributed to the fact that levels of education tend to be lower among Lao girls, making them more vulnerable to trafficking.³⁸³ Research conducted by UNICEF and the Lao PDR Ministry of Labour and Social Welfare found that most trafficked girls had never attended school or had only received incomplete primary schooling.³⁸⁴ Other research suggests that while many children and young people have limited education and many come from low income families, they are generally not “the poorest of the poor” and do not come from the least educated segments of Lao society.³⁸⁵ A 2009 study found that ethnic minorities tend to be overrepresented among children trafficked from Lao PDR to Thailand.³⁸⁶

Arrangements and departure

The available sources relating to trafficking in children from Lao PDR create the general impression that the arrangements and departure of children follow the same patterns as those of adults, though a small number of sources say that if children are involved, the use of force and intimidation is more common.³⁸⁷ In interviews conducted in Lao PDR for the purpose of this report, respondents suggested some children travel on forged documents identifying them as adults.

³⁸¹ UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 23–24, 56

³⁸² Didier Bertrand, ‘Migrations and Trafficking in the Lao PDR Contextual Analysis of Sexual Exploitation and Victimisation’, in Pierre Le Roux et al. (ed), *The Trade in Human Beings for Sex in Southeast Asia - A General Statement of Prostitution and Trafficked Women and Children* (2010) 157, 162; UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 18–19.

³⁸³ See further, Section III.3.2.2 above.

³⁸⁴ UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 19–20.

³⁸⁵ Roy Huijmans, ‘Children Working Beyond Their Localities – Lao children working in Thailand’ (2008) 15(3) *Childhood* 331, 340–342; Hossein Jalilian, *Costs and Benefits of Cross-Country Migration in the GMS* (2012) 145; see, however, also Ratchada Jayagupta, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 229; UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 8.

³⁸⁶ UNICEF & Lao PDR, Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 18.

³⁸⁷ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 53–54.

3.4 Means and routes for irregular migration and trafficking

3.4.1 Means of transportation

Travel from Lao PDR to Thailand is easy and migrants, smugglers and traffickers can choose from a variety of means of transportation to cross the border. This may include scheduled bus services, boats and ferry services across the Mekong River, driving migrants across the border in cars, vans, or trucks or simply walking or guiding migrants on foot to Thailand. Both covert and overt methods are used to bring migrants across the border. Sometimes, local people who live near the border, including children, offer to guide or drive migrants to Thailand in return for payment.³⁸⁸

In most instances, migrants do not require smugglers, traffickers or any other assistance to enter Thailand. A recent study by IOM found the use of brokers and other facilitators to reach Thailand is not a common occurrence and intermediaries are generally not needed to enter Thailand,³⁸⁹ a point that was also stressed in interviews conducted in Lao PDR for the purpose of this report.

The development of new roads and infrastructure and the creation of special economic zones along the border offer faster and easier access to Thailand in some parts of Lao PDR. Some sources suggest smugglers and traffickers are using new and more direct roads to bring migrants across to Thailand.³⁹⁰

Clandestine trafficking methods

The border between Lao PDR and Thailand runs through many rural and remote areas, along rivers and through thick jungles where border controls are non-existent. Some migrants prefer to cross into Thailand away from official border control points and main roads and enter the country clandestinely without detection. Crossing through jungles, mountains and other remote areas reduces the risk that police and border control guards detect migrants, but adds to the time needed to reach Thailand. Smuggling through these areas also involves considerable risks stemming from the terrain and the unavailability of food, clean drinking water and medical assistance in very remote areas. Many migrants are believed to have been injured or to have died whilst attempting to move through jungles or cross rivers to reach Thailand.³⁹¹

Fraudulent travel and identity documents

Fraudulent travel or identity documents seem to play a very minor role in smuggling of migrants and trafficking in persons from Lao PDR to Thailand. The ease of crossing the border makes it unnecessary for migrants to acquire forged documents.

Interviews conducted in Lao PDR for the purpose of this report revealed that fraudulent identity documents are sometimes used to bring minors into Thailand. These documents identify the minors as adults so they can cross the border more easily. Interview respondents also said some Lao nationals misuse their border passes to cross into Thailand or make them available to others to use.

³⁸⁸ United States, Department of State, *Trafficking in Persons Report 2015* (2015) 215.

³⁸⁹ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 9.

³⁹⁰ UNIAP, *Mekong Region Country Datasheets Human Trafficking* (2010) 14.

³⁹¹ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 42.

Overt and lawful transportation methods

Although irregular entry to Thailand is common, many migrants enter Thailand lawfully using official documentation. Some migrants apply for passports, though they are considered expensive and difficult to obtain for ordinary Lao nationals. More commonly, migrants obtain border passes, which permit them to enter Thailand temporarily at any of the official border control points. Local authorities issue these passes to border area residents seeking to enter Thailand regularly to take up employment in one of the provinces bordering Lao PDR, or to sell produce in Thai markets. The border passes are low cost and can be obtained with relative ease.³⁹² Lao nationals using border passes to enter Thailand only become irregular migrants if they overstay their permit or otherwise violate the conditions of the permit.

3.4.2 Common routes

Irregular migrants from Lao PDR usually enter Thailand by directly crossing the border overland or across rivers, by travelling via another country (especially Cambodia) to reach the Gulf of Thailand and then continuing by boat, or via Malaysia and then across Thailand's southern border.³⁹³ Migrants from rural areas who are smuggled to Thailand are sometimes moved to one of Lao PDR's main cities near the border, such as Vientiane, Savannakhet or towns in Champasak Province, before making arrangements to take them to Thailand.³⁹⁴

The Mekong River marks much of the border between the two countries, which makes border crossings by boat or by swimming across the river quick and easy. Crossings over the land border are said to be more expensive and more difficult than those involving boats or other floating devices.³⁹⁵ A 2007 report noted most Lao migrants cross the Mekong River near the capital Vientiane and enter Thailand at Nong Khai. A second main route leads from the Champasak Province to the Khemmarat District of Ubon Rachathani Province in Thailand.³⁹⁶ Some migrants may travel along main roads and through official border control points, while others use routes through remote mountain or jungle

³⁹² Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 194; Sverre Molland, 'The Perfect Business': Human Trafficking and Lao-Thai Cross-Border Migration' (2010) 41(5) *Development and Change* 831, 843; cf Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 34–38.

³⁹³ AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 284

³⁹⁴ UNIAP, *Mekong Region Country Datasheets Human Trafficking* (2010) 14.

³⁹⁵ UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 40; Daniela Reale, 'Protecting and supporting children on the move: Translating principles into practice' in IOM, *Children on the Move* (2013) 63, 69.

³⁹⁶ Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 34–38; see also, UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 3.

areas to avoid interception by border guards.³⁹⁷

3.4.3 Entry into Thailand

Entry points into Thailand

Entry into Thailand from Lao PDR occurs, for the most part, across the Mekong River, overland across the shared border, or, as mentioned, in a small number of cases by boat through the Gulf of Thailand or via a third country such as Malaysia. Entry occurs both at and away from border control points, may involve overt and covert methods and may be lawful or unlawful.³⁹⁸ Border crossings are particularly common in areas near the capital of Vientiane and the Thai border city of Nong Khai, approximately 40 kilometres south of Vientiane.³⁹⁹

Towns and provinces along the border are most affected by irregular migration because migrants remain in the border areas of Thailand to work in the agricultural sector or other industries and frequently return to Lao PDR, some on a daily or weekly basis.⁴⁰⁰ Ubon Ratchathani and Mukdahan provinces in Thailand's east have been identified as frequent entry and transit points for irregular migrants from Lao PDR.⁴⁰¹

Complicity and corruption of border officials

There seem to be considerable differences in the rigour with which a migrant's documents are checked at different control points along the Lao-Thai border. Some locations have tight controls and frequent checks, while less rigorous checks occur elsewhere. At some border control points, officials require all arrivals to present their travel and identity documents, while at others, border officials only conduct selective checks or allow the entry and presence of migrant workers from Lao PDR without checking the validity of their documents.⁴⁰²

In some instances, border guards and police along the Lao-Thai border are complicit in the smuggling and trafficking activities, in that they deliberately “turn a blind eye” to irregular cross-border

³⁹⁷ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 42.

³⁹⁸ Michiko Ito, ‘Thailand’s Approach Toward the Management of Migrant Workers’ in Masami Ishida (ed), *Border Economies in the Greater Mekong Subregion* (2013) 29, 31–32.

³⁹⁹ Rhoda Margesson, ‘Displaced Populations in Burma’s Borderlands: When Are Borders a Significant Barrier of Means of Protection?’ in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 201.

⁴⁰⁰ Sarkar Siddhartha, ‘Engendering Trafficking and Human Security: A Comparative Study of India and Hungary’ (2011) 1(2) *International Journal of Research and Quantitative Techniques* 25, 29.

⁴⁰¹ Michiko Ito, ‘Thailand’s Approach Toward the Management of Migrant Workers’, in Masami Ishida (ed), *Border Economies in the Greater Mekong Subregion* (2013) 29, 31–32; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 17.

⁴⁰² Daniela Reale, ‘Protecting and supporting children on the move: Translating principles into practice’ in IOM (ed), *Children on the Move* (2013) 63, 69; see also, Rhoda Margesson, ‘Displaced Populations in Burma’s Borderlands: When Are Borders a Significant Barrier of Means of Protection?’ in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 201.

movements. In other cases, they actively assist irregular migrants, smugglers and traffickers by allowing migrants to cross unchecked.⁴⁰³ Interviews conducted for the purpose of this report found that border guards may receive small cash bribes in return for allowing migrants without the correct documents to exit Lao PDR and enter Thailand.

3.5 Exploitation

Migrants from Lao PDR are vulnerable to exploitation and abuse. They may encounter harsh treatment and discrimination by Lao or Thai smugglers, Thai employers or other Thai nationals who sometimes take advantage of a migrants' irregular status.⁴⁰⁴

3.5.1 Conditions of travel

Irregular migrants from Lao PDR who are smuggled on remote routes often have to travel through harsh terrain, jungles, mountainous areas or swim or wade through rivers. While some migrants are unaware of the dangers and difficulties they may encounter along their journey, others agree to use dangerous routes.⁴⁰⁵ The more remote the route, the more difficult it can be for migrants to get access to food, water and medical assistance. A 2011 report noted some smuggled migrants may take longer, more circuitous and dangerous routes leading through mountainous terrain, which can take as long as one month to traverse. On some journeys, migrants are often not equipped with sufficient supplies, leading to weakness and dehydration, while others suffer from fever, jaundice and stress.⁴⁰⁶ Further dangers arise if the Mekong or other large rivers need to be crossed, especially if migrants attempt to swim across the river or use unreliable floating devices. There have been reports of migrants dying along the journey.⁴⁰⁷

A study published in 2011 found that while most migrants from Lao PDR (about 58 per cent) take between one and five days to reach their destination in Thailand, 21 per cent take between five and

⁴⁰³ United States, Department of State, *Trafficking in Persons Report 2014* (2014) 372 United States, Department of State, *Trafficking in Persons Report 2013* (2013) 229; cf AKM Ahsan Ullah, Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286–287. See further, Section III.6.4.1 below.

⁴⁰⁴ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 26.

⁴⁰⁵ Cf ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 41–42.

⁴⁰⁶ AKM Ahsan Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South-East Asian Studies* 273, 285.

⁴⁰⁷ AKM Ahsan Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South-East Asian Studies* 273, 284–285; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 42.

ten days and others take longer still.⁴⁰⁸ While these figures are based on a small-scale survey and may not be representative of the current situation, they show that irregular migration is often not a fast and straightforward process and may be associated with long delays, obstacles and uncertainties.

3.5.2 Treatment by traffickers

Deception

Most commonly, deception involves a migrant's salary and their working and living conditions in Thailand,⁴⁰⁹ but deception may also occur during the journey to Thailand. Smugglers may withhold information regarding the journey to Thailand for fear the migrants may leak these details to other smugglers or to authorities, while some smugglers may not have their routes and methods planned out in advance. Many migrants appear to receive very little information about how, when and where they will be brought to Thailand or only receive information at the last minute. The available literature suggests many migrants leave Lao PDR with very limited knowledge about how they will enter Thailand and what to expect there.⁴¹⁰

This is not to suggest that all migrants are naïve. Even young people from Lao PDR are becoming more aware of the risks associated with migration and trafficking in persons and taking steps to determine whether the jobs they are being offered are legitimate. Interviews conducted for the purpose of this report revealed that despite migrants' best efforts to check the legitimacy of brokers and employers, they may nonetheless be deceived. As one interview respondent commented:

But now the brokers have changed. The broker tries to show that they're a real person who can get good information. They advertise factories to make it look real. Provide street addresses and phone numbers. It all looks real. It's only if you really go through the information that you realise that the companies don't exist. There's a phone number but you call it and it doesn't work. There's a road, but no specific address or you find the road doesn't exist.

Control

Smugglers and traffickers may exercise tight control over a migrant's movements. In some isolated cases, migrants are transported in locked cars or compartments or may be deprived of their liberty in other ways to ensure they do not escape.⁴¹¹

Such methods of control are not always necessary for employers and subtler methods are used instead to control migrants. Many migrant workers are bound to their employers by debt, a point further

⁴⁰⁸ AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 285.

⁴⁰⁹ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 56; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) IX.

⁴¹⁰ ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 54; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 27.

⁴¹¹ Cf Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 53–54.

explored in following sections. In other cases, threats against the victims and their families are sufficient to ensure migrants are compliant and meet a trafficker's demands. Sometimes, smugglers and traffickers confiscate a migrant's passport and other identity documents, making it harder for them to escape and return to Lao PDR. Fear of deportation and non-payment of salaries further enable traffickers to control and manipulate their victims.⁴¹²

Physical and sexual abuse

Some traffickers use violence and abuse to intimidate migrants and ensure their instructions are followed. Abuse may involve threats, physical harm, or, especially in the case of female migrants, sexual abuse. Traffickers may also withhold food and water to control migrants or may rob them of their sparse belongings and of any money they carry.⁴¹³

3.5.3 Payments and debts

Payments by migrants and family members

Regular and irregular labour migration to Thailand is expensive for migrants and their families. Obtaining travel and identity documents and organising transport are often so expensive that migrants have to sell their belongings or borrow money from families and friends. In some cases, migrants may also borrow money from licensed or private lenders.⁴¹⁴

Few migrants from Lao PDR are able to pay the fees associated with migration to Thailand upfront. Instead, Thai employers commonly cover all or some of the costs to pay recruiters or brokers and later

⁴¹² UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20; AKM Ahsan Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283, 286; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 20.

⁴¹³ AKM Ahsan Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 285–286 Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 27; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 53–54.

⁴¹⁴ Rebecca Miller & Sebastian Baumeister, 'Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?' (2013) 2 *Anti-Trafficking Review* 15, 22; IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 10; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

deduct that money from the migrants' pay once they have arrived in Thailand and commenced work.⁴¹⁵ Such arrangements create debts that tie the migrants closely to their recruiters and employers, making it difficult, if not impossible, for migrants to change employers. This poses considerable risks to migrants if they lose their jobs or return to Lao PDR before the debts are repaid in full. Such situations may also make migrants more vulnerable to exploitation, as recruiters and employers sometimes artificially inflate the amount of debt and abuse the power it gives them over migrants.⁴¹⁶

Information on fees

Most migrants, regular and irregular, pay up to THB 5,000 to get to Thailand. Some 15 per cent of migrants pay THB 10,000 or more. Most of these expenses are associated with travel costs and obtaining documents required for travel. Broker fees appear to be higher if official channels for labour migration are used.⁴¹⁷

In the case of trafficking for the purpose of sexual exploitation, brokers' fees are often paid by Thai employers in advance. Brokers charge approximately THB 30,000 to recruit and organise the transport of a woman or girl from Lao PDR to Thailand. The Thai employer then deducts that amount from the person's income.⁴¹⁸

Debts incurred

One of the main characteristics of smuggling and trafficking from Lao PDR to Thailand is the debt migrants incur by utilising the services of brokers and smugglers to cross the border and find employment in Thailand.⁴¹⁹ This point was also raised in interviews conducted in Lao PDR for the purpose of this report. Interview respondents explained that, as a result of these debts, some migrants only receive a fraction of their pay or receive no pay at all.

There is limited information about the average amount of debt incurred by migrants and the time it takes for debt to be paid off in full. Research conducted by the ILO has found that many migrants are

⁴¹⁵ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 71; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 56; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 147; Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 35.

⁴¹⁶ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13.

⁴¹⁷ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 10.

⁴¹⁸ UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 4; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20.

⁴¹⁹ See generally, World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) IX; UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 23; World Vision, *The Vulnerability Report, Human Trafficking in the Greater Mekong Sub-region* (2014) 8.

uncertain about the exact amounts owed and the time needed to repay any outstanding debts.⁴²⁰ Interviews conducted for the purpose of this report revealed it is a common practice for traffickers to artificially inflate debts for expenses such as accommodation, clothing and food.

The debt arrangements that enable many Lao migrants to move to Thailand come at a great risk to migrants. Debt provides an opportunity for employers to exercise close control over the migrants, enabling them to force migrants to work long hours and under conditions workers would not accept otherwise.⁴²¹ Debt bondage situations appear to be most frequent in Thailand's sex industry. Debt enables brothel owners and traffickers to control women and girls and force them to undertake work or engage in sexual practices they would otherwise refuse.⁴²²

3.6 Perpetrators

3.6.1 Profile of individual perpetrators

Age, gender and background

Many of the individuals involved in recruiting and transferring migrants from Lao PDR to Thailand share similar backgrounds to those they recruit. Frequently, recruiters or brokers were once themselves labour migrants in Thailand. They return to Lao PDR to spread the word about their labour experiences abroad, using their connections to arrange the recruitment, movement and employment of other Lao migrants. In many cases, these recruiters are known to the would-be migrants or to their families, friends or communities.⁴²³

A similar phenomenon has been observed in female recruiters for the sex sector in Thailand. The available literature suggests that as workers in the sex industry age and it becomes more difficult for

⁴²⁰ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 71.

⁴²¹ Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR', in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 194; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 27; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 8.

⁴²² UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20; Ratchada Jayagupta, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47(2) *International Migration* 227, 229.

⁴²³ AKM Ahsan Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 286; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 70; UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 9; US Department of State, *Trafficking in Persons Report 2016* (2016) 237.

them to secure work, they turn to recruiting young women for sex work in Thailand.⁴²⁴ Interviews conducted in Lao PDR for the purpose of this report revealed some former victims of trafficking in Thailand's sex sector later act as recruiters.

Motivation

Most people become involved in smuggling and trafficking in persons from Lao PDR to Thailand for financial gain. Information about the money recruiters, smugglers and traffickers can earn through their activities is extremely limited. A 2006 publication by the ILO found recruiters receive between THB 200 and 500 from Thai employers per person recruited, in addition to unspecified payments received from migrants.⁴²⁵

Smuggling and trafficking are widely seen as high-profit, low-risk activities requiring little initial financial investment. As mentioned earlier, some smugglers and traffickers were once smuggled or trafficked themselves and have experienced first-hand how much money can be earned in these industries. Financial gain also makes it difficult to deter existing and would-be perpetrators from engaging in smuggling and trafficking.⁴²⁶

Some recruiters have altruistic motives. They believe they are helping their fellow countrymen and women by facilitating their migration and providing them with work opportunities in Thailand. They take pride in their work and stress they are providing a way for to escape poverty and unemployment.⁴²⁷

3.6.2 Smuggling and trafficking groups and networks

Structure

While the level of organisation and sophistication of smuggling and trafficking in persons from Lao PDR to Thailand varies, most activities are carried out by loose networks of groups and individuals. Many only operate locally or within one of the two countries, leading some sources to describe trafficking in persons from Lao PDR to Thailand as a “cottage industry”.⁴²⁸

Available information suggests that individuals and groups from both sides of the border often work in collaboration, handing smuggled migrants from one group of smugglers to the other. The “services” offered by smugglers are not limited to transportation, but also often include accommodation and job placements in Thailand. Migrants may also carry out some parts of the journey without the aid of

⁴²⁴ Sverre Molland, ‘Tandem ethnography: On researching ‘trafficking’ and ‘anti-trafficking’ (2013) 14(3) *Ethnography*, 300, 300–301;

⁴²⁵ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 71.

⁴²⁶ AKM Ahsan Ullah & Mallik Akram Hossain, ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 276 with further references.

⁴²⁷ Sverre Molland, ‘The Value of Bodies: Deception, Helping and Profiteering in Human Trafficking Along the Thai-Lao Border’ (2010) 34(2) *Asian Studies Review* 211, 219–220, 222; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 71.

⁴²⁸ Srawoath Paitoonpong, *Different Stream, Different Needs, And Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 29.

smugglers or traffickers, especially if migrants have pre-existing contacts along the route.⁴²⁹

Smuggling and trafficking from Lao PDR to Thailand generally does not require complex and sophisticated planning and many perpetrators are merely opportunistic actors seeking to increase their personal wealth, according to available literature. It is not necessary and would not be economical to establish closely-knit syndicates that employ elaborate techniques to conceal their activities and the migrants they smuggle. Evidence showing the involvement of structured criminal organisations is extremely limited.⁴³⁰ Several sources, however, note that some groups and individuals maintain at least a minor level of hierarchical organisation, meaning certain individuals oversee the smuggling or trafficking venture in whole or in part.⁴³¹

It should be stressed that the criminality of the smugglers, traffickers and their networks is not immediately clear to many migrants. In the eyes of many migrants, smugglers provide an important and useful service that helps people escape poverty and unemployment. This attitude towards smugglers may help explain why many perpetrators do not need to employ force or coercion against migrants and do not need to establish complex organisational structures to control and intimidate migrants.⁴³²

To what extent, if any, the smuggling of migrants and trafficking in persons may be associated with other criminal activities and other forms of organised crime is not known. There is very little evidence to support speculations that people are smuggled from Lao PDR into Thailand alongside drugs, weapons and other contraband.⁴³³

⁴²⁹ Christopher Jasparro & Jonathan Taylor, 'Climate Change and Regional Vulnerability to Transnational Security Threats in Southeast Asia' (2016) 13(2) *Geopolitics*, 232, 241; UNIAP, *Mekong Region Country Datasheets Human Trafficking* (2010) 14; Sverre Molland, 'Safe Migration, Dilettante Brokers and the Appropriation of Legality: Lao-Thai 'Trafficking' in the Context of Regulating Labour Migration' (2012) 85(1) *Pacific Affairs* 117, 129; Lao PDR, Department of Statistics (DOS) & National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao PDR' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 194; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 70; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12; ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 2, 24, 49; US Department of State, *Trafficking in Persons Report 2016* (2016) 237.

⁴³⁰ See, for example, UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the LAO PDR*, (2009) 9, 23.

⁴³¹ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 29; Zrinka Gugić, 'Human Trafficking under the Veil of Sex Tourism in Thailand – Reactions of the EU' (2014) 30 *Pravni Vjesnik God* 355, 364.

⁴³² Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 29.

⁴³³ See, for example, Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law & Social Change* 159, 164.

Roles and duties

Although the smuggling of migrants and trafficking in persons from Lao PDR to Thailand involves a range of steps and requires several services, it is not possible to clearly separate the persons involved by their specific roles and duties. Irregular migrants often rely on a range of people who facilitate their journey. Additionally, because local groups and individuals carry out most ventures, most perpetrators perform multiple tasks and do not clearly separate duties between them. Some perpetrators also serve as recruiter and transporter, transporter and employer or even smuggler and trafficker at the same time. In some isolated cases, single perpetrators may organise and carry out the entire venture into Thailand alone⁴³⁴

3.6.3 Legal and semi-legal operators

Much of the labour migration from Lao PDR to Thailand occurs in a legal grey area in which the legality of the operation is not entirely certain. The important role brokers play in recruiting migrants and arranging their transportation to and employment in Thailand has been stressed in earlier parts of this chapter. It is not always clear to what extent the services offered by these brokers is against the law and to what degree non-compliance with existing laws and regulations amounts to a criminal offense. Greater clarity about the role of brokers, better regulation and greater certainty about lawful and non-lawful services offered by brokers is needed. Some sources suggest, though, that because irregular migration produces considerable benefits for certain groups and individuals, certain “vested interest” prevent any change to the status quo.⁴³⁵

Interviews conducted for the purpose of this report revealed there are currently 15 licenced recruitment agencies in Lao PDR that are able to organise migrant workers to be transferred to and employed by companies in Thailand. Some interview respondents were critical of the recruitment agencies, suggesting their only goal is financial profit and that few workers under recruitment agency schemes have contracts. They also said the system of entering Lao migrant workers into debt contracts is unethical.

Some legitimate, commercial operators may be oblivious to the fact they are transporting migrants who do not have required papers to enter Thailand or who may have been coerced into migrating. Others may “turn a blind eye” to such cases and others still may be complicit with smugglers and traffickers. It can be difficult in these cases to determine if this constitutes a criminal offense or whether such conduct is merely an infringement of transportation rules and regulations.

⁴³⁴ Cf UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11–12; Sverre Molland, ‘Tandem ethnography: On researching ‘trafficking’ and ‘anti-trafficking’ (2013) 14(3) *Ethnography*, 300, 300–301.

⁴³⁵ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 33; cf Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)*, Discussion Paper Series No 2011-28, Philippine Institute for Development Studies (2011) 27; Sverre Molland ‘Safe Migration, Dilettante Brokers and the Appropriation of Legality: Lao-Thai ‘Trafficking’ in the Context of Regulating Labour Migration’ (2012) 85(1) *Pacific Affairs* 117, 119.

3.6.4 Persons aiding and facilitating smugglers and traffickers

Corrupt officials

Corruption sometimes serves to facilitate smuggling and trafficking. Interviews conducted for the purpose of this report revealed that in some instances, officials are bribed to turn a blind eye to irregular migration or smuggling and trafficking ventures. In other cases, officials are bribed to prevent intervention by other agencies and, in other cases still, corrupt officials are complicit with perpetrators and play an active role in smuggling or trafficking networks. Despite the many ways in which corruption can facilitate the smuggling of migrants and trafficking in persons, concrete evidence of specific instances and methods is quite limited.

Based on available information, corruption is most commonly used to facilitate the border crossing of irregular migrants.⁴³⁶ Several sources say bribes are paid to law enforcement officers to avoid the arrest of irregular migrants or to ensure police refrain from stopping and reporting smuggling and trafficking ventures.⁴³⁷

⁴³⁶ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 70; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 33; UNICEF & Lao PDR Ministry of Labor and Social Welfare, *Broken Promises Shattered Dreams, A Profile of Child Trafficking in the Lao PDR* (2009) 25; United States Department of State, *Trafficking in Persons Report 2015* (2015) 216, 331; United States Department of State, *Trafficking in Persons Report 2013* (2013) 229.

⁴³⁷ Inthasone Phetsiriseng, *Gender Concerns in Migration in Lao PDR: Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives* (2007) 7; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 66; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked. The realities of young migrant workers in Thailand (Volume 1)* (2006) 72.

4 Myanmar

4.1 Overview and data



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Myanmar is an important source country for irregular migration to Thailand. As much as 10 per cent

of Myanmar's population has migrated to other countries.⁴³⁸ Years of political and ethnic tensions have led large numbers of people to flee from Myanmar. Many Myanmar nationals also emigrate in pursuit of better economic opportunities.

Neighbouring Thailand is the closest destination for the majority of migrants from Myanmar. In interviews conducted for the purpose of this report, respondents suggested approximately 70 per cent of migrants from Myanmar head to Thailand. The two countries share a very long land border that is mountainous, porous and uncontrolled in many parts. The Thai government has, at times, been very tolerant of the influx of refugees and other migrants from Myanmar but, at others, adopted measures to return them in great numbers and prevent further arrivals.⁴³⁹

4.1.1 Irregular migration

Estimates of the number of irregular migrants from Myanmar residing in Thailand vary greatly. A 2013 estimate by UNODC suggests approximately 450,000 Myanmar nationals reside in Thailand irregularly.⁴⁴⁰ Other sources say anywhere between 1 and 3 million irregular migrants from Myanmar may be living in Thailand, more than ten times the number of regular migrants.⁴⁴¹

The number of irregular migrants from Myanmar may be higher still if refugees living in Thailand are included.⁴⁴² There are between 130,000 and 180,000 refugees from Myanmar estimated to be in Thailand.⁴⁴³ Many of them, approximately 100,000–150,000, live in refugee camps along the Thai-

⁴³⁸ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 34.

⁴³⁹ Rhoda Margesson, 'Displaced Populations in Burma's Borderlands: When Are Borders a Significant Barrier of Means of Protection?' in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 201.

⁴⁴⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12–13.

⁴⁴¹ Stephen Campbell, 'Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand' (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 261; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 33; Renaud Egretteau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 123; Syeda Naushin Parnini, 'The Rohingya Issue in Bangladesh-Myanmar Relations' (2011) 4(23) *International Journal of Arts & Sciences* 65, 72; IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and their Impacts on Thailand* (2013) 1; Aungkana Kmonpetch, *The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand*, Kyoto Working Papers on Area Studies No 106 (2011) 4; Jerrold W Hugué & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 23.

⁴⁴² Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37 *International Journal of Comparative and Applied Criminal Justice* 279, 283; see also, Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 82.

⁴⁴³ Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 24; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 82; Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37 *International Journal of Comparative and Applied Criminal Justice* 279, 283;

Myanmar border.⁴⁴⁴ In addition, some 200,000–250,000 ethnic Shans who have fled Myanmar (but are not always recognised as refugees) reside in Thailand’s northern provinces.⁴⁴⁵

By any account, Myanmar nationals constitute the largest group of irregular migrants in Thailand. Smugglers facilitate most of this irregular migration. According to a 2013 UNODC report, approximately 83 per cent of irregular Myanmar migrants entering Thailand do so with the aid of migrant smugglers.⁴⁴⁶ An estimated 300 Myanmar migrant workers are also smuggled into Thailand daily.⁴⁴⁷

4.1.2 Trafficking in persons

Thailand is the second largest destination for trafficking in persons from Myanmar after China. Accurate data on the true extent of trafficking is not available and estimates vary greatly between sources. For example, according to research published in 2013, 483 victims of trafficking, most of them women, were “rescued” from Thailand between 2006 and 2011.⁴⁴⁸ In 2014, the Thai government reported that 224 Myanmar nationals were identified as victims of trafficking in Thailand between 2013 and 2014.⁴⁴⁹

⁴⁴⁴ Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 23; Renaud Egreteau, ‘Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia’ (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 123; Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 34; Women’s Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 10; Susan Banki & Hazel Lang, ‘Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions’ in Howard Adelman (ed), *Protracted Displacement in Asia: No Place to Call Home* (2008) 59, 66; Syeda Naushin Parnini, ‘The Rohingya Issue in Bangladesh–Myanmar Relations’ (2011) 4(23) *International Journal of Arts & Sciences* 65, 72.

⁴⁴⁵ Susan Banki & Hazel Lang, ‘Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions’ in Howard Adelman (ed), *Protracted Displacement in Asia: No Place to Call Home* (2008) 59, 67–68; Christa F Crawford, ‘Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 835–836; Women’s Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 9.

⁴⁴⁶ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

⁴⁴⁷ UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 171–168; Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 39; Lawi Weng, ‘Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy’, *Mekong Migration Network* (online), 21 August 2008 <<http://www.mekongmigration.org/mmn/?p=204>> (accessed 30 June 2016).

⁴⁴⁸ David A Feingold, ‘The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms’ (2013) 25 *Cultural Dynamics* 207, 212.

⁴⁴⁹ Government of Thailand, *2014 Thailand Situation and Progress Report on Prevention and Suppression of Trafficking in Persons*, 45.

4.2 Causes of irregular migration and trafficking

A range of complex political and socio-economic push factors causes emigration from Myanmar, including irregular migration and smuggling. These different factors, some of which have persisted for many years and displaced large numbers of people, are closely interlinked and often coincide. For example, the economic stagnation Myanmar suffered in the 1990s was driven, in part, by conflict, centralised economic mismanagement, and international sanctions against the country.⁴⁵⁰

One of the factors fuelling regular and irregular migration between the two countries is geographical proximity. Myanmar and Thailand share a border that stretches some 2,400 km in length and runs through many remote areas. The border is porous in many places and, given their proximity, a long history of migration and trade connects the two countries.⁴⁵¹

Myanmar's economic stagnation during the 1990s also played a critical role. As economic development in Myanmar stagnated during the 1990s, other countries in Southeast Asia, including neighbouring Thailand, experienced considerable economic growth, leading to wide disparities between Myanmar and its neighbours. The causes and circumstances of Myanmar's economic stagnation are categorised and prioritised differently in the literature, with some sources focusing on socio-economic push and pull factors and others identifying political push factors as the primary drivers of migration.⁴⁵² In reality, it is not possible to clearly separate economic from political factors, as one source argues:

Differentiating the former from the latter [...] is an inherently problematic effort, because it seeks to separate those fleeing from political persecution from those fleeing economic hardship, two phenomena that are often intertwined. [...] The literature on the migration–asylum nexus has demonstrated that this division is more of a continuum than a dichotomy, evidence that supports the case of Burmese migrants, between one and two million of whom have crossed the border into Thailand for work. Their situation may be classified as primarily economic, but influenced by underlying political factors. Alternatively, they may have fled for political reasons, but have chosen to remain as undocumented migrants because they fear not receiving refugee status.⁴⁵³

The following sections need to be understood in this context and political and socioeconomic factors should not be seen in isolation from each other.⁴⁵⁴

⁴⁵⁰ Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 834–835; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 7.

⁴⁵¹ Inge Brees, 'Burden or Boon: The Impact of Burmese Refugees on Thailand' (2010) 11 *Whitehead Journal of Diplomacy and International Relations* 35, 36.

⁴⁵² See also, Renaud Egretreau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 117; UNODC, *Migrant Smuggling in Asia: A Thematic Review of Literature* (2012) 169–170.

⁴⁵³ Susan Banki & Hazel Lang, 'Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 59, 64–65.

⁴⁵⁴ See also, Mahmood Hayeemad & Rathakarn Buasri, 'Impact of the AEC on Migrant Workers: A Case Study of the Rohingya in Khon Kaen Thailand' (2015) 1 *Journal of Asian Development* 23, 27; Christa Foster Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 835.

4.2.1 Push and pull factors

General economic situation

Myanmar's political and economic isolation for most of the last three decades has had significant consequences for its economic development, employment opportunities and income levels in the country—all important push factors for migration. Myanmar's economy has suffered under many years of sanctions, limited foreign investment and economic mismanagement. Severe natural disasters, ethnic tensions and political conflict have further hampered economic development.⁴⁵⁵

Myanmar's weak economic position must be understood in the context of economic developments in other Southeast Asian nations, especially Thailand, which has experienced strong economic growth and development over the past two decades, widening the gap between the two countries and creating a strong pull factor for migration.⁴⁵⁶ Thailand's per capita GDP has been six to seven times that of Myanmar for most of the past 25 years.⁴⁵⁷

Despite many recent political and economic reforms, Myanmar's economy remains poorly developed and vulnerable to fluctuations and rampant inflation. Figure 13 below shows that despite strong GDP growth rates in recent years, per capita GDP levels have not increased and are lower today than they were in 2012. Commodity prices and currency exchange rates are unpredictable and high consumer prices have forced many people into cycles of debt and poverty. The Government of Myanmar also imposes heavy taxation rates, which often compels farmers to sell crops well below market prices and further contributes to rural poverty.⁴⁵⁸

Most sources agree that migration from Myanmar to Thailand, regular and irregular, is frequently driven by dire economic circumstances and the desire of migrants to improve their livelihoods and

⁴⁵⁵ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 83.

⁴⁵⁶ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 195; Rhoda Margesson, 'Displaced Populations in Burma's Borderlands: When Are Borders a Significant Barrier of Means of Protection?' in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 188; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 34–35; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 844.

⁴⁵⁷ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 83; Khen Suan Khai, 'Thailand's policy towards irregular migration: Situation analysis of Burmese migrant workers under Thailand's Migration Policy' (2012) 1 *MFU Connexion: Journal of Humanities and Social Sciences* 1, 1.

⁴⁵⁸ Khen Suan Khai, 'Thailand's policy towards Irregular Migration: Situation analysis of Burmese migrant workers under Thailand's Migration Policy' (2012) 1 *MFU Connexion: Journal of Humanities and Social Sciences* 1, 3–4.

those of their families.⁴⁵⁹

Figure 13: Economic indicators, Myanmar 2006–2015 (World Bank, 2016)⁴⁶⁰

	GDP at market prices, USD million	GDP per capita, USD	GDP growth %	Unemployment, % of total work force
2015	n.a.	1,204	7%	3.3%
2014	64,330	1,204	8.5%	3.3%
2013	58,562	1,107	8.2%	3.3%
2012	74,691	1,421	n.a.	3.3%
2011	n.a.	n.a.	n.a.	3.4%
2010	n.a.	n.a.	n.a.	3.4%
2009	n.a.	n.a.	n.a.	3.5%
2008	n.a.	n.a.	n.a.	3.5%
2007	n.a.	n.a.	n.a.	3.3%
2006	n.a.	n.a.	n.a.	3.4%

There are some early indications that, since 2011, Myanmar’s democratisation and political and economic openings have gained traction. Foreign investment is increasing, and opportunities for workers are improving.⁴⁶¹ These developments, however, have not yet reduced levels of migration to Thailand in any significant way. Some observers suggest that if investment and the economy continue to grow, the push for emigration will decrease in the medium and long-term and migration to Thailand will become less attractive, perhaps even leading some migrants to return to Myanmar.⁴⁶² The creation of special “Border Economic Zones” (BEZs) in the Mae Sot and Myawaddy area may help create better income and work opportunities in Myanmar, though such zones may only benefit a limited number of people in close proximity to such zones and are unlikely to reduce push factors for migration overall.⁴⁶³

Although many people from Myanmar irregularly migrate to Thailand due to economic factors, sources classify their movements as forced migration, noting that the country’s economic situation is so dire there is little choice but to emigrate. Economic policies and poor economic management by previous

⁴⁵⁹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 82, 85; Christa F Crawford, ‘Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 836; United States, Department of State, *Trafficking in Persons Report 2013* (2013) 111; Karen Human Rights Group, *Abuse between borders: vulnerability for Burmese workers deported from Thailand* (2010) 1.

⁴⁶⁰ World Bank, ‘Open Data’ <data.worldbank.org>

⁴⁶¹ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 33–34.

⁴⁶² Matthew Clarke, ‘Over the border and under the radar: can illegal migrants be active citizens?’ (2009) 19 *Development in Practice* 1064, 1071–1072; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 10; cf United States, Department of State, *Trafficking in Persons Report 2014* (2014) 114; United States, Department of State, *Trafficking in Persons Report 2013* (2013) 111.

⁴⁶³ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 250.

governments as well as internal conflict, have destroyed the livelihoods of many people. “Severe economic hardship makes migration forced, not a choice”, noted a 2006 publication.⁴⁶⁴ Interviews conducted in Myanmar for the purpose of this report also confirmed this. Several interview respondents argued that many people move from Myanmar to Thailand to survive and not because of convenience. These interviews also revealed that Myanmar’s difficult economic situation has led many people to take out loans. Some move to Thailand to escape heavy debt burdens or to earn money to repay these debts.

Availability of work, labour demand

Slow economic growth in Myanmar has meant that employment opportunities are very limited, especially in positions and professions that offer medium or long-term employment and a sustainable income. Although official unemployment rates are relatively low by international standards, many people only have casual employment that is poorly paid. Education levels, especially in rural and remote parts of the country, are also quite low and only a small class of citizens can develop proper careers with long-term employment prospects. Unemployment among youth is particularly high.⁴⁶⁵

Myanmar’s economy stands in sharp contrast to Thailand, where economic growth and labour demand have been high since the 1990s. Much of Thailand’s growth has been in labour-intensive industries. Despite many fluctuations and financial crises, Thailand has continuously needed foreign workers in great numbers and labour demand is not met by supply.⁴⁶⁶ Migrants from Myanmar and other neighbouring countries easily fill low-skilled and unskilled jobs, even if migrants have limited knowledge of the Thai language and script.⁴⁶⁷

Against this background, it is not surprising that many Myanmar nationals are drawn to Thailand, a country with higher salaries and high demand for foreign workers.⁴⁶⁸ A 2013 publication found that, of a sample of 5,027 Myanmar migrants, 74.9 per cent cited employment opportunities and the ability to earn higher income as their main reasons for emigrating.⁴⁶⁹ A further survey published by the World

⁴⁶⁴ Christa F Crawford, ‘Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 836; cf Mahmood Hayeemad & Rathakarn Buasri, ‘Impact of the AEC on Migrant Workers: A Case Study of the Rohingya in Khon Kaen Thailand’ (2015) 1 *Journal of Asian Development* 23, 27.

⁴⁶⁵ Khen Suan Khai, ‘Thailand’s policy towards Irregular Migration: Situation analysis of Burmese migrant workers under Thailand’s Migration Policy’ (2012) 1 *MFU Connexion: Journal of Humanities and Social Sciences* 1, 4; cf; IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 38

⁴⁶⁶ IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 1; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 85. See further Section V.1.3.1 below.

⁴⁶⁷ Srawooth Paitoonpong et al, ‘Economic Costs and Benefits of Labour Migration: Case of Thailand’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 242, 247.

⁴⁶⁸ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15 *Journal of the Asia Pacific Economy* 33, 33.

⁴⁶⁹ IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar Migrants and their Impacts on Thailand* (2013) 12.

Bank in 2012 found 60 per cent of respondents migrated from Myanmar to Thailand to look for a job.⁴⁷⁰ Other sources and interviews conducted in Myanmar for the purpose of this report also confirm employment prospects are the main reason for migration, both regular and irregular.⁴⁷¹

Continued population growth and the large number of young people in Myanmar mean that the pool of persons of working age in the country continues to increase. Unless a substantial number of new jobs are created in Myanmar, unemployment and underemployment will further increase. IOM projects that Myanmar's labour market will be unable to absorb this demand for work and that migration flows to Thailand are likely to grow in coming years.⁴⁷²

Wages and remittances

The significant wage differential is one of the principal reasons behind labour migration, both regular and irregular, from Myanmar and Thailand.⁴⁷³ Many workers in Myanmar earn as little as MMK 1,500–2,000 a day. While wages among skilled workers are higher, wages did not keep pace with rampant inflation and a deteriorating exchange rate throughout the 1990s and 2000s. As a result, many workers in Myanmar, even those who are skilled and employed full-time, cannot meet their most basic needs and those of their families.⁴⁷⁴ A 2013 publication also found that “limited employment opportunities and a failure of jobs across all sectors of the economy to provide liveable salaries have pushed many to migrate”:

For example, a labourer in Burma earns on average just MMK (kyat) 1,500 to 2,000 (approximately USD 1.20–1.60) a day, an amount entirely insufficient to meet even their most basic daily needs, particularly as the prices of staple goods has steadily increased. The lack of employment opportunities, the rising cost of living, and low wages have all prompted many workers to leave Burma and move to Thailand in search of work.⁴⁷⁵

Levels of income in neighbouring Thailand are, by comparison, considerably higher and have risen

⁴⁷⁰ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 10.

⁴⁷¹ See Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 447, 449; Matthew Clarke, ‘Over the border and under the radar: can illegal migrants be active citizens?’ (2009) 19 *Development in Practice* 1064, 1069; World Bank, *Labor Migration in the Greater Mekong Sub-region* (2006) 28; Susan Banki & Hazel Lang, ‘Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions’ in Howard Adelman (ed), *Protracted Displacement in Asia: No Place to Call Home* (2008) 59, 78; Asia Foundation & ILO, *Migrant and Child Labor in Thailand’s Shrimp and Other Seafood Supply Chains: Labor Conditions and the Decision to Study or Work* (2015) 133.

⁴⁷² IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 17–18, 22, 24.

⁴⁷³ IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 12; Inge Brees, ‘Refugee Business: Strategies of Work on the Thai–Burma Border’ (2008) 21 *Journal of Refugee Studies* 380, 382.

⁴⁷⁴ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15 *Journal of the Asia Pacific Economy* 33, 34; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 12.

⁴⁷⁵ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 83.

greatly during Thailand's economic boom over the past 25 years. The World Bank estimated in 2010 that the average per capita income in Thailand was seven times higher than in Myanmar.⁴⁷⁶ It is not surprising then that many Myanmar nationals leave the country to find better paid employment. Regardless of whether they migrate irregularly and encounter the obstacles and dangers associated with working in an irregular status in Thailand, migrants from Myanmar can still find work and earn more, even if Thai employers pay salaries well below the minimum wages set by the *Labour Protection Act 1998* of Thailand.⁴⁷⁷

The ability to earn higher income in Thailand also seems to drive some irregular migration from Myanmar into Thailand's sex industry. Although not all workers enter or work in Thailand's commercial sex sector freely and voluntarily, as later parts of this study show, there is considerable evidence demonstrating some women and teenage girls from Myanmar move to Thailand with the intention of working in the sex industry, believing they can receive high wages and find adequate working conditions. Sex work in Thailand pays relatively well compared to many jobs in Myanmar but also compared to other jobs in Thailand. Some migrants from Myanmar initially migrate to Thailand to work in one industry but later change to sex work due to better pay.⁴⁷⁸

Remittances

Thailand's higher wages are not only important for individual migrants who want to improve their personal situation, but also for relatives in Myanmar who are supported through remittances sent to them by migrant workers in Thailand. This consideration plays an important role when migrants make their decisions to go abroad. This is also true for families, who may choose to send one of their children, usually a young adult, to find employment in Thailand and send money back to the family in Myanmar.⁴⁷⁹

Figure 14 below shows that, in 2015 alone, USD 1,848 million in remittances was transferred from

⁴⁷⁶ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 8; see also, Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 3.

⁴⁷⁷ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 449; Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19-22 September 2011, 4; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 19.

⁴⁷⁸ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 192, 206; see also, Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 842.

⁴⁷⁹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 12; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 192.

Thailand to Myanmar, about 55 per cent of all the remittances received in Myanmar in that year.⁴⁸⁰

Figure 14: Migrant remittance flows, Thailand to Myanmar 2013–2015⁴⁸¹

Total in million USD	
2015	1,848
2014	56
2013	122

It is estimated that, on average, individual migrants remit anywhere between THB 5,000 and 100,000 per year.⁴⁸² In 2010, the International Labour Organization (ILO) found that 16 per cent of migrant workers sent less than THB 10,000 from Thailand to Myanmar each year, 27 per cent between THB 10,001 and 25,000, 34 per cent between THB 25,001 and 50,000, and 23 per cent more than THB 50,000 per year.⁴⁸³ Female migrant workers remit a higher proportion of their income to Myanmar than male migrants.⁴⁸⁴

Although Myanmar's formal banking sector is rapidly growing, many rural and remote areas still do not have access to banks. Many people are not familiar with banks and remain suspicious about their operation and fee structures. Prior to 2012, Myanmar also imposed restrictions and levies on transactions and currency exchanges. This deterred many migrant workers from using formal banks. As a result, informal financial transactions are far more common, both within the country and for remittances from Thailand.⁴⁸⁵

⁴⁸⁰ World Bank, 'Migration and Remittances Data' <<http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>>

⁴⁸¹ World Bank, 'Migration and Remittances Data' <<http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data>>

⁴⁸² CARAM Asia, *Remittances: Impact on Migrant Workers' Quality of Life* (2010) 54–55; Koji Kubo, *Evolving Informal Remittance Methods of Myanmar Migrant Workers in Thailand*, ERIA Discussion Paper 2015–24 (2015) 1; Tun Min Sandar, 'A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand)', October 2011 <http://www.academia.edu/16532414/A_Study_of_Factors_Influencing_Remittances_of_Myanmar_Migrant_s_Case_Study_in_Samut_Sakhon_Thailand_> 10.

⁴⁸³ Linda Deelan & Pracha Vasuprasat, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar* (2010) 9.

⁴⁸⁴ CARAM Asia, *Remittances: Impact on Migrant Workers' Quality of Life* (2010) 54–55.

⁴⁸⁵ Linda Deelan & Pracha Vasuprasat, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar* (2010) xi, 11, 13; Renaud Egreteau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 135; Koji Kubo, *Evolving Informal Remittance Methods of Myanmar Migrant Workers in Thailand*, ERIA Discussion Paper 2015–24 (2015) 1, 5–6, 8–9; CARAM Asia, *Remittances: Impact on Migrant Workers' Quality of Life* (2010) 54–55; Sean Turnell et al, 'Migrant-worker remittances and Burma: an economic analysis of survey results' in Monique Skidmore & Trevor Wilson (eds), *Dictatorship, Disorder and Decline in Myanmar* (2008) 63, 72.

Many families depend on remittances to sustain basic survival. Remittances are mostly used to cover daily expenses, buy food, pay bills and debts, or to pay for housing, education and healthcare. Very few are able to use the money for investments or income-generating activities.⁴⁸⁶

For families, remittances can also mean more than just money and an improved daily life and financial situation. Remittances may also come in the form of goods and services. Migrants may use their earnings to purchase televisions, mobile phones and other communication devices that are then brought to Myanmar and improve access to information from abroad.⁴⁸⁷ Remittances of this kind can project images of wealth and prosperity, which may encourage others in Myanmar to take their chances and migrate to Thailand. This is discussed further in the following section.

Existing communities; prior migration by family and friends

Due to geographical proximity, a long, porous border and a long history of migration, Thailand is home to a vast and established community of people from Myanmar. IOM estimates that in 2015, 1,978,348 immigrants from Myanmar lived in Thailand, constituting approximately 50 per cent of Thailand's immigrant population.⁴⁸⁸

Prior migration is—and always has been—particularly common for Mon, Shan and Karen people who live in areas along the border and who share many cultural and linguistic similarities with ethnic groups on the Thai side of the border. These groups are also more likely to cross back and forth into Thailand more frequently, whereas people from other parts of Myanmar or more likely to settle in Thailand for the medium or long term.⁴⁸⁹

The existence of an extensive diaspora plays an important part in migrants' decisions to move from Myanmar to Thailand. Family and friends already living and work in Thailand can provide information and accommodation, as well as connect new migrants with potential employers and their agents. Prior migrants also frequently share their experiences and “success stories” by correspondence, online or when they return to Myanmar to visit family. These stories encourage other migrants to follow. Social

⁴⁸⁶ Tun Min Sandar, 'A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand)', October 2011 <http://www.academia.edu/16532414/A_Study_of_Factors_Influencing_Remittances_of_Myanmar_Migrant_s_Case_Study_in_Samut_Sakhon_Thailand_> 12; CARAM Asia, *Remittances: Impact on Migrant Workers' Quality of Life* (2010) 55.

⁴⁸⁷ Renaud Egreteau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 136; Mahachai Sattayathamrongthian & Yingsak Vanpetch, 'Myanmar Migration Workers in Thailand: Case Study of Samut Sakhon' (2016) 176 *Actual Problems in Economics* 215, 220.

⁴⁸⁸ IOM, 'World Migration' <<http://www.iom.int/world-migration>>.

⁴⁸⁹ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 34; Susan Banki & Hazel Lang, 'Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 59, 62–64; Renaud Egreteau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 121; Asia Foundation & ILO, *Migrant and Child Labor in Thailand's Shrimp and Other Seafood Supply Chains: Labor Conditions and the Decision to Study or Work* (2015) 133.

factors therefore play an important part in driving both regular and irregular migration.⁴⁹⁰

Other pull factors

Several sources argue that education systems remain poorly developed and dysfunctional in some parts of Myanmar, leading migrants to look for educational opportunities in Thailand. Opportunities for secondary and higher education are not available to everyone in Myanmar. Girls in particular are sometimes barred from pursuing further education by their parents. Thailand, by comparison, has a much more developed education system. It also offers basic education in its refugee camps, which is considered to be of higher quality than the education available in some parts of Myanmar. Thailand's society also tends to be less patriarchal and offers women more opportunities to gain education and skills.⁴⁹¹

Some sources suggest that one factor driving the migration of women to Thailand is a specific demand for women from Myanmar in the sex industry and as domestic workers. Research published in 2006, for instance, found some Thai men, especially those from middle and lower income backgrounds, specifically request women from Myanmar in Thailand's sex industry, as they are viewed as foreign, exotic, and naïve. Their services may also be cheaper.⁴⁹² Other research published the same year found that some Thai households specifically prefer domestic workers from certain ethnic groups in Myanmar's border regions because they "are perceived to be physically and culturally kindred", "innocent and docile", and hardworking and obedient.⁴⁹³

A further factor influencing migration from Myanmar to Thailand is the fact that many labour migrants use Thailand as a transit point to reach Malaysia, a country that offers even higher wages and also has a considerable demand for labour. After Thailand, Malaysia is the second most important destination for migrant workers from Myanmar. Many refugees also flee from Myanmar to Malaysia via Thailand, even though Malaysia does not offer formal refugee status in accordance with international refugee law. For this reason, some refugees only remain in Malaysia until they find an opportunity to move to

⁴⁹⁰ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 449; IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 12.

⁴⁹¹ Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 34; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 174; Asia Foundation & ILO, *Migrant and Child Labor in Thailand's Shrimp and Other Seafood Supply Chains: Labor Conditions and the Decision to Study or Work* (2015) 133.

⁴⁹² Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 200–201; see also, Emmanuel Obuah, 'Combating Global Trafficking in Persons: the Role of the United States Post-September 2001' (2006) 43 *International Politics* 241, 247; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 832.

⁴⁹³ Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2 *Asian Population Studies* 19, 23.

a country where they can find permanent protection, especially in North America and Australia.⁴⁹⁴

4.2.2 Availability of legal avenues for migration

The limited availability of regular migration channels and the costs, bureaucracy and long waiting periods associated with labour migration from Myanmar to Thailand are among the main reasons many people migrate to Thailand irregularly. These factors also fuel the demand for migrant smuggling and provide opportunities for traffickers who prey on those unwilling or unable to use legal avenues for migration. Considerable improvements in facilitating labour migration from Myanmar to Thailand have been achieved in recent years, but, as the following sections show, the current system remains fraught with difficulties.

Limitations of legal migration frameworks

Legal avenues for migration from Myanmar to Thailand have existed, at least on paper, since 2003, when the Governments of Myanmar and Thailand signed a *Memorandum of Understanding on Cooperation in the Employment of Workers* (MoU). The MoU seeks to enable migrant workers from Myanmar to enter, live and work in Thailand. It also establishes a recruitment system to identify, select and prepare prospective migrants.

Despite the existence of the MoU, very few migrants were able to move to Thailand through formal channels in the early years of its operation. The Government of Myanmar was reportedly reluctant to develop a clear recruitment and application system and to work with Thai authorities to facilitate labour migration on any scale.⁴⁹⁵

Myanmar's current labour migration scheme has many critics. Several sources say that present laws and regulations punish rather than facilitate migration to Thailand. Because of sanctions and penalties attached to irregular departure from Myanmar, many migrants reportedly live in great fear of being detected and deported. This also makes them unwilling to participate in national verification processes, which would legalise their status in Thailand but not protect them from sanctions in Myanmar. Some migrants also fear such sanctions may affect their relatives in Myanmar.⁴⁹⁶ These restrictions contribute to the smuggling of migrants and make migrants from Myanmar more vulnerable to exploitation and trafficking.⁴⁹⁷

A further obstacle stems from the fact that some ethnic groups in Myanmar are precluded from obtaining citizenship and remain stateless. This affects a large number of people in Rakhine state. As

⁴⁹⁴ Renaud Egretreau, 'Burma in Diaspora: A Preliminary Research Note on the Politics of Burmese Diasporic Communities in Asia' (2012) 31(2) *Journal of Current Southeast Asian Affairs* 115, 123–124; Syeda Naushin Parnini, 'The Rohingya Issue in Bangladesh–Myanmar Relations' (2011) 4(23) *International Journal of Arts & Sciences* 65, 72; Human Rights Watch, *Perilous Plight: Burma's Rohingya Take to the Seas* (2009) 8.

⁴⁹⁵ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 196.

⁴⁹⁶ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 84, 88; Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 12.

⁴⁹⁷ Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 822.

stateless persons, they have very few rights and are unable to access formal migration channels. Stateless persons are thus more likely to work with smugglers to emigrate and are particularly vulnerable to exploitation and trafficking.⁴⁹⁸

Costs

The complex procedures associated with formal labour migration make it necessary for most would-be migrants to turn to third parties, including brokers, for assistance. Costs for these services can be very high. The registration fee alone reportedly amounts to USD 100, a sum simply too expensive for many would-be migrants. Migrants must bear most of the costs themselves, though employers or recruiters may initially cover these expenses and later deduct them from migrants' wages. The costs to obtain official documents such as passports are also quite high. Steep fees are one of the reasons people from Myanmar forego official migration channels and turn to irregular migration and smugglers.⁴⁹⁹

The Government of Myanmar also charges a tax or levy on the earnings of Myanmar nationals in foreign countries. This tax amounts to about 10 per cent of a migrant's income. In order to have their documents renewed or to return to Myanmar, even for short visits, Myanmar nationals must provide proof that this tax has been paid. Otherwise their passports may be refused or their re-entry into Myanmar denied.⁵⁰⁰

The high fees associated with registration, obtaining documents, and other steps involved in the official migration process were also frequently mentioned in interviews conducted in Myanmar for the purpose of this report. Several interview respondents confirmed that migrants frequently sell their belongings or have to borrow money in order to pay travel-related fees.

Bureaucracy

Brokers, licensed recruitment agencies and other intermediaries are used to procure and register migrant workers, organise pre-departure orientation and training and act as mediators in the event of labour disputes between workers and employers. Government authorities are not involved in many aspects of these processes, which enables some private operators to use fraudulent, deceptive or coercive practices and reap large profits from migrants who often have little understanding of the

⁴⁹⁸ Mely Caballero-Anthony et al, 'Forced Migration' in Mely Caballero-Anthony & Alistair D B Cook (eds), *Non-Traditional Security in Asia* (2013) 158, 161; see also, Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 847–848; Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 59.

⁴⁹⁹ Rebecca Miller & Sebastian Baumeister, 'Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?' (2013) 2 *Anti-Trafficking Review* 15, 21–22; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 35–36; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 848; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 5.

⁵⁰⁰ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 35–36.

complex procedures.⁵⁰¹

Prior to 2007, departure from and re-entry into Myanmar involved many obstacles. The national identity card issued to Myanmar nationals did not allow them to freely leave and return to the country. Passports were extremely expensive and difficult to obtain at the time, and few nationals held passports. Myanmar nationals had to pre-arrange their employment and present proof of employment in order to submit their application for a passport. This requirement led to letters being forged on a wide scale. Though this requirement was dropped in 2007, other hurdles still remain. Applicants are often required to pay repay the Myanmar government for their education if they seek to migrate to Thailand, for instance. These complicated procedures deter many Myanmar nationals, particularly those from lower socio-economic groups, from departing the country legally. It is therefore not surprising that the majority of people from Myanmar enter Thailand irregularly.⁵⁰²

Interviews conducted in Myanmar for the purpose of this report found that the many hurdles associated with applying for documents and submitting them for registration are a significant deterrent from using regular avenues for labour migration. Many people from rural areas are not aware of these requirements and people in border areas easily find ways to enter Thailand without first acquiring a passport. Most migrants see no clear advantage in following formal procedures and often find it “cheaper”, “quicker”, and safer to move to Thailand with the aid of social networks or through other informal channels:

Regular migration is not necessarily safe and vice versa. The vast majority of migrants in Thailand have migrated irregularly. It’s cheaper, it’s quicker, they have their social networks. It’s not safe for everybody but a lot are fine. Through recruitment agencies isn’t necessarily safe, it’s not a guarantee at this point in time that you’ll get the job you were guaranteed, or the employment conditions will be decent.

Legalisation of status

In an attempt to better monitor and control the whereabouts and working conditions of foreign workers, the Government of Thailand operates a Nationality Verification System. This system helps establish the identity and nationality of labour migrants and provide an avenue for irregular workers to obtain legal status in Thailand. Through a “certification identity process”, irregular workers from Myanmar can gain regular status in Thailand by obtaining a Myanmar passport, a Thai visa and then a work permit.⁵⁰³

In the first few years after the National Verification System was established, many migrants were required to return to Myanmar to have their identity and nationality verified. The prospect of having to return to Myanmar deterred many people from using this system, especially members of minority ethnic tribes who feared repercussions should they return.⁵⁰⁴

Because most labour migrants from Myanmar do not hold passports when they enter and stay in Thailand, they are often barred from registering under the Nationality Verification system. Most

⁵⁰¹ Rebecca Miller & Sebastian Baumeister, ‘Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?’ (2013) 2 *Anti-Trafficking Review* 15, 21–22.

⁵⁰² Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15 *Journal of the Asia Pacific Economy* 33, 35–36; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 5.

⁵⁰³ See further, Section V.5.3 below.

⁵⁰⁴ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 85, 87.

Myanmar nationals only carry their Myanmar identification cards, which are not accepted by Thai authorities for registration purposes. Without a passport, they are also unable to return to Myanmar through regular channels. As a result, the number of irregular Myanmar nationals continues to grow.⁵⁰⁵

Today, the Nationality Verification processes are considered slow, bureaucratic and so complex that most workers from Myanmar who want to register with Thai authorities have to turn to brokers for assistance. These brokers, who operate in a semi-regulated environment, charge fees of up to THB 10,000–12,000 for their services. To obtain a passport needed for the verification process, migrants have to pay USD 500–700, equivalent to several months' wages. These costs are too high for many foreign workers, who instead opt to remain in irregular status and become particularly vulnerable to exploitation and trafficking.⁵⁰⁶ Further details on the Nationality Verification System are discussed in Section V.5.3 below.

Recent developments

There appears to have been considerable progress in recent years at facilitating and broadening the legal avenues for labour migration from Myanmar to Thailand. In July 2011, the validity of temporary passports, needed to exit Myanmar and work in Thailand, was increased from three to six years. In 2012, further steps were taken to streamline the recruitment processes in Myanmar and make them more efficient. Accredited recruitment agencies have been established in Myanmar that now work within a clearer, more regulated framework. These agencies carry greater responsibility for the protection and welfare of migrant workers and help ensure migrant workers receive statutory minimum wages when they work abroad. This has led to a greater understanding of the formal migration program.⁵⁰⁷

In February 2016, a further MoU was signed with the purpose of protecting the rights of migrant workers from Myanmar, ensuring adequate wages and working conditions and preventing labour exploitation and trafficking. Under this MoU, the Government of Myanmar also agreed to expedite the “Certificate of Identity” process and the issuance of documents to Myanmar workers so they can legalise their status in Thailand.⁵⁰⁸

Concerns remain over the high fees associated with legal migration channels, which appear to have increased with changes in recent years. Recruitment agencies operating in Myanmar are reportedly overwhelmed and overburdened by the large number of applicants seeking to work abroad. The costs and bureaucracy associated with obtaining passports and other official documents also remain expensive. The difficulties with gaining legal status in Thailand or getting permission to work abroad are greater still for ethnic groups that are not considered Myanmar nationals and who can therefore

⁵⁰⁵ Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 5.

⁵⁰⁶ Hossein Jalilian & Glenda Reyes, ‘Migrants of the Mekong: Lessons’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 359, 377; Rebecca Miller & Sebastian Baumeister, ‘Managing Migration: Is border control fundamental to anti-trafficking and anti-smuggling interventions?’ (2013) 2 *Anti-Trafficking Review* 15, 22.

⁵⁰⁷ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 85.

⁵⁰⁸ Thailand, Public Relations Department, ‘Signing of MoU to Allow Migrant Workers from Myanmar to Work Legally in Thailand’ (16 February 2016) <http://thailand.prd.go.th/ewt_news.php?nid=2730&filename=index>.

not gain the same government support. This is particularly the case for ethnic Rohingyas who live in Myanmar and are seeking to emigrate or who live in Thailand. These groups cannot obtain legal status under the Nationality Verification System, since Myanmar authorities refuse to issue them temporary passports and Thai authorities refuse to assess their status.⁵⁰⁹ Members of these ethnic groups, many of whom are practically stateless, are particularly prone to migrate through irregular channels, use the services of migrant smugglers and may fall victim to traffickers.

4.2.3 Displacement, forced migration and trafficking

Political causes and other push factors

Political factors have played an important role in irregular migration, smuggling and trafficking in persons from Myanmar. A military coup that ended a pro-democracy uprising on 18 September 1988 led to considerable displacement within the country and across borders to neighbouring Bangladesh, China and, in particular, Thailand.⁵¹⁰ Since then, Myanmar nationals have repeatedly fled to Thailand, often in large numbers. As of 31 December 2015, the United Nations High Commissioner for Refugees reported that 106, 349 refugees from Myanmar were residing in Thailand.⁵¹¹

Figure 15: Refugees (including person in refugee-like situations) from Myanmar residing in Thailand, UNHCR 2006–2015⁵¹²

	No of refugees
2015	106,349
2014	128,863
2013	135,476
2012	83,317
2011	88,148
2010	95,718
2009	104,107
2008	111,555
2007	124,562

⁵⁰⁹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 87–88; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 75.

⁵¹⁰ See generally, Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 195; Rhoda Margesson, 'Displaced Populations in Burma's Borderlands: When Are Borders a Significant Barrier of Means of Protection?' in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 192; Inge Brees, 'Refugee Business: Strategies of Work on the Thai–Burma Border' (2008) 21 *Journal of Refugee Studies* 380, 382; AKM Ansah Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4 *Austrian Journal of South-East Asian Studies* 273, 277; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 83; Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 9, 14.

⁵¹¹ UNHCR, 'Population Statistics' <http://popstats.unhcr.org/en/time_series>.

⁵¹² UNHCR, 'Population Statistics' <http://popstats.unhcr.org/en/time_series>.

	No of refugees
2006	132,241
2005	116,499

It is difficult to separate political factors from economic considerations and other push and pull factors for irregular migration.⁵¹³ Poverty, unemployment and the dire economic circumstances experienced by many people in Myanmar affect some parts of the country more than others. The poor economic situation and lack of job opportunities and access to education are often a result of government policies, mismanagement and measures adopted at various levels of the administration.⁵¹⁴ Forced relocations in both rural and urban areas, forced labour and enforced cultural assimilation have triggered further displacement within Myanmar as well as emigration to neighbouring countries, Thailand in particular.⁵¹⁵

Several ethnic minorities have also faced considerable persecution and discrimination over the past three decades. Ethnic Rohingyas, Shan, Arakanis, Kokangs and Burmese people represent the largest numbers of refugees from Myanmar. Renewed ethnic tensions between various national tribes in Myanmar in recent years have caused internal displacement and a large number of people to flee the

⁵¹³ See generally, Susan Banki & Hazel Lang, 'Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 59, 65–71.

⁵¹⁴ Supang Chantanavich, 'Cross-border Displaced Persons from Myanmar in Thailand' in Jerold W Huguet & Apichat Chamrarithong (eds), *Thailand Migration Report 2011* (2011) 119, 126; Inge Brees, 'Refugee Business: Strategies of Work on the Thai–Burma Border' (2008) 21 *Journal of Refugee Studies* 380, 383; Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 3; Ahsan Ullah, 'Rohingya Refugees to Bangladesh: Historical Exclusions and Contemporary Marginalization' (2011) 9(2) *Journal of Immigrant & Refugee Studies* 139, 143; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 8; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 68–69; Karen Human Rights Group, *Abuse between borders: vulnerability for Burmese workers deported from Thailand* (2010) 1; Premjai Vungsiriphisal et al, 'Literature Review' in Premjai Vungsiriphisal et al (eds), *Humanitarian Assistance for Displaced Persons from Myanmar* (2014) 9, 13–14; Jackie Pollock, 'What's in a label?' (2011) 37 *Forced Migration Review* 46, 46.

⁵¹⁵ Khen Suan Khai, 'Thailand's policy towards Irregular Migration: Situation analysis of Burmese migrant workers under Thailand's Migration Policy' (2012) 1 *MFU Connexion: Journal of Humanities and Social Sciences* 1, 3; Inge Brees, 'Burden or Boon: The Impact of Burmese Refugees on Thailand' (2010) 11 *Whitehead Journal of Diplomacy and International Relations* 35, 36; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 33–34; United States, Senate, Committee on Foreign Relations, 'Trafficking and Extortion of Burmese Migrants in Malaysia and Southern Thailand', 111th Congress, 1st Session, 3 April 2009, 6; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 832–834; Michael G Smith, 'Better Approaches to Protracted Displacement?' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 209, 217.

country.⁵¹⁶ After the military sought to end resistance movements in Shan state, for instance, some 300,000 members of the ethnic Shan tribe sought refuge in Thailand.⁵¹⁷ In August 2009, approximately 37,000 ethnic Kokang residents crossed into Yunnan province in China for fear of persecution.⁵¹⁸

Eastern parts of Myanmar have been particularly affected by internal conflict and armed altercations between government forces and ethnic rebel groups. People living in these parts of Myanmar, especially ethnic Karen in the east bordering Thailand, moved across the border to seek protection.⁵¹⁹

Many Rohingyas attempt to emigrate to Thailand; others flee to Malaysia by boat and then try to reach North America or Australia, where Rohingya communities have existed for some time.⁵²⁰ Many ethnic Arakani minorities are similarly subject to persecution and, as a result, have taken refuge in southern

⁵¹⁶ IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 12; Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 3.

⁵¹⁷ Pai Palmgren, 'Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia' (2011) 5 *Sociology Compass* 323, 330; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand'. in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 174; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 71–72.

⁵¹⁸ Rhoda Margesson, 'Displaced Populations in Burma's Borderlands: When Are Borders a Significant Barrier of Means of Protection?' in James Clad et al (eds), *The Borderlands of Southeast Asia: Geopolitics, Terrorism and Globalization* (2011) 187, 192.

⁵¹⁹ Pai Palmgren, 'Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia' (2011) 5 *Sociology Compass* 323, 325; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 241; Susan Banki & Hazel Lang, 'Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 59, 65–66; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 130; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 19.

⁵²⁰ See further, Jacqueline Joyce F Espenilla, 'Injustice ignored: a case study of the irregular sea migration of the Rohingya boat people' (2010) 8 *Asia Europe Journal* 45, 46–47; Mely Caballero-Anthony et al, 'Forced Migration' in Mely Caballero-Anthony & Alistair D B Cook (eds), *Non-Traditional Security in Asia* (2013) 158, 170, 176; Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013* (2014) 150, 152–153; Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 45–47; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 75; Human Rights Watch, *Perilous Plight: Burma's Rohingya Take to the Seas* (2009) 6–7; United States, Department of State, *Trafficking in Persons Report 2016* (2016) 23; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 12; Anne Gallagher & Marie L McAuliffe, 'South-East Asia and Australia' in Marie L McAuliffe & Frank Laczko (eds), *Migrant Smuggling Data and Research: A global review of the emerging evidence base* (2016) 211, 218–219.

Bangladesh.⁵²¹

Violence and discrimination against ethnic minorities, along with economic concerns, continues to be a push factor for emigration from Myanmar.⁵²² The situation escalated in June 2012 when Buddhist extremists launched violent attacks against the minority Muslim population, most of them ethnic Rohingyas. The clashes, which lasted several months, left several hundred dead and displaced more than 140,000 people. Many Rohingya lost their houses and few belongings, and lived in constant fear of discrimination, violence and rape. These attacks also heightened their desire to seek refuge abroad.⁵²³ The tensions in Rakhine state made further headlines in the spring of 2015 when many Rohingyas fled human rights violations in Myanmar. Most of them fled by boat, some via Bangladesh, seeking to reach Thailand, Malaysia and Indonesia.⁵²⁴

Persecution, forced displacement and a lack of personal security make people particularly vulnerable to the promises of migrant smugglers and traffickers. A lack of government support and protection, combined with economic despair and a sense of hopelessness, means that many people are easily swayed by the offer to live and work abroad. Many traffickers prey on members of the ethnic minorities most affected by internal conflicts in Myanmar and lead them into situations involving coercion, exploitation and trafficking. This has occurred in the context of ethnic Karen, Shan, Akha and Lahu women who are trafficked for the purpose of commercial sexual exploitation in Thailand, as well as ethnic Kachin women who are trafficked to China for the purpose of marriage.⁵²⁵

⁵²¹ AKM Ahsan Ullah, 'Rohingya Refugees to Bangladesh: Historical Exclusions and Contemporary Marginalization' (2011) 9(2) *Journal of Immigrant & Refugee Studies* 139, 143.

⁵²² Khen Suan Khai, 'Thailand's policy towards irregular migration: Situation analysis of Burmese migrant workers under Thailand's Migration Policy' (2012) 1 *MFU Connexion: Journal of Humanities and Social Sciences* 1, 3; Anne Gallagher & Marie L McAuliffe, 'South-East Asia and Australia' in Marie L McAuliffe & Frank Laczko (eds), *Migrant Smuggling Data and Research: A global review of the emerging evidence base* (2016) 211, 227.

⁵²³ Engy Abdelkader, 'Myanmar's Democracy Struggle: The Impact of Communal Violence upon Rohingya Women and Youth' (2014) 23 *Pacific Rim Law & Policy Journal* 511, 515–516, 523; Shamima Akhter & Kyoko Kusakabe, 'Gender-based Violence among Documented Rohingya Refugees in Bangladesh' (2014) 21 *Indian Journal of Gender Studies* 225, 226; Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 48; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 12–13.

⁵²⁴ Katherine Southwick, 'Preventing Mass Atrocities against the Stateless Rohingya in Myanmar: A Call for Solutions' (2015) 68 *Journal of International Affairs* 137, 142–143

⁵²⁵ David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 219–220; Shyamal K Das et al, 'Cross-national Sex Trafficking Network in Developing Countries: A Theoretical Overture Using Global Commodity Chain Approach' (2011) 18 *Gender & Class* 230, 240; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 174; see also, Ratchada Jayagupta, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47 *International Migration* 227, 235.

Kidnapping and other forms of forced or coerced migration

There are some reports of persons being kidnapped in Myanmar and then taken to Thailand for exploitation, but are very isolated. These mostly involve instances in which minors, usually girls, are taken from their homes or local communities and brought to Thailand where they are forced to work in the sex industry.⁵²⁶ Similar situations have also been reported from refugee camps in Thailand where women and children have been kidnapped.⁵²⁷ Reports of this kind are, however, very isolated and, at times, anecdotal.

Natural disasters and environmental factors

Several natural disasters have severely affected Myanmar's economy, destroying coastal towns and arable land. In May 2008, Cyclone Nargis caused large scale destruction of towns, farms and crops, displacing many people and leaving them without jobs and any means of income.⁵²⁸ In interviews conducted in Myanmar for the purpose of this report, several respondents also stressed that storms, flooding, and other natural and man-made disasters frequently cause widespread damage and displacement, especially in coastal areas. This leads to greater poverty and provides further incentives for people to emigrate.

4.3 Types of trafficking

Trafficking in persons from Myanmar to Thailand takes many forms and involves a great range of exploitative practices.⁵²⁹ Most available research explores trafficking for the purpose of sexual exploitation and labour trafficking, which appear to be the most prevalent types of trafficking.

4.3.1 Sexual exploitation

Trafficking in persons from Myanmar to Thailand for the purpose of sexual exploitation involves mostly women and children. The available literature suggests that the causes and circumstances of sex trafficking are not fundamentally different to other forms of trafficking. Most adult victims are believed to move to Thailand voluntarily to pursue work in the sex sector. Migrants are motivated by the desire to escape poverty, earn higher wages and support their family with remittances.⁵³⁰

⁵²⁶ See, for example, Heather Montgomery, 'Defining Child Trafficking & Child Prostitution: The Case of Thailand' (2011) 9 *Seattle Journal for Social Justice* 775, 785.

⁵²⁷ Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 21.

⁵²⁸ ADB, *Facilitating safe labor migration in the Greater Mekong Subregion: Issues, challenges, and forward-looking interventions* (2013) 7–8; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 39; Lawi Weng, 'Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy', *Mekong Migration Network* (online), 21 August 2008 <<http://www.mekongmigration.org/mmn/?p=204>>.

⁵²⁹ See generally, David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 212.

⁵³⁰ Cf Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 839.

Recruitment and first contact

Some victims are initially deceived about the nature of the work and working conditions by recruiters or by advertisements. Many victims are lured with promises of safe and well-paid jobs in factories, the hospitality sector or domestic work in households in Thailand. Recruiters promote Thailand as a wealthy country, reinforcing images victims may have seen on television or in advertisements. Some recruiters prey on the naïvety of their victims, young girls in particular. Victims are falsely told that their travel, accommodation and meals will be organised and paid for them, or that their expenses are generously advanced.⁵³¹

In many other cases, victims deliberately seek out employers, often knowing that they will be working in massage parlours, strip clubs or elsewhere in the Thai sex industry. For these victims, migration to Thailand and working overseas is a way to escape poverty, family problems or other hardship in Myanmar. Some people in this category have a reasonable awareness of the low pay and poor working conditions in Thailand, but nevertheless seek to migrate and find employment in Thailand. Sometimes, they travel to border areas where it can be easier and cheaper to find brokers or smugglers. Others enter Thailand independently and then connect with brokers or future employers in border towns such as Mae Sot, where they can be taken to other parts of Thailand.⁵³²

Relatives and friends of the victims can also get involved in the recruitment process when brokers approach them to identify and recruit people in return for payment. Using their existing relationships, relatives and friends encourage victims to consider moving to Thailand for work as well as connect them to employers. Interviews conducted in Myanmar for the purpose of this report confirmed that recruitment through relatives and friends is a common practice. Women tended to recruit women and, in the case of labour trafficking, men usually recruited men. This method of using trust and established connections is particularly common in small communities where victims and their families may be reluctant to engage with people they do not know. A number of traffickers have established networks in some rural areas, which they use to systematically recruit new victims.⁵³³

⁵³¹ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 42–43; Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58 *Crime, Law and Social Change* 159, 164; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186–187, 207.

⁵³² Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 188; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 822, 839.

⁵³³ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 187–188; see also, Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 841.

Profile of victims

Most of the victims who are trafficked from Myanmar to Thailand for the purpose of sexual exploitation are young women.⁵³⁴ Most victims come from poor backgrounds, which explains their desire to explore employment opportunities abroad and their families' decision to encourage their daughters to emigrate. Some victims seek to move to Thailand to escape abusive or otherwise difficult family relationships or broken marriages. Education levels among victims are quite varied, ranging from primary schooling to college level education.⁵³⁵

Several studies point to the fact that many women who are trafficked to Thailand come from minority backgrounds, especially from rural areas in Shan, Mon and Kayin States, or from Yangon or Mandalay. Members of the Shan national tribe as well as ethnic Akhas and Lahu are most commonly trafficked to Thailand because they tend to live in border areas and are similar in appearance to ethnic Thais. Employers and clients in Thailand may also find them more appealing because of their physical appearance and their ability to generally communicate in Thai.⁵³⁶ In interviews conducted in Myanmar for the purpose of this report, respondents also stressed that women and girls from eastern Shan state are frequently involved in sex trafficking to Thailand because they live close to the border and can communicate to some degree with Thais. It was further noted that, once in Thailand, Shan women sometimes present themselves as Thai nationals in order to get higher salaries.

Arrangements and departure

The way in which victims first come into contact with their recruiters partly determines how they get to Thailand. Victims who are deceived, tricked, "sold" or coerced into sex trafficking are more likely to have their transportation and entry into Thailand organised by traffickers or their associates. Victims who seek migration and employment in Thailand themselves tend to move to border areas or even

⁵³⁴ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 189.

⁵³⁵ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 189; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 839.

⁵³⁶ Shyamal K Das et al, 'Cross-national Sex Trafficking Network in Developing Countries: A Theoretical Overture Using Global Commodity Chain Approach' (2011) 18 *Gender & Class* 230, 240; David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 220; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 189; Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 822.

cross into Thailand independently and with little or no assistance.⁵³⁷

4.3.2 Labour trafficking

Labour exploitation, forced labour and other forms of labour trafficking are the most common forms of trafficking in persons from Myanmar to Thailand. Labour trafficking involves men, women and children. Men from Myanmar are more commonly trafficked into Thailand's fishing, construction and manufacturing industries, while women can be found in domestic services and the textile and garment industries of Thailand. The topic of trafficking in children is discussed separately in Section IV.3.3 below.

Recruitment and first contact

For the most part, labour migrants themselves establish contact with recruiters or recruiters collaborate with a migrant's relatives and friends. Word of mouth plays an important role in this process. Recruiters and brokers are usually Myanmar nationals with connections to employers, traffickers and their associates in Thailand and some recruiters previously worked in Thailand as migrants themselves. In interviews conducted in Myanmar for this report, respondents repeatedly stressed the important role that social networks, prior migrants and local communities play in recruiting labour migrants.

It is important to reiterate that not all situations of migrant smuggling lead to trafficking in persons. Many migrants enter Thailand irregularly with the aid of smugglers but are never exploited.⁵³⁸ Others enter Thailand lawfully and voluntarily and only face exploitation at a much later stage. In these cases, the initial recruitment process in Myanmar may not be directly connected to the trafficking migrants later experience.

This does not mean that the recruitment phase plays no role in the labour trafficking process. Traffickers and their clients depend on brokers (also referred to as 'carry' or 'carries') to get in contact with one another and to connect labour migrants to their place of employment. Brokers frequently lie about the nature of the work and working conditions in Thailand or about the wages paid. Migrants may also be deceived about the expenses associated with the recruitment and placement process and about the debts they will incur if these expenses are initially covered by Thai employers.⁵³⁹

Profile of victims

Labour trafficking from Myanmar to Thailand affects both men and women. There are some gender variations between industries; people who are exploited as domestic workers in Thailand are predominantly women, for instance. Women also constitute a large percentage of labour migrants working in manufacturing and agriculture in Thailand.⁵⁴⁰ Approximately two-thirds of labour migrants

⁵³⁷ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 187, 188.

⁵³⁸ Matthew Clarke, 'Over the border and under the radar: can illegal migrants be active citizens?' (2009) 19 *Development in Practice* 1064, 1070.

⁵³⁹ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 42–43, 47.

⁵⁴⁰ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 89, 95, 100.

are between 16 and 30 years of age, and approximately 27 per cent are between 31 and 45 years old.⁵⁴¹

Irregular labour migration and labour trafficking affect people from a variety of educational backgrounds and with different levels of training and skills. The majority of labour migrants from Myanmar come from poorer backgrounds and have lower levels of education. Literacy levels tend to be lower than those of the average population in Myanmar. However, educated people have also sought work in Thailand during particularly tumultuous political periods or in the aftermath of major natural disasters, such as cyclone Nargis in 2008.⁵⁴²

Although migrant workers and victims of labour trafficking in Thailand come from all corners of Myanmar and include nearly all national tribes, many come from border regions, especially Shan state, which marks Thailand's northern border. Ethnic Akha and Lahu are also often trafficked into Thailand for labour and sexual exploitation.⁵⁴³ There are some variations between industries and types of labour. Ethnic Karens and Mons are the largest groups of migrant workers in Thailand's agricultural industry. Ethnic Burmese constitute a large percentage of domestic workers in Thailand.⁵⁴⁴

Arrangements and departure

Available research and interviews conducted in Myanmar for this report suggest that recruiters and traffickers only play a marginal role in arranging the departure of labour migrants and do not need to exercise a high level of control over migrants. Some migrants are told to travel to border areas where they can collect contact details, such as telephone numbers, and further information on their entry into Thailand. Migrants may also receive instructions on where to meet the traffickers or their associates in Thailand, who then take them to their place of employment.⁵⁴⁵

4.3.3 Trafficking in children

Numerous reports show that minors are among the many trafficking victims from Myanmar and their young age does not fundamentally change the way they are trafficked or which sectors they are trafficked into.

⁵⁴¹ Mahachai Sattayathamrongthian & Yingsak Vanpetch, 'Myanmar Migration Workers in Thailand: Case Study of Samut Sakhun' (2016) 176 *Actual Problems in Economics* 215, 218.

⁵⁴² Erick Gjerdingen, 'Suffocation Inside a Cold Storage Truck and Other Problems with Trafficking as 'Exploitation' and Smuggling as 'Choice' along the Thai-Burmese Border' (2009) 26 *Arizona Journal of International & Comparative Law* 699, 726–727; World Bank, *Labor Migration in the Greater Mekong Sub-region* (2006) 39; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 12.

⁵⁴³ David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 220; Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2 *Asian Population Studies* 19, 22; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 1–2. See further, Section IV.3.1.2 above.

⁵⁴⁴ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 89, 100.

⁵⁴⁵ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 70–71.

Purposes of child trafficking

As with adults, most of the available information suggests that children are trafficked for the purpose of sexual exploitation and for labour trafficking. In general, the question of whether a person is below or above the age of 18 appears to be of little significance to trafficking patterns from Myanmar to Thailand. Sex and labour trafficking usually involve young people ranging from their late teens to early thirties.

Sex trafficking

Trafficking in women from Myanmar often involves young women under the age of 18, including girls as young as 12 or 15. Youth and beauty are critical factors for many employers and for clients in the Thai sex industry. Interviews conducted in Myanmar for the purpose of this report noted that girls from Shan state are frequently trafficked to Thailand for sexual exploitation. There are widely held beliefs that young people are less likely to be infected with communicable diseases, such as HIV, and that sex with women who are virgins entails fewer dangers and is more “rejuvenating”.⁵⁴⁶

Labour trafficking

Irregular migrant workers from Myanmar include both adults and children. Many boys from Myanmar aged 11 years and older and girls aged 13 and older work in Thailand’s agricultural industry, for instance. Most of the children are between 15 and 18 years old. Trafficking in children below the age of 15 to work in Thailand’s agricultural industry appears to be less common.⁵⁴⁷

Forced begging

Children from Myanmar are frequently found begging in the streets of Bangkok and other major cities in Thailand. Despite its visibility, this issue is not well documented and researched. It is not clear whether children are recruited from Myanmar explicitly for the purpose of begging or whether these children are found among or were born to the large number of Myanmar refugees living in Thailand. According to some reports, refugee children are sometimes targeted by gangs in Thailand and forced into begging. Children can earn from 500 to 3,000 THB a day for traffickers who provide them with little more than basic food and accommodation.⁵⁴⁸ In interviews conducted in Myanmar for the purpose of this report, respondents also mentioned that children are sometimes recruited in towns and cities near the Thai border and then taken to Thailand to sell flowers or to beg in the streets. Muslim children in Myawaddy in Kayin State, on the border to Thailand, seem to be particularly vulnerable to this practice.

⁵⁴⁶ Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 189, 206; Ratchada Jayagupta, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47 *International Migration* 227, 229; see also, Heather Montgomery, ‘Defining Child Trafficking & Child Prostitution: The Case of Thailand’ (2011) 9 *Seattle Journal for Social Justice* 775, 786.

⁵⁴⁷ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 100.

⁵⁴⁸ Alexandra Seltzer, ‘Human trafficking: the case of Burmese refugees in Thailand’ (2013) 37 *International Journal of Comparative and Applied Criminal Justice* 279, 287.

Other types of trafficking

At the time of writing, there was no further information about any other types of trafficking in children from Myanmar to Thailand. Reports relating to forced marriages involving young women from Myanmar concern almost exclusively Chinese men and do not appear to involve Thai nationals.⁵⁴⁹

Recruitment and first contact

There is little difference between how children and adults first encounter brokers in Myanmar. However, because of their age, children are generally more easily lured and persuaded than adults and more readily believe the promises made by brokers. Some are specifically sought out by brokers, while others, curious about expanding their horizons and exploring opportunities abroad, may establish contact with brokers and potential employers themselves, especially if they are older teenagers intending to work abroad.

Profile of victims

Trafficking in children involves both boys and girls from a range of locations in Myanmar, including children from Rakhine state who are smuggled to Thailand and Malaysia.⁵⁵⁰ No further information is presently available about the profile of children who are trafficked from Myanmar to Thailand. This includes information about their social and family background, their education, the economic circumstances of the child and his or her family and the specific locations from which the child victims originate.

Arrangements and departure

Information about how children are prepared for their journey to Thailand, the routes and means of transportation used, the way in which they enter Thailand and whether these entries go unnoticed by immigration and border officials is presently not available. Such information is, however, vital to better understanding the patterns of trafficking in children from Myanmar to Thailand and to exploring prevention and intervention measures aimed at stopping the departure of children from their home country.

4.3.4 Other types of trafficking

According to official sources, forced marriage is one of the most common types of trafficking. Thailand appears to be the second most important destination after China, but further information about the levels and characteristics of trafficking in persons for forced marriages was not available at the time of writing.⁵⁵¹

Information on other forms of trafficking in persons from Myanmar to Thailand was not available at the time of writing.

⁵⁴⁹ See further Section IV.3.4 below.

⁵⁵⁰ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 16.

⁵⁵¹ David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 212.

4.4 Means and routes for irregular migration and trafficking

4.4.1 Means and methods of irregular migration and trafficking to Thailand

Means of transportation

Travel from Myanmar to Thailand has become increasingly easy and a range of public and private means of transportation is used to bring smuggled migrants and trafficked persons across the border. The long and porous border between the two countries generally makes it unnecessary to conceal migrants when they cross the border, even if they do not hold required documents. Many migrants do not require the assistance of smugglers to enter Thailand and do so independently.⁵⁵²

The available information suggests that irregular migrants mostly enter Thailand in one of two ways. The first way involves private vehicles that are used to drive migrants across the border, using any of the roads that connect the two countries. In such cases, recruiters or brokers usually accompany migrants or use drivers that are connected to members of the network on both sides of the border. Actual border crossings usually occur quite overtly, even if migrants do not hold the necessary documentation. Arrangements between brokers and border guards sometimes ensure that immigration officials turn a blind eye to irregular activities.⁵⁵³

The second way migrants reach Thailand is by traveling on their own to pre-determined meeting points near the border. Migrants sometimes make this initial journey in small groups with family members or people from their local community who are using the same smugglers. Women usually tend to travel with other family and men travel with groups of friends. They are then met at the designated point by smugglers and taken or guided across the border in larger groups.⁵⁵⁴ In interviews conducted in Myanmar for the purpose of this report, respondents further stressed that women usually travel in groups of five or more when they enter Thailand and are unlikely to make the journey alone.

In some cases, migrants from Myanmar make their irregular journey to Thailand by boat. Most of these cases appear to involve departures from Rakhine State, sometimes via Bangladesh. Migrants initially tend to be loaded onto small boats departing from coastal towns and beaches and are then taken to a larger “rendezvous vessel” waiting offshore. Once this vessel has been filled—often with many more migrants than the vessel was built to carry—it crosses the Andaman Sea to Thailand. These larger vessels and the crews and smugglers on board tend to be from Thailand. Similar *modi operandi* are also used to smuggle migrants from Rakhine state (or sometimes from Bangladesh) to Malaysia and, in some cases, to Indonesia. Between November 2008 and late 2009, an estimated 6,000 people were

⁵⁵² Cf Srawoath Paitoonpong, ‘Managing International Labor Migration in ASEAN: Thailand (Immigration)’ (2011) 38 *Philippine Journal of Development* 163, 174.

⁵⁵³ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15 *Journal of the Asia Pacific Economy* 33, 39; Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186.

⁵⁵⁴ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11.

transported on fishing vessels from Myanmar and Bangladesh across the Andaman Sea.⁵⁵⁵ In 2011, approximately 8,000 people were smuggled from Rakhine state by boat and a further 13,000 were smuggled across the Andaman Sea after the end of the rainy season in October 2012. This figure rose to about 35,000 people in 2013.⁵⁵⁶

Information on the use of public means of transportation, especially buses travelling from Myanmar to Thailand, and the use of commercial airlines or freight trucks was not available at the time of writing.⁵⁵⁷

Clandestine trafficking methods

Many smuggling and trafficking ventures occur along routes that run through areas some distance away from main border crossings and control points. Thick jungles cover the border between Myanmar and Thailand in many areas and several rivers also separate the two countries. These conditions enable clandestine migration to occur in a range of locations. Smuggling routes change frequently in response to interdiction efforts by Myanmar and Thai authorities. If one route is temporarily closed, smugglers can choose from a range of other alternatives and adjust their plans accordingly. Smuggling ventures by boat similarly encounter very few checks during the journey and can easily evade detection by navy and coast guard vessels.⁵⁵⁸

In some cases, irregular migrants are hidden among other cargo on the back of trucks and in vans that drive to Thailand. If they are detected at the border and returned to Myanmar, smugglers will usually make other attempts using different routes and methods until they eventually reach Thailand.⁵⁵⁹ Control and enforcement measures at the border seem to have little effect on preventing the smuggling of migrants and trafficking in persons from Myanmar to Thailand. These measures merely

⁵⁵⁵ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 15; Human Rights Watch, *Perilous Plight: Burma's Rohingya Take to the Seas* (2009) 6. See also, Syeda Naushin Parnini, 'The Rohingya Issue in Bangladesh-Myanmar Relations' (2011) 4(23) *International Journal of Arts & Sciences* 65, 65.

⁵⁵⁶ Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012-2013* (2004) 150, 152–153; Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 48–49.

⁵⁵⁷ United States, Senate, Committee on Foreign Relations, 'Trafficking and Extortion of Burmese Migrants in Malaysia and Southern Thailand', 111th Congress, 1st Session, 3 April 2009, 14.

⁵⁵⁸ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labor Migration in ASEAN: Thailand (Immigration)*, Discussion Paper No 28 (2011) 42; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186; Srawooth Paitoonpong & Youngyuth Chalamwong, *Managing International Labor Migration in ASEAN: A Case of Thailand* (2012) 34; Srawooth Paitoonpong, 'Managing International Labor Migration in ASEAN: Thailand (Immigration)' (2011) 38 *Philippine Journal of Development* 163, 174; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 24.

⁵⁵⁹ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 185; Lawi Weng, 'Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy', *Mekong Migration Network* (online), 21 August 2008.

drive up the costs for smugglers and the price migrants have to pay for their services.⁵⁶⁰

Fraudulent travel and identity documents

There is presently no information about the use of fraudulent travel and identity documents in the context of smuggling of migrants and trafficking in persons from Myanmar to Thailand. Interviews conducted in Myanmar for the purpose of this report confirmed fraudulent documents are generally not needed to cross the border into Thailand and that the use of such documents would be too costly for most migrants.

Overt and lawful transportation methods

Many migrants do not require the assistance of smugglers to enter Thailand and many traffickers do not need to set up sophisticated, clandestine methods to bring irregular migrants from Myanmar to Thailand.

Locally issued border passes are readily available for many migrants in some parts of Myanmar and can be used to enter Thailand lawfully and through official immigration channels and border control points. Some migrants also hold valid passports to enter Thailand. Many migrants overstay the time allotted in their travel documents or travel deeper into Thailand than their border passes permit.⁵⁶¹

Research published in 2013 found more than 60 per cent of all Myanmar migrants entered Thailand on their own or with the aid of family and friends. 37.7 per cent used brokers and only 0.5 per cent entered Thailand through the formal process stipulated in the MoU between the two countries. Generally, migrants who live closer to the border, especially Shan state, tend to migrate by themselves or with the assistance of family or friends, whilst those from areas farther away tend to use brokers more frequently.⁵⁶²

4.4.2 Common routes

The length and geography of the Myanmar-Thai border offers a number of different routes to cross from one country to the other, both independently and with the aid of smugglers. Some common routes for irregular migrants from Myanmar to reach Thailand follow established transportation links and roads leading through official border control points. A 2013 UNODC publication estimates that “one-third of irregular migrants simply proceed along the major roads and cross at official checkpoints”.⁵⁶³ Other routes follow smaller roads and paths that cross into Thailand in places where no formal control points exist; others lead through remote jungles or, in some cases, by boat across

⁵⁶⁰ Mary Rose Geraldine A Sarasad, ‘Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand’ paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 7.

⁵⁶¹ Women’s Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 14.

⁵⁶² IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 12–13; see also, UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11.

⁵⁶³ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 9.

rivers or the Andaman Sea.⁵⁶⁴

The most commonly used routes to smuggle or traffic migrants into Thailand follow the most direct roads connecting the main cities. Based on the available information, irregular migration occurs all along the border and is not concentrated in any one area. Journeys can sometimes be delayed when smugglers and migrants change their route due to unforeseen police and border checks or as a result of other factors, such as poor weather or road closures. A study published in 2011 found that 41 per cent of migrants who entered Thailand from Myanmar irregularly spent between one and five days on their journey; 29 per cent took between five and 10 days.⁵⁶⁵

The following paragraphs set out the main routes used:

In the north-east of Myanmar, the main road sometimes used to smuggle migrants begins via Keng Tung to Tachileik, which is near Thailand's northern border and Chiang Rai province.⁵⁶⁶ Several smaller roads and smuggling routes through remote and jungle areas lead from the central north-east of Myanmar into Mae Hong Son and Chiang Mai province in the northwest of Thailand.

Further south, and closest to Yangon and Mawlamyine, two of Myanmar's largest cities, are some of the main roads connecting Myanmar and Thailand, especially the highway that goes through Kawkaik and Myawaddy to Mae Sot in Thailand's Tak province. This is one of the main trade links between the two countries and also the most frequently mentioned smuggling route in the available literature.⁵⁶⁷

The south-east of Myanmar, which borders the Andaman Sea in a stretch some 50 kilometres wide, is covered by thick jungles and is sparsely populated. Smuggling from Myanmar along the Three Pagoda Pass, which leads to Kanchanaburi province in Thailand via Payathonzu in Myanmar, is believed to be quite common.⁵⁶⁸ It is also possible to cross into Thailand undetected and a long way away from any

⁵⁶⁴ See generally, Matthew Clarke, 'Over the border and under the radar: can illegal migrants be active citizens?' (2009) 19 *Development in Practice* 1064, 1068–1069; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labor Migration in ASEAN: Thailand (Immigration)*, Discussion Paper No 28, Philippine Institute for Development Studies (2011) 42.

⁵⁶⁵ AKM Ansah Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4 *Austrian Journal of South-East Asian Studies* 273, 285–286.

⁵⁶⁶ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 38; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 19; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20.

⁵⁶⁷ UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 24; Peter Munro, 'Harbouring the illicit: borderlands and human trafficking in South East Asia' (2012) 58(2) *Crime, Law and Social Change* 159, 174; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 38; see also, Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 8.

⁵⁶⁸ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 38–39; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 19.

border control points and police stations in areas further south. The Thanlyin and Moei rivers mark the border between the two countries in some parts and these rivers can easily be crossed with small vessels or with the aid of local boat owners. The terrain and conditions in other parts of south-east Myanmar make individual crossings and the smuggling of migrants in groups extremely dangerous.⁵⁶⁹

In the deep south of Myanmar, near the city of Kawthong (also Kawthaung) in Myanmar, several ferry services and other avenues provide access to Ranong province in Thailand. Although this route involves a considerable detour, it is sometimes used to smuggle migrants from central parts of Myanmar to the greater Bangkok area.⁵⁷⁰

Smuggling of migrants by sea from Myanmar to Thailand mostly involves migrants from the north-western coastal areas of Myanmar, many of them from Rakhine state. Migrants sail across the Andaman Sea to reach the southernmost parts of Thailand or the Malay Peninsula. For many of these migrants, Malaysia, rather than Thailand, is the intended destination.⁵⁷¹ There have also been reports in which migrants were first smuggled from Myanmar to Bangladesh and/or Malaysia before crossing into Thailand.⁵⁷²

While irregular migration from Myanmar to Thailand is often organised or otherwise facilitated by smugglers or traffickers, many migrants travel to the Thai border and into Thailand without their smugglers. Generally, smugglers (including drivers, transporters, brokers and guides) are more commonly used on journeys by boat and on journeys over longer distances and deeper into Thailand, especially to Bangkok and Thailand's other main urban centres. Migrants in border provinces use

⁵⁶⁹ Cf AKM Ansah Ullah & Mallik Akram Hossain, 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4 *Austrian Journal of South-East Asian Studies* 273, 284; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 16; Aung The Wine, 'For Greener Pastures' (October 2008) 16(10), *The Irrawaddy* (online).

⁵⁷⁰ UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 19; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 38–39; United States, Department of State, *Trafficking in Persons Report 2013* (2013) 111.

⁵⁷¹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 10, 42; United States, Department of State, *Trafficking in Persons Report 2014* (2014) 114; United States, Department of State, *Trafficking in Persons Report 2013* (2013) 358; Azizah Kassim & Ragayah Haji Mat Zin, *Policy on Irregular Migrants in Malaysia: An Analysis of its Implementation and Effectiveness*, Discussion Paper Series No 2011-34, Philippine Institute for Development Studies (2011) 82; Syeda Naushin Parnini, 'The Rohingya Issue in Bangladesh-Myanmar Relations' (2011) 4(23) *International Journal of Arts & Sciences* 65, 72; Engy Abdelkader, 'Myanmar's Democracy Struggle: The Impact of Communal Violence upon Rohingya Women and Youth' (2014) 23 *Pacific Rim Law & Policy Journal* 511, 529; Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012-2013* (2004) 150, 154; United States, Department of State, *Trafficking in Persons Report 2016* (2016) 112, 364; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 15.

⁵⁷² Samuel Cheung, 'Migration Control and the Solutions Impasse in South and Southeast Asia: Implications from the Rohingya Experience' (2011) 25(1) *Journal of Refugee Studies* 50, 54–55; UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 24.

smugglers less frequently for crossing the border.⁵⁷³

4.4.3 Entry into Thailand

Entry points into Thailand

Every border province in western Thailand is a site for irregular migration and the smuggling of migrants from neighbouring Myanmar. Migrants may enter Thailand along any of the routes described above, stretching from Chiang Rai province in the far north to Ranong province in the deep south. Some 300 migrants are believed to cross irregularly from Myanmar into Thailand each day.⁵⁷⁴

The main highway between the two countries, which crosses the border and the Thaunggin river (the “Friendship Bridge”) near the Thai city of Mae Sot in Tak province, is one of the main entry and transit points for smuggled and trafficked migrants. In 2008, an estimated 150 people were smuggled from Myanmar into Thailand via Mae Sot and then to Bangkok every day.⁵⁷⁵ Mae Sot is also the final destination for some irregular migrant workers who remain in border areas to take up employment. The city is also home to one of the main holding centres for irregular migrants from Myanmar who have been apprehended and are awaiting deportation.⁵⁷⁶

Departures from Rakhine state

Smuggling of migrants and trafficking in persons from Rakhine state in Myanmar’s west tends to follow a different pattern from irregular migration and smuggling in other parts of Myanmar. Most departures from Rakhine state take place on boats, sometimes after crossing overland into Bangladesh. The boat journeys, as outlined in Section IV.4.1.1 above, usually involve transportation on small vessels from coastal towns and beaches to “rendezvous vessels”, usually larger boats waiting offshore. These vessels, which are usually registered in Thailand and operated by Thai crew and smugglers, take on larger numbers of migrants, often exceeding the capacity of the boat. The vessels then bring the migrants to Thailand’s west coast or to Malaysia.

Although several thousand migrants have been taken by boat from Myanmar and Bangladesh across the Andaman Sea to Thailand without obstacle, there have been instances in which Thai navy vessels stopped and intercepted smuggling boats, prevented them from reaching Thailand or, in some cases, pushed them back to sea. Malaysia and Indonesia have occasionally adopted similar measures, leaving migrants in limbo and at sea with no place to disembark. Some cases of pushback from Thailand’s navy

⁵⁷³ IOM & Asian Research Center for Migration, *Assessing Potential Changes in the Migration Patterns of Myanmar and Their Impacts on Thailand* (2013) 13.

⁵⁷⁴ Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 447, 448 UNIAP, *Mekong Region Country Datasheets: Human Trafficking 2010* (2010) 19, 24; Lawi Weng, ‘Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy’, *Mekong Migration Network* (online), 21 August 2008.

⁵⁷⁵ Lawi Weng, ‘Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy’, *Mekong Migration Network* (online), 21 August 2008; Aung Thet Wine, ‘For Greener Pastures’ (October 2008) 16(10), *The Irrawaddy* (online).

⁵⁷⁶ Peter Munro, ‘Harbouring the illicit: borderlands and human trafficking in South East Asia’ (2012) 58 *Crime, Law and Social Change* 159, 172; Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53 *International Migration* 37, 40; see also, Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 17.

were reported in 2008, for instance, and Indian and Indonesian vessels later rescued boats that were unable to reach Thailand's shores. Similar events occurred in 2009 when Thai authorities arrested migrants from Myanmar who had landed on Thailand's coast.⁵⁷⁷

Concerns about irregular migration, smuggling of migrants and trafficking in persons gained worldwide media attention in May 2015 when approximately 8,000 migrants from Rakhine state were stranded on vessels in the Andaman Sea. Some of the boats had been abandoned by the smugglers who operated them, and there were no trained crew or captain on-board to steer and navigate the vessels.⁵⁷⁸

Complicity and corruption of border officials

Several reports point to instances in which smugglers colluded, directly or indirectly, with government officials. The limited information available mostly discusses smuggling operations that cross through official control points. In these cases, police or border guards either are paid to turn a blind eye to migrants who enter Thailand without the proper documentation or appear to be part of the smuggling network themselves.⁵⁷⁹ Interviews conducted in Myanmar for the purpose of this project also identified instances where migrants have been asked for bribes at checkpoints or used brokers to pay border officials to facilitate entry into Thailand.

4.5 Exploitation

Exploitation in the context of irregular migration from Myanmar to Thailand involves harsh and unsafe working conditions, long hours, low pay, restrictions on the freedom of movement, as well as physical abuse, threats, violence and sexual exploitation. Many migrants experience these conditions once they reach Thailand and begin their employment.⁵⁸⁰ These matters are further discussed in Chapter V of this report.

In some cases, irregular migrants also experience maltreatment by their traffickers and are exposed to health and safety dangers during their journey from Myanmar. Many are coerced into accepting mounting debts as they commence and continue their journey. These points are explored individually

⁵⁷⁷ Mely Caballero–Anthony et al, 'Forced Migration' in Mely Caballero–Anthony & Alistair DB Cook (eds), *Non-Traditional Security in Asia* (2013) 158, 158–159, 171. See also, Su–Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013* (2004) 150, 152.

⁵⁷⁸ Serhat Ünalı, 'Thailand in 2015: The Waiting Game' [2016] *Journal of International Affairs* 317, 325; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 10, 25–27.

⁵⁷⁹ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11; Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 14; see also, Habibul Haque Khondker, *Migration, Displacement, and Precarity in a Globalised World*, Working Paper, ISA eSymposium for Sociology (2013) 4–5.

⁵⁸⁰ See also, Matthew Clarke, 'Over the border and under the radar: can illegal migrants be active citizens?' (2009) 19 *Development in Practice* 1064, 1072.

in the following sections.

4.5.1 Conditions of travel

During their journey to Thailand, irregular migrants may be at risk or in danger if they use clandestine and concealed methods to cross the border. Those who travel or are guided through thick jungles, deep rivers or rivers with strong currents are at particular risk of injury, disease or death. These risks are higher still if the chosen smuggling route leads through areas far away from towns that offer food supplies or medical aid. While exact figures are not known, several sources show that irregular migrants have died while attempting to cross from Myanmar to Thailand through remote jungles and rivers.⁵⁸¹

The risks associated with smuggling methods that use main roads and border areas are no smaller, especially if migrants are instructed by their smugglers or traffickers to hide in closed or crowded compartments of trucks, vans or containers without sufficient water, food and ventilation.⁵⁸²

These dangers became particularly evident in 2008, when 54 irregular migrants from Myanmar suffocated in an airtight container on the back of a truck driving through Ranong Province in the south of Thailand. On 9 April 2008, a total of 121 migrant workers from Myanmar boarded the rear refrigeration compartment of the truck, intending to reach Phuket for work.⁵⁸³ The following details are taken from a 2009 publication examining this case:

Though the driver's associates called him repeatedly during the early portion of the journey to remind him to check that the storage compartment's air conditioning was functioning properly, he stopped answering his phone when he encountered an extended period of treacherous winding roads. During this time, the migrants in the rear of the truck also tried to contact the driver by phone. Though it is unclear whether the driver failed to turn the refrigeration unit on, or whether the unit subsequently failed, the migrants were rapidly running out of breathable air. Eventually, the driver pulled his truck to the side of the road in response to noises coming from the storage compartment, discovered that many of his passengers appeared near death, and fled. When police arrived, they found that 54 of the 121 passengers had suffocated. Among the survivors, the police discovered 14 children, 7 adult workers with proper

⁵⁸¹ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labor Migration in ASEAN: Thailand (Immigration)*, Discussion Paper No 28, Philippine Institute for Development Studies (2011) 42; Srawooth Paitoonpong & Youngyuth Chalamwong, *Managing International Labor Migration in ASEAN: A Case of Thailand* (2012) 34; Srawooth Paitoonpong, 'Managing International Labor Migration in ASEAN: Thailand (Immigration)' (2011) 38 *Philippine Journal of Development* 163, 174. See also, Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 15–16.

⁵⁸² Mary Rose Geraldine A Sarasad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 7.

⁵⁸³ See generally, Habibul Haque Khondker, 'Migration, Displacement, and Precarity in a Globalised World' (2013) 3(1) *ISA eSymposium for Sociology* 1, 4–5; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 128; Anne Gallagher & Marie L McAuliffe, 'South-East Asia and Australia' in Marie L McAuliffe & Frank Laczko (eds), *Migrant Smuggling Data and Research: A global review of the emerging evidence base* (2016) 211, 217.

documentation, and 46 workers without proper documentation.⁵⁸⁴

Smuggling by sea, which is common from Rakhine state to Thailand's west coast,⁵⁸⁵ can also be treacherous if migrants are placed on unseaworthy vessels, travel through storms or are supplied with insufficient food, water and life vests. In some cases, the vessels run out of fuel, suffer engine failure or sink.⁵⁸⁶ In mid-2015, UNHCR estimated that about 1,100 migrants had died trying to cross the Andaman Sea on migrant smuggling vessels since the start of 2014. A 2015 report detailed the precarious conditions in which migrants travel on board these vessels, noting the lack of food, water and sanitary facilities, as well as the many medical and emergency situations that arose during the journeys.⁵⁸⁷ There have also been reports in which vessels were not permitted to land on the coast of Thailand and were pushed back to sea, sometimes without receiving additional food and water supplies.⁵⁸⁸

Irregular migrants, especially if they travel on their own or in small groups, are also at risk of being held up, extorted or harmed by local groups and individuals they encounter along the way. Migrants have been robbed and abused.⁵⁸⁹

4.5.2 Treatment by traffickers

Deception

Specific information relating to deception, fraud and other trickery used by smugglers and traffickers

⁵⁸⁴ Erick Gjerdingen, 'Suffocation Inside a Cold Storage Truck and Other Problems with Trafficking as 'Exploitation' and Smuggling as 'Choice' along the Thai-Burmese Border' (2009) 26 *Arizona Journal of International & Comparative Law* 699, 701–702. For further reports on this incident, see Lawi Weng, 'Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy', *Mekong Migration Network* (online), 21 August 2008.

⁵⁸⁵ See further, Section IV.4.3.1 above.

⁵⁸⁶ Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013* (2004) 150, 152; United States, Senate, Committee on Foreign Relations, 'Trafficking and Extortion of Burmese Migrants in Malaysia and Southern Thailand', 111th Congress, 1st Session, 3 April 2009, 14; Engy Abdelkader, 'Myanmar's Democracy Struggle: The Impact of Communal Violence upon Rohingya Women and Youth' (2014) 23 *Pacific Rim Law & Policy Journal* 511, 528.

⁵⁸⁷ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 10, 19.

⁵⁸⁸ K M Atikur Rahman, 'Ethno-Political Conflict: The Rohingya Vulnerability in Myanmar' (2015) 2 *International Journal of Humanities & Social Science Studies* 288, 292; Pai Palmgren, 'Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia' (2011) 5 *Sociology Compass* 323, 328; Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 49; Habibul Haque Khondker, 'Migration, Displacement, and Precarity in a Globalised World' (2013) 3(1) *ISA eSymposium for Sociology* 1, 5; Syeda Naushin Parnini, 'The Rohingya Issue in Bangladesh-Myanmar Relations' (2011) 4(23) *International Journal of Arts & Sciences* 65, 72; Katherine Southwick, 'Preventing Mass Atrocities against the Stateless Rohingya in Myanmar: A Call for Solutions' (2015) 68 *Journal of International Affairs* 137, 141; Serhat Ünalı, 'Thailand in 2015: The Waiting Game' [2016] *Journal of International Affairs* 317, 325.

⁵⁸⁹ David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 220.

to lure people from Myanmar is almost non-existent. This is not to say that such methods are not employed or uncommon. It is worth noting though that due to strong push and pull factors, many would-be migrants do not need to be tricked into leaving Myanmar. Many migrants leave the country with a general awareness of what to expect in Thailand and of the dangers associated with their journeys. Some migrants, however, may hold naïve views about the lifestyle and working conditions they can expect in Thailand. Some recruiters foster these views by embellishing their accounts of living and working conditions in Thailand, the journey to the country and what their future lives may be in Thailand.

Control

According to one 2011 publication, irregular migrants from Myanmar who had been placed in detention in Thailand were then “sold” to criminal groups involved in trafficking in persons.⁵⁹⁰ Female migrants who cannot find other avenues for employment are in danger of becoming victims of exploitation and abuse.⁵⁹¹

Physical and sexual abuse

The great majority of reports documenting the poor treatment of migrants by their smugglers and traffickers involve instances of physical and sexual abuse, deprivation of food and water and cases in which migrants have been locked up, maltreated and sometimes even killed in fenced camps or other enclosed facilities. Most of these reports have been in relation to smuggling and trafficking ventures involving migrants from Rakhine state who are brought to Thailand by boat.⁵⁹² Many accounts document migrants being beaten and killed, with other migrants witnessing the incidents.⁵⁹³

In May 2015 several barbed-wire camps and mass graves were found in southern Thailand near the Malaysian border, and later on the Malaysian side of the border. Most of the people and bodies found in these camps were from Rakhine state; some were from Bangladesh. Thai authorities investigating these camps found evidence of widespread abuse and mass deaths and killings. Several survivors were found in these camps in extremely poor health, displaying signs of malnutrition and dehydration. On some sites, migrants were kept in cage-like constructions made from bamboo. Some cages and camps evidently had been emptied only a few days before Thai authorities arrived. Further investigations revealed that traffickers had held some migrants in the camps in order to extort money from their

⁵⁹⁰ Pei Palmgren, ‘Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia’ (2011) 5(5) *Sociology Compass* 323, 332.

⁵⁹¹ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 33; Alexandra Seltzer, ‘Human trafficking: the case of Burmese refugees in Thailand’ (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 282, 288.

⁵⁹² See further, Section IV.4.1.1 above.

⁵⁹³ Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 187; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* 17–18.

relatives in Myanmar and Bangladesh.⁵⁹⁴

The detection of these camps also caused migrant smugglers to abandon their ventures and some of their vessels, which contributed to the Andaman Sea crisis of May 2015, in which several thousand migrants were left drifting on the open sea with no place to disembark.⁵⁹⁵

4.5.3 Payments and debts

Payments by migrants and family members

The money needed to pay the brokers, transporters, smugglers and/or traffickers who facilitate the journey to Thailand often amounts to a migrant's life savings. Some migrants save as much money as they can to pay the required fees. Very frequently, they have to rely on their families and friends to contribute to their payments. It is also not uncommon that fees are paid, in whole or in part, with money provided by persons who have previously migrated along the same route; irregular migrants from Myanmar in Thailand frequently send money back to their relatives and friends so that they too can migrate to Thailand.⁵⁹⁶

Informal banking and money transfer systems are widely used across Myanmar. Payments to brokers, smugglers and traffickers are also transferred through these channels. Although domestic and foreign banks have spread rapidly across Myanmar's main urban centres and into some rural areas, many people greatly mistrust banks, their practices and fee structures and prefer to use informal systems, which are seen as more trustworthy and less expensive.⁵⁹⁷

In many cases, migrants are not able to pay upfront the full fee required to move to Thailand. Another way to afford the fees charged by brokers and smugglers is to agree to an arrangement that allows brokers, employers or others to automatically deduct money from the migrants' income in Thailand. Usually, this means that migrants have to repay their debt over long periods of time and many migrants lose track of when they will be able to discharge their debt.⁵⁹⁸ Under some arrangements, brokers withhold all of the payments made to migrants when they first take up employment in Thailand. This

⁵⁹⁴ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 9, 15–17, 22.

⁵⁹⁵ See further, Section IV.4.1.1 above. See also, Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 15–16, 24.

⁵⁹⁶ Mary Rose Geraldine A Sarasad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 11; see also UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12

⁵⁹⁷ Koji Kubo, *Evolving Informal Remittance Methods of Myanmar Migrant Workers in Thailand*, ERIA Discussion Paper 2015–24 (2015) 8–9; Sandar, Tun Min, 'A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand)' (2011) 9–10; 'Myanmar remittances: Too many chits for kyats', *The Economist* (online), 30 May 2013.; Sean Turnell et al, 'Migrant-worker remittances and Burma: an economic analysis of survey results' in Monique Skidmore & Trevor Wilson (eds), *Dictatorship, Disorder and Decline in Myanmar* (2008) 70–71.

⁵⁹⁸ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 71; Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012–2013* (2004) 150, 155; UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3.

may help migrants repay their debts faster, but leaves them with no money to live on.

Many brokers, also referred to as “carries” in Myanmar, offer to advance fees and repay debts later in order to recruit would-be migrants into journeys they otherwise could not afford. This method also creates the impression that the journeys are free, as no up-front payments are required. Brokers also try to convince migrants that higher fees and more expensive arrangements will lead them into higher-paying employment in Thailand or enable them to take jobs in Bangkok or other major urban centres where salaries are generally higher.⁵⁹⁹

The advancement of fees, tied to the promise that migrants will easily repay brokers once they start working in Thailand, seems to be particularly common in the recruitment of young women for the sex industry. Many of these young women come from poor backgrounds and often lack family support. As a result, they are often unable to make any payments in advance.⁶⁰⁰ This practice can serve as a tool to exercise close control of the workers and their movement. It also makes it possible for traffickers to “sell” victims to other traffickers.⁶⁰¹

Some brokers and their associates appear to take full control over a migrant’s finances once they reach Thailand by deducting fees, transferring some funds as remittances to the migrants’ families in Myanmar and paying out the remaining balance to the migrants. These complex arrangements can have the advantage of avoiding banking and transfer fees, as well as ensuring that the money reaches a migrant’s relatives back home, but some agents reportedly charge exorbitant fees or manipulate exchange rates in their favour.⁶⁰²

Information on fees

The fees charged by brokers and smugglers depend on a number of factors, especially the services offered and the distances travelled. Some brokers leave it to migrants to organise their own travel to Thailand, and many migrants are able to independently travel to and cross the Thai border and contact other agents or their prospective employers.⁶⁰³ Other migrants employ brokers to organise their transportation. In some cases, this may be a faster way for migrants to reach Thailand, but also increases their costs considerably. Given the great range of arrangements and services offered, fees can be as low as THB 100 or as high as THB 15,000.⁶⁰⁴

Most estimates of the fees charged for irregular migration from Myanmar to Thailand (which include transportation) range between about THB 9,000 and 19,000. These estimates from the late 2000s are

⁵⁹⁹ Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53 *International Migration* 37, 42.

⁶⁰⁰ See Section IV.3.1.2 above.

⁶⁰¹ Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 193.

⁶⁰² Hannah Andrevski & Samantha Lyneham, *Experiences of exploitation and human trafficking among a sample of Indonesian migrant domestic workers*, Trends & Issues in Crime and Criminal Justice No 471, Australian Institute of Criminology’ (2014) 4; referencing Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33–44.

⁶⁰³ See further, Section IV.1. above.

⁶⁰⁴ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 71.

about twice as high as the estimated fees from a decade earlier. The higher fees are often associated with smuggling ventures by boat that take migrants from the western parts of Myanmar to the south-west coasts of Thailand.⁶⁰⁵

In 2013, UNODC estimated that the average price migrants paid to be smuggled to Thailand was USD 406, considerably higher than the costs for smuggling from Lao PDR and Cambodia, estimated to be USD 97 and USD 85 respectively.⁶⁰⁶ Interviews conducted in Myanmar for the purpose of this report confirm these estimates, with most sources suggesting that fees range between USD 300 and 500 or MMK 300,000–500,000. In some cases, migrants are charged MMK 150,000 in Myanmar and a further THB 10,000 once they reach Thailand. The latter amount is usually deducted from a migrant's salary by withholding THB 1,000 per month over a ten-month period.

There are isolated cases in which migrants are not charged a set fee or indeed any fee at all. Some recruiters appear to offer their services at no cost to migrants and work exclusively under the commission of prospective Thai employers. Based on the limited information available, it is not clear just how common such arrangements are, and sources do not disclose whether employers later discount these expenses from a migrant's income. It has also been suggested that smuggling ventures involving no or low fees may be indicative of situations of trafficking.⁶⁰⁷

Debts incurred

If migrants and their families are unable to pay fees upfront, the arrangements to repay these fees later result in considerable debts, which migrants have to pay off for some time after taking up employment in Thailand. These debts, which average around USD 300–500, are usually paid in instalments by deducting money from a migrant's income or, in some cases, withholding most of their pay and only releasing a small amount to the migrants.⁶⁰⁸

Many migrants appear to have little understanding of the full amount owed and the period of time needed to repay their debt. Some migrants are unsure whether they still owe money to the brokers and whether money is deducted from their pay. Others seem to underestimate how long it will take to repay their debts and how little money they will have left after repayments are deducted.⁶⁰⁹

Debt arrangements also offer an easy opportunity for recruiters to deceive migrants and inflate their

⁶⁰⁵ UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15 *Journal of the Asia Pacific Economy* 33, 39; Human Rights Watch, *Perilous Plight: Burma's Rohingya Take to the Seas* (2009) 8; Lawi Weng, 'Migrants Flow out of Burma as Economic Woes Deepen, Irrawaddy', *Mekong Migration Network* (online), 21 August 2008; Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?', in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012-2013* (2004) 150, 154

⁶⁰⁶ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13

⁶⁰⁷ ILO, *The Mekong Challenge — Underpaid, Overworked and Overlooked: The realities of young migrant workers in Thailand* (2006) 71; Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 23.

⁶⁰⁸ Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand', paper presented at the conference *Rethinking Development in an Age of Scarcity and Uncertainty*, European Association of Development Research and Training Institutes, 20 September 2011, 11.

⁶⁰⁹ United States, Department of State, *Trafficking in Persons Report 2016* (2016) 40.

debt after they agree to be taken to Thailand.⁶¹⁰ Some recruiters later add charges for transportation, accommodation and for connecting migrants to their employers or charge high interest rates if payments are not made on time. In these situations, the debt arrangements quickly turn into debt bondage, placing migrants at the mercy of their traffickers.⁶¹¹

If migrants are transferred between different employers and traffickers, it seems to be common practice that the new employer (the recipient of the migrant) discharges the migrant's debt owed to the previous employer/trafficker and then calculates a new debt for the migrant. This method resembles the "selling" of migrants from one person to another and involves a high risk of exploitation and debt bondage. The practice seems to be common in the sex industry, where migrants are often young, naïve and vulnerable. These arrangements enable employers and traffickers to exercise even greater control over their victims.⁶¹²

4.6 Perpetrators

4.6.1 Profile of individual perpetrators

Age, gender, and background

The people involved in recruiting irregular migrants in Myanmar and organising smuggling or trafficking ventures do not fit a single profile. The available information is too limited and too incomplete to enable generalisations and succinct observations.

The people would-be migrants first come into contact with in their local areas are frequently men and women who previously migrated to Thailand themselves. They often return home to share their experiences and to act as recruiters for those who previously facilitated their own migration. These recruiters often come from the same background and share the same aspirations as their recruits, are familiar with local language and customs and are often known to the would-be migrants or their families or friends. In some cases, recruiters are relatives or friends of the people they recruit. This was also confirmed in interviews conducted in Myanmar for the purpose of this report. For these recruiters, it is easy to gain a migrant's trust, answer their questions and connect them to the people who will organise their transportation and employment.⁶¹³ It should be stressed that this method of recruitment and information sharing is not, by itself, illegal. It is natural for former migrants and returning visitors

⁶¹⁰ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 43.

⁶¹¹ Aungkana Kmonpetch, *The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand*, Kyoto Working Papers on Area Studies No 106 (2011) 16; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20.

⁶¹² Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 187–188.

⁶¹³ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 41; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12, 21.

to share their impressions and experience with their families and others in their hometowns. Their migration was likely triggered by the same conditions that motivate new would-be migrants, who are curious about the opportunities and income available in Thailand.

Many sources highlight the fact that a considerable number of recruiters are women. This has been observed across a range of industries and is not limited to the recruitment of other women for employment in the sex industry. Some sources suggest this may be reflective of the high number of women who are smuggled and trafficked from Myanmar to Thailand for a range of different purposes.⁶¹⁴ In interviews conducted in Myanmar for the purpose of this report, it was also stressed that it is normal for men to recruit other men, and for women to recruit other women.

There is very little information about the profile of people who bring smuggled migrants and trafficked persons from Myanmar to Thailand. Smugglers and traffickers who are used to cross the border are either Myanmar or Thai nationals. Migrants are sometimes handed from one individual or one group to another at the border. The crews that are involved in smuggling migrants by sea are also mostly from Thailand, Myanmar, or in some cases, from Bangladesh.⁶¹⁵

Motivation

It is hard to clearly define which situations lead to trafficking. Many recruiters may have the best interests of migrants in mind when they give advice and encourage emigration. Others, however, may want to take advantage of migrants and make money off new recruits. There are also cases in which a migrant's family members, friends and other acquaintances turn into their traffickers.⁶¹⁶ Furthermore, recruiters themselves may have been trafficking victims who, despite experiencing exploitation first-hand, sometimes turn into traffickers or associates and use their own experience in order to better their position and make money.

Suggestions that recruiters are involved in other illegal activities, ranging from drug trafficking to gem stone smuggling, and that they smuggle migrants along with other contraband do occasionally appear in the literature.⁶¹⁷ However, these statements are often not supported by reliable information and cannot be independently verified.⁶¹⁸

⁶¹⁴ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 21; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186; see also, David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25 *Cultural Dynamics* 207, 212.

⁶¹⁵ Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 15.

⁶¹⁶ Christa F Crawford, 'Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 841; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 21.

⁶¹⁷ See, for example, John R Barner et al, 'Socio-Economic Inequality, Human Trafficking, and the Global Slave Trade' (2014) 4 *Societies* 148, 153; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 186.

⁶¹⁸ See also, UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

4.6.2 Smuggling and trafficking groups and networks

Structure

Although the smuggling of migrants and trafficking in persons from Myanmar to Thailand generates considerable income for the individuals and networks involved, it is not possible to identify a common organisational or business model that adequately captures the many varied operators in these activities.

For the most part, perpetrators are connected through loose networks and associations that facilitate the smuggling and trafficking process. This includes recruiting migrants in Myanmar, transporting them to Thailand and placing them into employment. Because of the many tasks and stages involved, it is unlikely for perpetrators to operate alone throughout the entire process. Usually, perpetrators specialise in one task or work in one area and are then connected to other groups and individuals that cover other parts of the smuggling and/or trafficking journey. Other research has similarly found that most groups involved in bringing migrant workers from Myanmar into Thailand are small and “diffuse networks of individuals,” suggesting that much of the smuggling and trafficking activity across the border is best described as a cottage industry with a range of small-scale operators along the way.⁶¹⁹ Interviews conducted in Myanmar for the purpose of this report similarly gave the impression that smuggling is mostly based on relationships between recruiters, transporters and employers.

The loose connection between the groups and individuals involved in the smuggling of migrants and trafficking in persons means that perpetrators operating at the beginning of the journey may not always know that the venture may lead into exploitation and trafficking. Similarly, Thai employers and others at the receiving end of the smuggling and trafficking process may not always know that migrants may have been tricked, deceived or exploited at the start of their journey.⁶²⁰

In general, the smuggling and trafficking trade across the Myanmar-Thai border is characterised by a high degree of flux and flexibility. Perpetrators, groups and their *modi operandi* change frequently. The scale of smuggling of migrants and trafficking in persons is large enough to allow a great range of groups and individuals to engage in and benefit from this trade. Changing economic and political circumstances on either side of the border make it necessary for smugglers and traffickers to quickly adapt the methods and scales of their operations.⁶²¹

Just as it is unlikely for smugglers and traffickers to work on their own, it is similarly uncommon for mafia-style syndicates with clear hierarchical structures and wide geographical reach to engage in the smuggling of migrants and trafficking in persons on a large scale. The conditions and circumstances of smuggling and trafficking between the two countries do not warrant the creation and use of sophisticated criminal organisations. The profits generated from these activities are too small to pay

⁶¹⁹ Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53 *International Migration* 37, 47; Srawooth Paitoonpong & Youngyuth Chalamwong, *Managing International Labor Migration in ASEAN: A Case of Thailand* (2012) 24, with further references; see also, United States, Department of State, *Trafficking in Persons Report 2014* (2014) 373.

⁶²⁰ Cf UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3–4.

⁶²¹ Erick Gjerdingen, ‘Suffocation Inside a Cold Storage Truck and Other Problems with Trafficking as ‘Exploitation’ and Smuggling as ‘Choice’ along the Thai-Burmese Border’ (2009) 26 *Arizona Journal of International & Comparative Law* 699, 731.

large numbers of people at different levels of the organisational hierarchy.⁶²²

This is not to say that structured groups are not involved in the smuggling and trafficking in persons from Myanmar to Thailand. Several sources show that some groups operate in certain strategic locations along the main smuggling and trafficking routes. They appear to monopolise the local trade and control a significant part of the irregular cross-border business in some areas. This has been observed, for instance, in the border town of Myawaddy. These groups also have the capacity to bribe or otherwise influence border officials on a large scale or, in some cases, operate under the watch or control of corrupt officials who enable them to carry out their activities with impunity.⁶²³

The relationship between recruiters or brokers in Myanmar and employers in Thailand is central to the movement of migrant workers. This relationship does not follow a single or simple model. Because there is such high demand for work, both in Thailand and in Myanmar, the communication networks among employers, migrants and brokers have become very complex. Thai employers may be connected to migrants through several brokers, agents and recruiters. Networks become more complex if employers make payments and remittances through brokers, or if brokers or employers are involved in registering migrant workers with local authorities in Thailand. Sub-contracting arrangements are frequently used for various tasks. This often makes it difficult to hold people accountable if migrants are found working irregularly or if they fail to comply with employment, residence or registration requirements. Such arrangements also hamper law enforcement's ability to identify the main individuals responsible for smuggling or trafficking.⁶²⁴

Roles and duties

There are a range of players and contributors who occupy certain roles or carry out certain duties associated with the smuggling and trafficking process. While certain roles, especially those of recruiters and employers, are indispensable, the allocation of tasks and division of labour does not follow a particular model. It is difficult to develop a general typology of the roles and duties associated with smuggling and trafficking.⁶²⁵

The recruiter is usually the person who first makes contact with migrants in their hometown or local area. Migrants themselves usually initiate contact in order to emigrate or obtain information about the process. These recruiters are often from the same background and area as their recruits and, in some cases, are their relatives or friends.⁶²⁶

Brokers (or agents), also referred to as “carry” or “carries” in Myanmar, perform a variety of roles that involve connecting migrants to the people who transport, accommodate or employ them. Brokers may

⁶²² See also, UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 21.

⁶²³ Peter Munro, ‘Harbouring the illicit: borderlands and human trafficking in South East Asia’ (2012) 58 *Crime, Law and Social Change* 159, 173; see also, John R Barner et al, ‘Socio-Economic Inequality, Human Trafficking, and the Global Slave Trade’ (2014) 4 *Societies* 148, 153.

⁶²⁴ UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3–5.

⁶²⁵ See generally, Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2nd edn, 2006) 159, 187; UNODC, *A short introduction to migrant smuggling*, Issue Paper (2010) 14–16.

⁶²⁶ See Section [...] above.

also be responsible for collecting payments from migrants, transferring funds from employers to migrants or remitting a migrant's funds to his or her family. Depending on the specific arrangement, smuggling and trafficking ventures involve more than one broker. Some brokers work in Myanmar and organise the journey to Thailand as well as a migrant's employment. Others work in Thailand and connect migrant workers to their employers. In some cases, trafficking victims may suffer deception and exploitation by their brokers rather than their employers in Thailand.⁶²⁷

Transporters, drivers, captains and crew are responsible for bringing migrants to or across the border, and then to a migrant's place of employment in Thailand. Not all irregular migration from Myanmar to Thailand involves the use of specific transporters, as many migrants will venture to Thailand independently, sometimes by using commercial means of transportation such as cross-border buses. Transporters are used more commonly in cases where migrants may be unable or unwilling to travel to Thailand unaided.⁶²⁸

Employers can often do more than provide migrant workers with jobs. Their role often goes further, as they may also be responsible for providing accommodation, food and medical support to migrants. As Sections V.3 and V.4 below show, employers and their associates often exploit migrants by not paying them as agreed, forcing them to work in unsafe or sub-standard conditions, or, in some cases, use coercion, intimidation or violence against migrants. The term "employer" also does not imply that their business and the work they provide are lawful. The term also encompasses brothel owners and pimps, as well as private individuals and families who employ domestic helpers.

4.6.3 Legal and semi-legal operators

Many individuals involved in facilitating irregular migration cannot clearly be identified as regular or irregular operators, which makes it difficult to identify and combat the smuggling of migrants and trafficking in persons from Myanmar to Thailand. Many aspects of labour migration occur in a grey area that is not sufficiently regulated. It is not always clear which activities amount to a criminal offense and which ones do not.

This problem is particularly evident in relation to recruiters and brokers. In some cases, recruiters and brokers may merely spread the word and share information about irregular migration routes to Thailand. Often, these recruiters are former migrants themselves or relatives and friends of the would-be migrants. In "recruiting" the migrants, they may do little more than share their impressions and

⁶²⁷ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 41–42; UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 1, 3; UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11–12; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 330; United States, Department of State, *Trafficking in Persons Report 2014* (2014) 373; Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37 *International Journal of Comparative and Applied Criminal Justice* 279, 288; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security: Securing East Asia's Future* (2012) 75, 84; Jackie Pollock, 'What's in a label?' (2011) 37 *Forced Migration Review* 46, 46.

⁶²⁸ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53 *International Migration* 37, 41.

experiences. Even if recruiters and brokers operate for financial gain and the arrangements they promote and sell may lead into situations of trafficking and involve irregular border crossings, their activities may be lawful because they are licensed. Conversely, recruiters and brokers may operate unlawfully only because they are unlicensed, though the services they offer are indistinguishable from those offered by licensed brokers. Based on interviews conducted in Myanmar for this report, it is not clear what level of control government agencies exercise over the activities of licensed and unlicensed recruitment agencies and brokers in Myanmar.

4.6.4 Persons aiding and facilitating smugglers and traffickers

Corrupt officials

The involvement of corrupt officials in facilitating the smuggling of migrants and trafficking in persons from Myanmar to Thailand has been flagged several times throughout this chapter.⁶²⁹ Several sources stress that smuggling and trafficking between the two countries is dependent upon corruption and would not flourish at present levels if officials were not bribed on a large scale.⁶³⁰ Interviews conducted in Myanmar for the purpose of this report also confirm that corruption in this context does occur and several officials have been removed from their positions for this reason.

Corruption is most likely to occur at the border and at police checkpoints. Smugglers usually seek to bribe officials so they can turn a blind eye to irregular border crossings and to migrants who do not carry valid travel or identity documents or who carry no documents at all. In some cases, officials are complicit with smugglers and traffickers and support their activities on an on-going basis; sometimes, they may be regarded as part of the smuggling and trafficking network themselves. A 2013 UNODC publication reported that smuggled migrants may pay anywhere between 6.50 and 260 USD in bribes. Sometimes migrants directly give bribes to officials; at others, smugglers collect money from migrants and pay for them.⁶³¹

Allegations of corruption have also been made in the context of smuggling ethnic Rohingyas by boat from western Myanmar, sometimes via Bangladesh, to Thailand. Officials reportedly stopped some boats and demanded payment before they let the boats proceed. In other cases, irregular migrants who had been detained were set free after traffickers paid bribes to officials in charge of the detention centres.⁶³² Some sources further suggest that corrupt officials in both Myanmar and Thailand are responsible for enabling some boats to carry irregular migrants to Thailand in the first place. They also

⁶²⁹ See, for example, Sections IV.6.2.2 above.

⁶³⁰ Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37 *International Journal of Comparative and Applied Criminal Justice* 279, 288; United States, Department of State, *Trafficking in Persons Report 2016* (2016) 112; see also, Amnesty International, *Deadly Journeys: The Refugee and Trafficking Crisis in Southeast Asia* (2015) 16.

⁶³¹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 11, 20; see also, Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security: Securing East Asia's Future* (2012) 75, 84; Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 15.

⁶³² Amanda Crews Slezak et al, 'Stateless and Fleeing Persecution: The Situation of the Rohingya in Thailand' (2015) 35 *Children's Legal Rights Journal* 44, 51; Human Rights Watch, *Ad Hoc and Inadequate: Thailand's Treatment of Refugees and Asylum Seekers* (2012) 76–77.

allege that officials work directly with smugglers and traffickers.⁶³³

Corruption makes it difficult for migrants and victims of trafficking to turn to government officials when they need aid and protection. Corrupt officials are less likely to protect migrants from smugglers and traffickers if they work hand-in-hand with them. If irregular migrants witness corruption first-hand, it also destroys their belief that other officials will assist them.⁶³⁴

Travel agents, carriers, et cetera

The arrangements for travel from Myanmar to Thailand often involve commercial travel agents and cross-border bus operators who run legitimate businesses and are not part of the smuggling network. These businesses offer an easy and often inexpensive way for smuggled migrants to make the journey to Thailand and are most commonly used if migrants make their own arrangements or if they have been furnished with fraudulent travel or identity documents. In these cases, transporters and drivers who are part of the smuggling network are not needed.⁶³⁵ Travel agents, cross-border bus services and airlines do have an obligation under Myanmar law to check the travel and identity documents of their customers and may be fined if they fail to do so or if they carry inadequately documented passengers across the border.

Other persons supporting trafficking

Families and friends of the migrants play an important role in instigating, facilitating or supporting the smuggling of migrants and trafficking in persons from Myanmar to Thailand.⁶³⁶ Relatives and friends may serve as recruiters and brokers by encouraging migrants to move to Thailand, furnishing them with contacts and other information or by connecting them to smugglers, traffickers and employers.

This situation poses particular challenges for the criminalisation of smuggling and trafficking and for the enforcement of relevant laws. It raises questions about if and when relatives and friends can be liable for smuggling or trafficking, even if they believe they are acting in a migrant's best interests. These questions are further explored in the concluding parts of this report.

⁶³³ Emma Chanlett-Avery & Ben Dolven, 'Thailand: Background and US Relations' (2014) 23 *Current Politics and Economics of South, South-eastern, and Central Asia* 299, 320; Su-Ann Oh, 'Rohingya Boat Arrivals in Thailand: From the Frying Pan into the Fire?' in Oie Kee Beng (ed), *ISEAS Perspective Selections 2012-2013* (2014) 150, 154; United States, Department of State, *Trafficking in Persons Report 2015* (2015) 104, 330; United States, Department of State, *Trafficking in Persons Report 2014* (2014) 373, 374.

⁶³⁴ UNIAP, *From Facilitation to Trafficking: Brokers and Agents in Samut Sakhon Thailand*, SIREN Field Report TH-01 (2007) 3.

⁶³⁵ See Section IV.4.1 above.

⁶³⁶ See Sections IV.3.1.1 and IV.3.2.1 above.

5 Thailand

5.1 Overview and settings



The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

5.1.1 Statistics

Thailand is home to a vast and growing migrant population. In 2015, nearly 4 million migrants lived in Thailand, constituting 5.76 per cent of the total population. The number of migrants living in Thailand has nearly doubled over the last decade, as shown in Figure 16 below.

Figure 16: Total migrant stock, Thailand, 2000–2015⁶³⁷

Country of origin	2015	2010	2005	2000
Cambodia	805,272	611,506	369,213	153,382
Lao PDR	969,267	829,240	539,966	289,366
Myanmar	1,978,348	1,648,602	1,150,168	734,129
Total migrant stock, Thailand	3,913,258	3,224,131	2,163,447	1,257,821

The vast majority of migrants living in Thailand, approximately 90 per cent, come from neighbouring Cambodia, Lao PDR and Myanmar. The number of Cambodian nationals living in Thailand has grown particularly quickly in recent years. The number of Lao nationals in Thailand, reaching nearly 1 million in 2015, is especially high in relation to the population of Lao PDR, which stood at about 7 million in mid-2015.⁶³⁸ Myanmar nationals constitute the largest group of foreign nationals in Thailand, at nearly 2 million in 2015.⁶³⁹

Foreign workers

Most of the migrants living in Thailand work in a range of labour-intensive industries, including agriculture, fishing, construction and manufacturing, as well as domestic work and hospitality.

Official figures and estimates on the total number of foreign workers in Thailand vary depending on the year they were issued and on the definitions used. Most sources published since 2010 estimate that approximately 3-3.5 million foreign workers (regular and irregular) live and work in Thailand,

⁶³⁷ UN, Department of Economic and Social Affairs, 'Trends in International Migrant Stock: Migrants by Destination and Origin' (2015).

⁶³⁸ United States, Central Intelligence Agency, *The World Factbook: Laos* (July 2015).

⁶³⁹ UN, Department of Economic and Social Affairs, 'Trends in International Migrant Stock: Migrants by Destination and Origin' (2015).

constituting some 8 per cent of the total workforce in the country.⁶⁴⁰ Sources from 2005 to 2009 estimate between 1.5 million and 2.4 million, or 5 per cent, of the Thai workforce were foreign workers at these times.⁶⁴¹

Two other sources of data provide insight into the numbers of foreign workers in Thailand: 1) The number of foreign workers who register with Thai authorities when they first begin employment in Thailand, and 2) the number of migrants who legalise their status and acquire work permits after initially entering the country illegal. Since the early 2000s, Thailand has signed Memoranda of Understanding (MoUs) with Cambodia, Lao PDR and Myanmar that allow for labour migration through official channels. At various times over the past 15 years, Thailand has also established registration and nationality verification processes, which have enabled foreign workers without lawful status in the country to register with Thai authorities and acquire temporary work permits.⁶⁴²

Figure 17 Migrant workers from Cambodia, Lao PDR and Myanmar registered in Thailand

Country of origin	year/ period	estimate (number)	Source
Cambodia	2012	73,793	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion: Resource Book</i> (2013) 93
	2016	107,172	Department of Employment (Ministry of Labor) Thailand
Lao PDR	2011	104,928	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion: Resource Book</i> (2013) 119
	2016	33,054	Department of Employment (Ministry of Labour) Thailand
Myanmar	2009	1,079,991	UNODC, <i>Transnational Organized Crime in East Asia and the Pacific</i>

⁶⁴⁰ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 1; Jerrold W Huguet & Aphichat Chamratrithirong, 'Introduction', in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011 – Migration for development in Thailand: Overview and tools for policy makers* (2011) 1, 3; Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 130; Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 19; Utit Sankharat, 'Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand' (2013) 9(11) *Asian Social Science* 24, 25; Jerrold W Huguet et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute (2012) 2; Yongyuth Chalamwong & Raphaella Prugsamat, 'The Economic Role of Migration — Labor Migration in Thailand: Recent Trends and Implications for Development' (2009) 24(3) *TDRI Quarterly Review* 3, 4.

⁶⁴¹ Tsuneo Akaha, 'Human Security in East Asia' (2009) 5(2) *Journal of Human Security* 11, 16; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 25; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) xi, 4; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 9; see also, Jerrold W Huguet et al, 'Thailand Migration Profile', in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011 – Migration for development in Thailand: Overview and tools for policy makers* (2011) 7, 11; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 16–17

⁶⁴² See further Section V.5.3 below.

Country of origin	year/ period	estimate (number)	Source
			(2013) 8
	end of 2009	1,315,932	UNIAP, <i>Human Trafficking Sentinel Surveillance</i> (2010) 22
	2016	831,235	Department of Employment (Ministry of Labour) Thailand
Total Cambodia + Lao PDR + Myanmar	By End of 2010	932,255	J Huguet et al, 'Thailand Migration Profile', in J Huguet & A Chamratrithirong (eds), <i>Thailand Migration Report 2011</i> (2011) 7, 9
	as of Dec 2010	210,044	S Paitoonpong, <i>Different Stream, Different Needs, and Impact:</i> (2011) 5
	2010-mid 2011	996,278	UNODC, <i>Transnational Organized Crime in East Asia and the Pacific</i> (2013) 12
	Dec 2012	733,603	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion: Resource Book</i> (2013) 130

Estimates of the number of migrant workers who arrived in Thailand in an irregular status and later gained lawful status vary. Official figures differ from figures provided in secondary sources. This is due in part to the fact that some sources show figures of all migrants who register and receive a work permit over a certain period, while others provide figures relating to the number of registered workers present in Thailand at a particular point in time or in a particular year. Different sources also classify and combine the available data differently, such that comparisons between sources are nearly impossible. What is evident from the information shown in Figure 17 above is that hundreds of thousands of foreign workers from Cambodia, Lao PDR and Myanmar who arrived as irregular migrants over the past 10 years have been able to gain lawful status in Thailand. Figure 17 also demonstrates the scale of irregular migration from these countries to Thailand, giving some indication that the actual number of irregular migrant workers may be much higher.

Figures relating to the legal entry of migrant workers from Cambodia, Lao PDR and Myanmar into Thailand, shown in Figure 18 below, are similarly inconsistent, with sources using different parameters and time periods to report their data. Overall, there appears to be a moderate increase in the uptake of regular migration programs established under the bilateral MoUs with Thailand, but these numbers are still small relative to the overall number of foreign workers entering and working in Thailand. These figures show that the majority of workers continue to use irregular forms of migration and cast doubt over the effectiveness of existing labour migration programs.

Figure 18 Migrant workers from Cambodia, Lao PDR and Myanmar entering Thailand regularly under bilateral MoUs

country of origin	year/ period	estimate (number)	Source
Cambodia	up to Dec 2009	15,230	S Paitoonpong, <i>Different Stream, Different Needs, and Impact:</i> (2011) 61
	up to end of 2010	51,966	J Huguet et al, 'Thailand Migration Profile' in J Huguet & A Chamratrithirong (eds), <i>Thailand Migration Report 2011</i> (2011) 7, 10
	2012	63,405	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion: Resource Book</i> (2013) 93
	June 2014	90,757	ILO, <i>Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries</i> (2015) 5
Lao PDR	Up to Dec	11,957	S Paitoonpong, <i>Different Stream, Different Needs, and</i>

country of origin	year/ period	estimate (number)	Source
	2009		<i>Impact</i> (2011) 61
	Up to End of 2010	25,207	J Huguet et al, 'Thailand Migration Profile' in J Huguet & A Chamrathirong (eds), <i>Thailand Migration Report 2011</i> (2011) 7, 10
	June 2014	21,289	ILO, <i>Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries</i> (2015) 5
Myanmar	June 2014	141,963	ILO, <i>Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries</i> (2015) 5
	2007	14,151	H Jalilian & G Reyes, 'Migrants of the Mekong: Wins and Losses' in H Jalilian (ed), <i>Costs and Benefits of Cross-Country Labour Migration in the GMS</i> (2012) 1, 16–17
Total Cambodia + Lao PDR + Myanmar	By End of 2010	78,686	J Huguet et al, 'Thailand Migration Profile', in J Huguet & A Chamrathirong (eds), <i>Thailand Migration Report 2011</i> (2011) 7, 9
	As of Dec 2010	26,525	S Paitoonpong, <i>Different Stream, Different Needs, and Impact</i> (2011) 5
	Dec 2012	93,265	Mekong Migration Network & Asian Migrant Centre, <i>Migration in the Greater Mekong Subregion: Resource Book</i> (2013) 130
	June 2014	c 250,000	ILO, <i>Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries</i> (2015) 5

Irregular entry and residence

Estimates of the number of irregular migrants in Thailand can vary by up to 1 million. According to the Office of Migrant Workers Administration of the Ministry of Labour in Thailand, a total of 935,225 irregular migrants from Cambodia (56,479), Lao PDR (62,792) and Myanmar (812,984) were living in Thailand in 2010.⁶⁴³ By contrast, in 2009, IOM estimated that approximately two million irregular migrants from Cambodia, Lao PDR and Myanmar were living in Thailand. About half were women, though the percentage of women was much higher among irregular migrants from Lao PDR and much lower among Cambodian nationals.⁶⁴⁴ A 2010 publication estimated that about 2 million “undocumented migrant workers” from Myanmar were living in Thailand.⁶⁴⁵

In 2006, Thai authorities detected some 135,400 irregular migrants from Cambodia, Lao PDR and Myanmar, and 95,000 were removed to these countries.⁶⁴⁶ In 2010, Thai authorities arrested 171,498

⁶⁴³ Cited in Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 9, 15.

⁶⁴⁴ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM, *Gender and Labour Migration in Asia* (2009) 193, 211.

⁶⁴⁵ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 33–34

⁶⁴⁶ Philip Martin, *Migration in the Asia-Pacific Region* (2009) 29; see also, ILO, *Inter-state Cooperation on Labor Migration. Lessons learned from the MOUs between Thailand and Neighboring Countries* (2008) 17, 18.

Cambodian, 41,480 Lao and 218,675 Myanmar nationals for irregular entry. In addition, 71,890 nationals from these countries were arrested for other immigration and labour offences.⁶⁴⁷ Another source reports that 1,335,962 irregular migrants from Cambodia, Lao PDR, and Myanmar entered Thailand, constituting 96.86 per cent of all immigrants across Thailand's north and north-eastern borders.⁶⁴⁸

Some sources suggest that the number of irregular migrants entering Thailand may be much higher, perhaps up to 660,000 or even 1 million over an 18-month period.⁶⁴⁹ These sources also acknowledge that the reality of immigrating to and staying in Thailand is very complex for foreign migrants. They warn that irregular migration must not be conflated with instances in which migrants fail to register with Thai authorities.⁶⁵⁰

Earlier research conducted by UNODC concluded that 83 per cent of irregular migrants entering Thailand from Cambodia and Myanmar are assisted by smugglers. About 550,000 migrants are smuggled from Cambodia, Lao PDR and Myanmar to Thailand each year.⁶⁵¹ These figures suggest that the vast majority of irregular migrants enter Thailand undetected.

Trafficking in persons

Data relating to the number of trafficked persons in Thailand are similarly unreliable, and existing estimates vary greatly. Some figures come from small surveys with limited sample sizes and may not be reflective of actual levels of trafficking.

Research conducted by UNIAP estimated approximately 23 per cent of irregular Cambodian migrants deported from Thailand experienced exploitation. Approximately 9.3 per cent of deportees were victims of trafficking in persons.⁶⁵² Thai authorities, by contrast, estimate the number of trafficking in persons cases to be much lower. In interviews with 371,456 irregular migrants from various countries in 2010, Thai authorities, "using standardised manual guidelines" identified only 56, or 0.02 per cent of irregular migrants, as victims.⁶⁵³

5.1.2 Economic developments in Thailand

Domestic developments

Thailand's strong economic growth of Thailand over the past few decades, which caused wages and standards of living to rise and created considerable demand for labour in some industries, is widely seen as the principal pull factor for both regular and irregular migration. Beginning in the 1980s and

⁶⁴⁷ Royal Thai Police, 2011 cited in UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 9.

⁶⁴⁸ Pimupsorn Boriboonrat, 'Collaborative Border Management in Thailand and Neighboring Countries: Needs, Challenges and Issues' (2013) 8(1) *International Journal of Criminal Justice Sciences* 1, 2, citing Thailand, Bureau of Migrant Workers, Ministry of Labour.

⁶⁴⁹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

⁶⁵⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12.

⁶⁵¹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 12–13.

⁶⁵² UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 44, also cited in UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 13–14.

⁶⁵³ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 14.

continuing throughout the 1990s, Thailand’s economy experienced a remarkable boom, mostly due to the opening of trade and the growth in foreign investment and export-oriented, factory-based light manufacturing in Thailand’s main urban areas. Over the same period, Thailand made the transition from a net-sending country of migrant workers to a net-receiving country. Although economic growth was not always consistent and, in some years, the country suffered setbacks, Thailand experienced transformations that raised prosperity, educational standards and overall living conditions for large parts of the population. Thailand’s economic growth has been recognised as one of the world’s “great development success stories”, lifting the country into the ranks of upper-middle income economies and to the second largest economy in Southeast Asia.⁶⁵⁴

Figure 19 below sets out some key economic indicators. It shows that between 2006 and 2015, both Thailand’s total GDP and its per capita GDP nearly doubled. In some years, the economy grew by more than 7 per cent, but in others experienced very little growth or, in 2009, shrank as a result of the global financial crisis. Over the same period, official unemployment rates, which are traditionally quite low, further dropped to below 1 per cent.

Figure 19 Economic indicators, Thailand 2006–2015 (World Bank, 2016)⁶⁵⁵

	GDP at market prices, million USD	GDP per capita, USD	GDP growth %	unemployment, % of total work force
2015	395,282	5,820	2.8%	n.a.
2014	404,824	5,977	0.9%	0.9%
2013	420,167	6,229	2.8%	0.7%
2012	397,472	5,917	7.3%	0.7%
2011	370,609	5,540	0.8%	0.7%
2010	340,926	5,112	7.5%	1.0%
2009	281,575	4,231	-0.7%	1.5%
2008	291,383	4,385	1.7%	1.2%
2007	262,943	3,963	5.4%	1.2%
2006	221,758	3,351	5.0%	1.2%

Thailand’s economic growth went hand-in-hand with a transformation from a more agriculture-based industry to a more manufacturing and service-based industry. More recently, the country has transitioned from a reliance on relatively basic, labour-intensive sectors to more advanced, high-tech

⁶⁵⁴ Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 1; see generally, Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 59, 165–166; Jerrold W Huguet et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute, October 2012, 7.

⁶⁵⁵ World Bank, ‘Open Data’ <data.worldbank.org>

manufacturing sectors, as well as growing banking, finance and real estate sectors.⁶⁵⁶

Despite these transformations, labour-intensive industries, including the garment industry, fishing and seafood processing, agriculture and construction, remain important pillars of the Thai economy. It is in these low-skill, labour-intensive industries that Thailand's demand for foreign labour is particularly high.⁶⁵⁷ Demand has also been fuelled by the fact that many Thai nationals are now drawn to better-paying jobs in the high-tech and service industries, freeing up jobs for foreign workers.⁶⁵⁸

Much of Thailand's economic growth is founded on foreign workers. It is fair to say that labour migration, especially from neighbouring Cambodia, Lao PDR and Myanmar, has made and continues to make an important contribution to economic developments in Thailand and helps maintain the economy's export competitiveness. There is ample evidence to show migrant workers are vital to Thailand's overall prosperity and growth. Several studies emphasise that without foreign workers, Thailand's rate of GDP growth would reduce, the cost for unskilled workers would increase and skilled workers would see a reduction in their wages.⁶⁵⁹

Thailand's economic growth has also offered women greater opportunities to participate in the labour market. An increasing number of Thai women with higher education are moving into the high-tech and service sectors, creating a demand for labour in the garment and textile industries and other sectors that traditionally employed women.

Developments in the tourism, hospitality and sex industries have followed a similar pattern and attract many foreign women to take up employment in these sectors. Tourism in Thailand and the number of

⁶⁵⁶ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 447; Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608; IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 6.

⁶⁵⁷ Stephen Campbell, 'Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand' (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 261–262; Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 447–448.

⁶⁵⁸ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 21; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 31.

⁶⁵⁹ Piriya Pholpirul, 'Migration and the Economy' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for Development in Thailand: Overview and tools for policymakers* (2011) 53, 54; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 10, 44; IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 8; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 26; Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 450; Inge Brees, 'Refugee Business: Strategies of Work on the Thai–Burma Border' (2008) 21(3) *Journal of Refugee Studies* 380, 387; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 7–8; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 20.

foreign visitors have grown significantly over the past two decades, creating many new jobs in hotels, restaurants, bars and entertainment. Despite its ambivalent legal status, the sex industry in Thailand has continued to grow, along with the number of customers. Among these customers are many Thai men, whose disposable income grew along with the overall economy in Thailand. Figures from 2010 suggest the sex industry contributes as much as USD 22 billion to Thailand's GDP.⁶⁶⁰

Reliable figures about the total contribution of migrant workers to the Thai economy are not available. This is because there is no simple and single way to generate such figures and many migrant workers are undocumented. Available estimates of the contribution of foreign labourers to the Thai economy range between 1 and 6.2 per cent of GDP. Additionally, though many migrant workers living in Thailand send much of their income to their country of origin as remittances, migrant workers still spend about half of their income in Thailand, especially on accommodation, food, communication and transportation and travel.⁶⁶¹

In years where Thailand experienced economic crises or economic growth slowed, popular sentiment sometimes turned against foreign workers, with Thais blaming them for taking Thai jobs. This was particularly evident in the aftermath of the 1997 Asian financial crisis. Thailand's economy took a strong hit and unemployment rates rose significantly (from 0.9 per cent in 1997 to 3.4 per cent in 1998).⁶⁶² During that time, many irregular workers from Myanmar were reported by Thais to the authorities, though it quickly became clear many companies could not find suitable replacements for them in sufficient numbers. This led to labour shortages in some industries and, in some cases, to companies becoming insolvent.⁶⁶³ The 2008 global financial crisis had a similar effect: it slowed economic growth, led many factories and other companies to close down, put many people out of work and led to fiercer competition for available jobs.⁶⁶⁴

It needs to be noted that not all parts of Thailand have benefited from economic developments equally.

⁶⁶⁰ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand', in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 167, 169–170, 175–176; ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 4.

⁶⁶¹ Inge Brees, 'Burden or Boon: The Impact of Burmese Refugees on Thailand' (2010) 11(1) *The Whitehead Journal of Diplomacy and International Relations* 35, 41–42; IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 1; Jerrold W Huguet et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute, October 2012, 5; Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 41; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 8, 12; David A Feingold, 'The Burmese traffic-jam explored: Changing dynamics and ambiguous reforms' (2013) 25(2) *Cultural Dynamics* 207, 209.

⁶⁶² World Bank, 'Unemployment, total (% of labour force)'.

⁶⁶³ Inge Brees, 'Burden or Boon: The Impact of Burmese Refugees on Thailand' (2010) 11(1) *e Whitehead Journal of Diplomacy and International Relations* 35, 41, citing Alison Vicary, 'Employment and poverty in Mae Hong Son province, Thailand: 'Burmese' Refugees in the labour market' (2006)1 *Burma Economic Watch* 47–87.

⁶⁶⁴ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 42.

Urban centres, especially the capital of Bangkok and surrounding areas, hold much greater prosperity, while some rural areas remain poor by both national and international standards. Economic growth has also benefited different parts of Thai society differently, and sources note that the gap between rich and poor has widened.⁶⁶⁵

Comparisons

In the context of labour migration, the smuggling of migrants and trafficking in persons, Thailand's economic developments must be seen in comparison to developments in neighbouring Cambodia, Lao PDR and Myanmar. Thailand, as mentioned, transitioned from a net labour-sending country to a very significant net labour-receiving country, with large numbers of migrant workers coming from neighbouring countries.⁶⁶⁶

Figure 20 Economic indicators, Thailand, Cambodia, Lao PDR, Myanmar, 2006–2015 (World Bank, 2016)⁶⁶⁷

	Thailand		Cambodia		Lao PDR		Myanmar	
	GDP per capita, USD	GDP growth %	GDP per capita, USD	GDP growth %	GDP per capita, USD	GDP growth %	GDP per capita, USD	GDP growth %
2015	5,820	2.8%	1,160	7.0%	1,810	7.0%	1,200	6.99%
2014	5,977	0.9%	1,095	7.1%	1,750	7.5%	1,204	8.5%
2013	6,229	2.8%	1,025	7.5%	1,701	8.5%	1,107	8.2%
2012	5,917	7.3%	947	7.3%	1,446	8.0%	1,421	n.a.
2011	5,540	0.8%	879	7.1%	1,301	8.0%	n.a.	n.a.
2010	5,112	7.5%	783	6.0%	1,147	8.5%	n.a.	n.a.
2009	4,231	-0.7%	735	0.1%	948	7.5%	n.a.	n.a.
2008	4,385	1.7%	743	6.7%	901	7.8%	n.a.	n.a.
2007	3,963	5.4%	629	10.2	711.0	7.6%	n.a.	n.a.
2006	3,351	5.0%	538	10.8	591.4	8.6%	n.a.	n.a.

Figure 20 above shows the economic discrepancies between Thailand and its neighbours. Although economic growth has been considerable and steady, especially in Cambodia and Lao PDR, with per capita GDP figures doubling over the last ten years, Thailand's economy remains considerably stronger, with a per capita GDP about five times higher than its neighbours.⁶⁶⁸ Poverty levels also vary

⁶⁶⁵ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion: Resource Book* (2013) 59–60.

⁶⁶⁶ Andy Hall, 'Migration and Thailand: Policy, Perspectives and Challenges' in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 17, 17; Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 9; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 26.

⁶⁶⁷ World Bank, 'Open Data' <data.worldbank.org>.

⁶⁶⁸ See also, Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 24.

greatly between Thailand and its neighbours. According to World Bank data, 0.1 per cent of the Thai population lived below the poverty level of USD 1.90 per day in 2012. In Lao PDR, this rate was 29.9 per cent and in Cambodia at 6.2 per cent. Data for Myanmar were not available.⁶⁶⁹

After more than 20 years of sustained economic growth, Thailand is classified as an upper-middle income country, while Cambodia, Lao PDR and Myanmar remain on the list of least developed countries as of May 2016.⁶⁷⁰ In this environment, it is not surprising that there has been a steady flow of migrants from these countries. Thailand has been described as the “economic powerhouse” attracting 61 per cent of migrants from the greater Mekong Subregion. Migration has been closely tied to economic developments in Thailand, with higher rates of arrivals in strong economic years and lower rates during periods when Thailand’s economy struggled.⁶⁷¹

5.1.3 Demographic developments

Education

Economic developments in Thailand over the past few decades have led to rising standards of living and higher levels of education. Thailand’s education system promotes a relatively long period of compulsory schooling, often exceeding 12 years. Thailand has a well-educated population by international standards, a fact reflected in literacy rates and gross enrolment rates for both sexes at secondary and tertiary levels.⁶⁷²

Rising levels of education in Thailand have meant that more and more Thais are pursuing careers in technology, finance and service sectors as well as in other areas in which their skills and education can be used to earn higher wages. Fewer Thais now work in agriculture and basic manufacturing. This has created a considerable demand for labour in low-skilled and unskilled sectors, which is not being met by the local population.⁶⁷³

As the Thai workforce shifts into more office-based and high-tech industries, the many vacancies in the agricultural, fishing and manufacturing sectors, which remain important sectors for the national economy, need to be filled by migrant workers who are readily available in neighbouring Cambodia, Lao PDR and Myanmar.

Many Thais also now have more disposable income and can employ staff for jobs they previously performed themselves. The number of women participating in the workforce, as well as their

⁶⁶⁹ World Bank, ‘Poverty headcount ratio at \$1.90 a day (2011 PPP) (% of population)’.

⁶⁷⁰ UN, Committee for Development Policy, ‘List of Least Developed Countries’ (May 2016); see also UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 7.

⁶⁷¹ IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 18–19.

⁶⁷² For further information and data, see World Bank, ‘Education’ <<http://data.worldbank.org/topic/education>> (accessed 1 July 2016); see also, Mely Caballero-Anthony et al, ‘Forced Migration’ in Mely Caballero-Anthony & Alistair D B Cook (eds), *Non-Traditional Security in Asia: Issues, Challenges and Framework for Action* (2013) 158, 197.

⁶⁷³ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 21; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15–16; IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 8.

educational standards, are high by international comparison, which creates a further demand for workers in jobs that were traditionally filled by Thai women. This is evident in the growing demand for domestic workers and for workers in Thailand's hospitality industry. Rising education levels and changes in the workforce have also had an effect on the make-up of Thai families. Birth rates are lower and families have become smaller. This factor further drives demand for domestic workers, as parents and children may not be available to carry out these activities.⁶⁷⁴

Economic development and increases in education levels have not uniformly benefitted all Thais. Many people in rural and urban areas still live in relatively poor conditions and receive only modest levels of schooling. These Thais continue to work in industries that are increasingly dominated by foreign workers. As later parts of this chapter show, competition between Thai and foreign workers has sometimes resulted in conflict, especially in times when economic growth stalls.⁶⁷⁵

Ageing population

Further contributing to the substantial labour demand in Thailand is the fact that the Thai population is ageing while population growth rates remain relatively modest.⁶⁷⁶ As a result, Thailand depends on immigration to sustain its economic growth. Fertility rates in Thailand have been declining for some time, as has the proportion of the population between 15 and 24 years of age. Over the past three decades, population growth in Thailand has dropped from 1.8 per cent in 1984 to 0.4 per cent in 2014.⁶⁷⁷ Over the same period, the percentage of the population aged 0–14 dropped from 36 per cent in 1984 to just 18 per cent in 2014.⁶⁷⁸

In Cambodia, Lao PDR and Myanmar, population growth has also declined, but remains at much higher levels than in Thailand. In these countries, the percentage of the population aged 0–14 years is considerably higher than in Thailand. Figure 21 below shows the population growth rates and the percentage of the population aged 0–14 years in Thailand, Cambodia, Lao PDR and Myanmar from

⁶⁷⁴ Jayagupta Ratchada, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47(2) *International Migration* 227, 229; Jerrold W Huguet & Aphichat Chamrathirong, 'Introduction' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 1, 1; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 16.

⁶⁷⁵ See also, Jerrold W Huguet & Aphichat Chamrathirong, 'Introduction' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 1, 1.

⁶⁷⁶ See generally, ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion* (2013) 4; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 8; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 17.

⁶⁷⁷ World Bank, 'Population growth (annual %)' ; see also, IOM, *International Migration in Thailand* (2005) 5.

⁶⁷⁸ World Bank, 'Population aged 0-14% (% of total)' ; see also, Jerrold W Huguet & Aphichat Chamrathirong, 'Introduction' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 1, 1.

2004 to 2014.⁶⁷⁹

Figure 21 Population growth and population aged 0-14 years, Thailand, Cambodia, Lao PDR, Myanmar, 2006–2015 (World Bank, 2016)⁶⁸⁰

	Thailand		Cambodia		Lao PDR		Myanmar	
	popul. growth, %	popul. 0–14 years, %	popul. growth, %	popul. 0–14 years, %	popul. growth, %	popul. 0–14 years, %	popul. growth, %	popul. 0–14 years, %
2014	0.40	17.7	1.64	34.9	1.65	34.8	0.85	27.6
2013	0.43	18.0	1.67	35.0	1.64	35.1	0.83	28.1
2012	0.39	18.2	1.63	35.4	1.65	35.5	0.80	28.5
2011	0.32	18.5	1.59	35.9	1.68	36.0	0.76	29.0
2010	0.22	18.8	1.54	36.2	1.73	36.5	0.70	29.4
2009	0.14	19.2	1.50	36.1	1.77	37.0	0.66	29.8
2008	0.15	19.7	1.48	36.3	1.77	37.6	0.65	30.0
2007	0.27	20.3	1.49	36.3	1.71	38.3	0.68	30.2
2006	0.47	20.9	1.53	36.1	1.62	39.0	0.74	30.4
2005	0.70	21.5	1.57	36.2	1.51	39.8	0.81	30.6
2004	0.90	22.2	1.62	36.9	1.42	40.5	0.87	30.7

Based on present indicators, Thailand’s labour demand will continue to grow while its local population growth rate remains too low to fill available positions. A 2015 publication by the ILO suggests that “by 2020, the country’s working-age population is expected to be reduced by 150,000 workers each year.”⁶⁸¹ The Thai National Economic and Social Development Board, predicts that

in 2015 there will be 39.36 million Thai workers against the 43.26 million required, resulting in a deficit of 3.9 million. [By 2025], the gap is expected to grow to 5.36 million because Thais will account for only 41.16 million of the 46.52 million workers required. These gaps will need to be filled by migrant workers or they will affect the planned economic development targets.⁶⁸²

5.1.4 Job availability and wages

Labour demand and unemployment

Strong economic growth combined with an ageing and increasingly well-educated population has

⁶⁷⁹ See also, IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 9; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 4; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 18.

⁶⁸⁰ World Bank, ‘Population growth’; see also, ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013) 5.

⁶⁸¹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 15.

⁶⁸² Cited in IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 1-2; see also, Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 23.

created high labour demand in Thailand, which the local population is unable and sometimes unwilling to fill. Demand is particularly high in labour-intensive, low-skilled and unskilled positions, especially in the agricultural, fishing, construction and manufacturing sectors. This demand creates a significant pull factor for labour migrants from neighbouring countries, who have moved to Thailand to fill these positions for many years.⁶⁸³

In the construction, garment and agricultural industries, foreign workers work alongside Thai labourers. The demand for labour migrants in these industries is very high, although many Thais continue to work on construction sites, in textile manufacturing and in agriculture. Thais sometimes work in more senior positions supervising foreign workers, but at other times can also be in competition with them.⁶⁸⁴

Basic positions in industries such as fishing and domestic services are currently almost completely occupied by labour migrants, partly because Thai nationals have withdrawn from roles that are considered dangerous or poorly paid.⁶⁸⁵

The correlation between unemployment and labour migration is complex. The official national unemployment rate in Thailand has been and continues to be very low, ranging between 0.7 per cent and 1.5 per cent in recent years.⁶⁸⁶ Thailand's unemployment rate has been described as "one of the lowest in the world" and in 2013 it was estimated that the total number of unemployed Thai workers amounted to less than half a million people.⁶⁸⁷ In 2010, IOM noted "although migrants compete directly with low-skilled Thai workers in other sectors of the economy, the extremely low unemployment rate in Thailand is strong evidence that they are not taking jobs from Thai persons."⁶⁸⁸

While the national unemployment rate is very low, there are considerable differences in employment levels in rural and urban areas. Not surprisingly, migrant workers are primarily drawn to areas with the greatest availability of jobs, so "provinces with the highest unemployment rates have the lowest

⁶⁸³ See generally, World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 9–10; Andy Hall, 'Migration and Thailand: Policy, Perspectives and Challenges', in Jerrold W Hugué, Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 17, 31; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), 'Economic Costs and Benefits of Labour Migration: Case of Lao', in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 199; Geoffrey Ducanes, *Labour shortages, foreign migrant recruitment and the portability of qualifications in East and South-East Asia* (2013) 12; Srawoath Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 26.

⁶⁸⁴ Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608.

⁶⁸⁵ IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 10; Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1608.

⁶⁸⁶ See Figure 19 above.

⁶⁸⁷ Geoffrey Ducanes, *Labour shortages, foreign migrant recruitment and the portability of qualifications in East and South-East Asia* (2013) 12.

⁶⁸⁸ IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 10.

numbers of migrant workers,” according to one publication.⁶⁸⁹

Most sources predict that, in light of demographic and economic developments in Thailand, it is highly likely Thailand’s labour demand will continue to grow in the short and medium term. In 2004, the Thai economy needed 1.6 million migrant workers, but received only 1.3 million, leaving 300,000 jobs unfilled. By the end of 2007, this deficit had risen to 650,000. Even during the 2009 global financial crisis, which led many Thai expatriates to return to the country, labour demand in unskilled and low-skilled positions remained high. This labour deficit is widely expected to increase if population growth remains low and if there are no other major economic crises.⁶⁹⁰

Wages

A further pull factor for migration is the considerable wage differential between Thailand and Cambodia, Lao PDR and Myanmar. Most migrant workers from Cambodia, Lao PDR and Myanmar receive about twice the income in Thailand than they would in their home countries, according to several sources.⁶⁹¹ Other research confirms that the ability to earn higher wages is one of the main reasons why foreign workers decide to migrate to Thailand in the first place. In fact, higher wages in Thailand appear to be a more important factor than poverty when it comes to migrating to Thailand for work.⁶⁹²

The high number of foreign workers occupying unskilled and low-skilled positions in Thailand has a considerable impact on the wages paid in these sectors. Foreign workers are willing to take up employment for almost any wage because salaries that are below Thailand’s minimum wage are still considerably higher than those in Cambodia, Lao PDR and Myanmar.⁶⁹³ Labour migrants are thus particularly attractive to Thai employers as they are willing to work for salaries and under conditions Thais may not accept. Data from the Thailand Development and Research Institute in 2010 suggests

⁶⁸⁹ Inge Brees, ‘Burden or Boon: The Impact of Burmese Refugees on Thailand’ (2010) 11(1) *Whitehead Journal of Diplomacy and International Relations* 35, 42

⁶⁹⁰ IOM, *Forecasting Migration Flows: The Relationships among Economic Development, Demographic Change and Migration in the Greater Mekong Subregion* (2010) 31; Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 199; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 29; Chan Sophal, ‘Economic Costs and Benefits of Labour Migration: Case of Cambodia’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 120; see also, ILO, *The Mekong Challenge: An Honest Broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (2008) 20.

⁶⁹¹ Hossein Jalilian & Glenda Reyes, ‘Migrants of the Mekong: Wins and Losses’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 26; Chan Sophal, ‘Economic Costs and Benefits of Labour Migration: Case of Cambodia’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 139–141.

⁶⁹² Lao PDR, Department of Statistics (DOS), National Economic Research Institute (NERI), ‘Economic Costs and Benefits of Labour Migration: Case of Lao’ in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 190, 213; see also, Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 3.

⁶⁹³ Yongyuth Chalamwong & Raphaella Prugsamat, ‘The Economic Role of Migration — Labor Migration in Thailand: Recent Trends and Implications for Development’ (2009) 24(3) *TDR Quarterly Review* 3, 5.

that the widespread use of foreign workers in Thailand lowered the wages of Thai workers with primary or lower levels of education by 3.5 per cent. Foreign labour migration tends to lead to an increase in income for more affluent Thais and a decrease in income for poorer segments of society. “The real income of the poorest 60 per cent of households fell by 0.4 per cent as a result of migrant labour, whereas the real income of the richest 40 per cent rose by 0.3 per cent,” according to one 2010 publication.⁶⁹⁴

Labour migrants working for lower wages has widespread effects on Thailand’s national economy: Low wages keep prices for the services and products of certain industries low, help to contain the national inflation rate and significantly increases Thailand’s global competitiveness.⁶⁹⁵

5.2 Reception of irregular migrants

5.2.1 Locations

Irregular migration and trafficking in persons affect all parts of Thailand, including both urban centres and rural areas. Border regions are particularly prone to receiving migrants who enter Thailand for short durations or on a daily basis. Many irregular migrants and trafficked persons can be found in Thailand’s main urban areas, and particularly in Bangkok, Thailand’s capital.⁶⁹⁶

Approximately 40 per cent of all irregular foreign migrant workers live in Bangkok or its surrounding areas, especially Samut Sakhon to the south-east of Bangkok.⁶⁹⁷ These areas are home to much of Thailand’s manufacturing sectors and the country’s hospitality, tourism and sex industries. Bangkok has also been identified as the main destination for trafficking in children.⁶⁹⁸

In an effort to expand the manufacturing sector and take advantage of cheap foreign workers, the Thai government successfully developed large industrial areas in some border areas. This is particularly evident in provinces close to Myanmar, where large numbers of workers cross into Thailand on short-

⁶⁹⁴ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 41, citing the National Economic and Social Development Board of Thailand.

⁶⁹⁵ Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 447, 450; Dennis Arnold & John Pickles, ‘Global Work, Surplus Labor, and the Precarious Economies of the Border’ (2011) 43(5) *Antipode* 1598, 1608; Piriya Pholphirul, ‘Migration and the Economy’ in Jerrold W Hugué & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for Development in Thailand: Overview and tools for policymakers* (2011) 53, 54.

⁶⁹⁶ See generally, World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 38; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 32.

⁶⁹⁷ Sravooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 14, 16.

⁶⁹⁸ Deanna Davy, ‘Understanding the complexities of responding to child sex trafficking in Thailand and Cambodia’ (2014) 34(11) *International Journal of Sociology and Social Policy* 793, 794 with further references.

term bases to take up employment opportunities.⁶⁹⁹

Irregular migrants seeking to work in Thailand's vast fishing industry move to coastal areas and large ports along the Gulf of Thailand, including Pattani and Songkhla provinces in the south, Prachup Khiri Khan province in the west, Samut Sakhon, Samut Prakan and Chon Buri provinces in the north and Rayong province in the east.⁷⁰⁰ The high concentration of irregular migrants in Samut Sakhon has been attributed to the concentration of the seafood processing industry in this area and its close proximity to Bangkok.⁷⁰¹

Irregular migrants from Cambodia usually enter, and frequently remain, in the Thai border province of Sa Kaeo, which is located along one of the main roads connecting Cambodia to the greater Bangkok area. Cambodians who remain in border areas usually work in the agricultural sector. Those who continue further into Thailand often work in construction or, if they aim for coastal areas, in the fishing industry.⁷⁰²

The area around Mae Sot in Tak province in the east of Thailand, very close to the Myanmar border, is home to a vast number of irregular migrant workers from all over Myanmar. Many migrants travel from Myanmar to Mae Sot on a daily basis, while others commute less frequent. For some, Mae Sot serves as a temporary destination until migrants can earn enough money to move deeper into Thailand.

Much of Thailand's textile and garment industry is located around Mae Sot and nearly all workers in these factories are from Myanmar. Some of these factories have been described as "sweatshops", with

⁶⁹⁹ Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 75; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 159, 168.

⁷⁰⁰ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 84.

⁷⁰¹ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 196.

⁷⁰² Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 11; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 30.

many women and children working in sub-standard conditions for little pay.⁷⁰³ Many irregular workers from Myanmar can be found in Chiang Mai, one of Thailand's more populous provinces in the north-west and a popular tourist destination.⁷⁰⁴

5.2.2 Communities of prior migrants, family and friends

Earlier parts of this report have shown that family, friends and the stories and experiences of prior migrants play an important role in encouraging and shaping labour migration from Cambodia, Lao PDR and Myanmar to Thailand. Similarly, once in Thailand, newly arrived migrants often rely on family contacts, friends and the existing diaspora to find accommodation, employment and assistance with settling into Thailand. Many irregular migrants follow in the footsteps of others who have migrated to Thailand months or years earlier.⁷⁰⁵

The locations identified in Section V.2.1 above are home to large migrant populations and are often the first destination for new arrivals. Here, new arrivals can find established networks of their countrymen and women and socialise with people who share their background, culture and language.

5.2.3 Refugees in Thailand

The situation is more complex for irregular migrants who are refugees in Thailand. Most refugees come from Myanmar and seek protection in Thailand, fearing persecution should they be returned to their country of origin or to another country. Estimates of the number of refugees from Myanmar in Thailand range from 120,000 to 250,000.⁷⁰⁶

Some 120,000 to 145,000 people live in the nine refugee camps that exist along the Thai-Myanmar

⁷⁰³ Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 72; Joyce Chia & Susan Kenny, 'The Children of Mae La: Reflections on Regional Refugee Cooperation' (2012) 13(2) *Melbourne Journal of International Law* 838, 838–839; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 159, 168; Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 37, 40. See also, Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 725; Matthew Clarke, 'Over the border and under the radar: Can illegal migrants be active citizens?' (2009) 19(8) *Development in Practice* 1064, 1070; Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand', in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 196; Lee Sang Kook, 'State in a State: Administration and Governance in a Thailand–Burma Border Town' (2008) 36 *Asian Journal of Social Science* 187, 191.

⁷⁰⁴ Sai S W Latt, 'Managing migration in the Greater Mekong Subregion: Regulation, extra-legal relation and extortion' (2013) 34(1) *Singapore Journal of Tropical Geography* 40, 43

⁷⁰⁵ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 18.

⁷⁰⁶ See further Section IV.2.3.1 above.

border.⁷⁰⁷ These camps were first set up in 1984 and have been both home to and a destination for many refugees for over thirty years. Many others live outside the camps where their situation is precarious. Refugees outside the camps are mostly ethnic Shans who fled to Thailand in the late 1990s and early 2000s. The refugees are very vulnerable to exploitation, trafficking and other human rights violations.⁷⁰⁸

5.3 Irregular migration and trafficking in persons – Industries and Sectors

Irregular migration and trafficking in persons in Thailand affect a broad range of industries and sectors. Trafficking may occur for a range of exploitative purposes, including forced labour and labour exploitation, sexual exploitation, child labour and other forms of child trafficking, forced begging, petty crime and forced marriage. The means of trafficking may involve coercion, deception, violence, rape, sexual assault and other forms of sexual violence and harassment, threats and intimidation and abuse of a position of vulnerability, among others.⁷⁰⁹

In this report, the situations in which trafficking most frequently occur are separated by industry and sector. This is done in order to identify specific circumstances and nuances, and to differentiate as much as possible between the trafficking experience of migrants from Cambodia, Lao PDR and Myanmar in Thailand, as well as to avoid generalisations. The types of exploitation that migrants may encounter and the factors that make them vulnerable to exploitation and trafficking are frequently the same, regardless of industry. These matters are further explored in Section V.4 below.

Overall, Thailand's agriculture, fishing and construction industries are the sectors most commonly identified as having the highest incidence of trafficking.⁷¹⁰ A 2010 UNIAP report analysing 400 cases of exploitation and trafficking found that exploitation and trafficking were most common in the fishing sector, where, on average, 44 per cent of migrant workers are exploited, including 31 per cent who are trafficked. In other industries, including agriculture, construction and manufacturing (factory work), about 33 per cent of migrant workers experience exploitation and 23 per cent experience trafficking.⁷¹¹ Trafficking in the sex industry and domestic services are also very common for female victims. Reports on the trafficking of Cambodian, Lao and Myanmar nationals also involve Thailand's manufacturing

⁷⁰⁷ Suwattana Thadaniti et al, 'Displaced Persons' Temporary Settlement Along the Thai–Myanmar Border: State of Affairs from an Environmental Perspective' in Suwattana Thadaniti & Supang Chantavanich, *The Impact of Displaced People's Temporary Shelters on Their Surrounding Environment* (2014) 25, 28.

⁷⁰⁸ Susan Banki & Hazel Lang, 'Protracted Displacement on the Thai–Burmese Border: The Interrelated Search for Durable Solutions' in Howard Adelman (ed), *Protracted Displacement in Asia* (2008) 59, 60, 66–68; Emma Chanlett-Avery & Ben Dolven, 'Thailand: Background and U.S. Relations' (2014) 23(3–4) *Current Politics and Economics of South, South-eastern, and Central Asia* 299, 322; Samuel Cheung, 'Migration Control and the Solutions Impasse in South and Southeast Asia: Implications from the Rohingya Experience' (2011) 25(1) *Journal of Refugee Studies* 50, 56; Pungpond Rukumnuaykit, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 1.

⁷⁰⁹ Article 3(a) *Trafficking in Persons Protocol*.

⁷¹⁰ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 13; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 32.

⁷¹¹ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 81,

and mining sectors, the hospitality industry, and the retail sector, albeit in smaller numbers. Interviews conducted for the purpose of this report identified other emerging sectors of concern, including the exploitation of men in logging and the trafficking of children for sexual exploitation in webcam sex shows.

5.3.1 Agriculture

Figures

In absolute numbers, Thailand's agricultural industry is the largest employer of foreign workers, both regular and irregular. The sector relies very heavily on foreign workers but, unlike some of the other industries explored here, also employs a considerable number of Thai workers. Migrant workers are particularly common in rubber plantations, where they can work year-round, and on fruit farms, where the work is seasonal.⁷¹²

Thailand's agricultural sector is the largest employer of irregular migrants from Cambodia, employing approximately 42 per cent of all irregular Cambodian migrant workers. In 2009, 31,162 irregular Cambodians worked in farming, livestock and related industries.⁷¹³ Most Cambodian farmworkers can be found in rural areas near the border; many of them commute to Thailand frequently and some do so on a daily basis.⁷¹⁴ Thailand's agricultural industry is also an important employer for irregular migrants from Lao PDR. In 2009, 22,504 irregular migrants from Lao PDR worked in these industries.⁷¹⁵ At the time of writing, there were no official figures or reliable estimates for the number of irregular migrant workers from Myanmar working in Thailand's agricultural industry.

Working conditions

Reports of exploitation in Thailand's agricultural industry mostly refer to threats made to foreign workers in order to control them. A 2010 study of 85 "agricultural cases" by UNIAP estimated that 25–30 per cent of migrant workers experience exploitation and trafficking in Thailand's agricultural industry.⁷¹⁶ The study further found that over two thirds of persons trafficked into agricultural work experienced threats by their employers and traffickers. Other forms of exploitation were very rare in the agricultural industry, though in 12 cases, workers had their freedom of movement restricted. Men experienced much higher rates of exploitation than women.⁷¹⁷ It should be noted that the UNIAP study involved a small sample size, so it is not possible to make generalisations based on this study.

A 2009 study found about 20 per cent of migrant workers in Thailand's agriculture industry

⁷¹² Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 20; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 36; Philip Martin, *Migration in the Asia-Pacific Region: Trends, factors, impacts* (2009) 32.

⁷¹³ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10, citing 2009 figures.

⁷¹⁴ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 11

⁷¹⁵ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10.

⁷¹⁶ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 51.

⁷¹⁷ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 82, 87–88

experienced verbal abuse by their employers, superiors or others.⁷¹⁸ The same report also found that over 80 per cent had no paid leave and over 60 per cent had no regular time off. More than 85 per cent of men and more than 97 per cent of women working in Thailand's agricultural industry had no written contract. Working conditions for women appeared to be worse overall, though men reportedly worked more excessive hours (16.4 per cent of men compared to 12.2 per cent of women in the sample). The sample size (129 individuals) of this report again makes it difficult to draw more general conclusions about the working conditions of labour migrants in Thailand's agricultural industry.⁷¹⁹

It needs to be stressed that the working conditions and working hours in agriculture are difficult to compare to other industries. Because of the seasonal nature of employment in the agriculture sector, many migrant workers will work very long hours with no days off for certain periods of the year, but will be out of work at other times.⁷²⁰

Other sources point to increasing incidents of debt bondage among labour migrants in commercial agriculture.⁷²¹ In interviews conducted for the purpose of this report, respondents also mentioned that labour migrants encounter very harsh working conditions in Thailand's timber industry, with workers being left to sleep and "fight for themselves" in forests. Further information to substantiate these statements was not available at the time of writing.

Salaries and benefits

Compared to other industries, working conditions for labour migrants seems to be somewhat better in the agriculture industry and cases of exploitation and trafficking somewhat less frequent and severe. In 2006, the average monthly wage for migrants was THB 3,549, though due to the seasonal nature of the work, many labour migrants had little or no income during non-harvest periods.⁷²² A 2006 publication by the World Bank broadly confirmed this figure but noted that while registered migrant workers may earn between THB 3,000 and 4,000 per month, the income for unregistered migrants in Thailand's agricultural industry ranged between THB 1,500 and 3,000.⁷²³ In 2016, a survey of migrant workers from Lao PDR found that the average monthly wage in the agricultural sector in Thailand was approximately THB 8,200,⁷²⁴ significantly more than other estimates.

A 2010 study of 85 Cambodian agricultural workers in Thailand found both male and female workers received substantially lower salaries than were promised by brokers or employers and that actual salaries were far lower than in other industries. Only 52.9 per cent of men and 63.3 per cent of women

⁷¹⁸ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 210; see also, ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 102.

⁷¹⁹ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 210.

⁷²⁰ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 102.

⁷²¹ Hans van de Glind & Anne Kou, 'Migrant children in child labour: A vulnerable group in need of attention' in Moussa Harouna Sambo & Fabrizio Terenzio (eds), *Children on the move* (2013) 27, 35.

⁷²² ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 102.

⁷²³ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56.

⁷²⁴ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 20.

received their payments on time, and the rate of non-payment, 36.5 per cent, was much higher than in other industries. Most migrants also had deductions taken from their monthly income, including broker fees withheld by employers for the first few months of employment, and were also charged fees for electricity usage and, in some cases, for “police fees”.⁷²⁵

Another report found that female migrant workers tend to earn slightly higher wages than men, with 51.4 per cent earning between THB 3,001 and 4,000 per month, and 19 per cent earning THB 4,001 or more per month. Only 12.7 per cent of men earned THB 4,001 or more and 38.2 per cent between THB 3,001 and 4,000, though these figures may not be representative due to the small sample size.⁷²⁶

Although information on this point is quite limited, there appear to be significant differences between income levels in agriculture in different provinces of Thailand. A 2013 publication found that daily income in Surat Thani in the south of Thailand was substantially higher than in Tak province, which borders Myanmar.⁷²⁷ It is not possible to say with certainty that these wage differences reflect the availability of cheap migrant workers, as they may also be reflective of different crops and types of work, which is not discussed in the report.

Accommodation

Migrant workers in Thailand’s agricultural industry usually live in accommodation provided by their employers. Depending on how remote their place of work is, they may sleep in simple shelters provided to them or may sometimes erect shelters themselves. Usually, workers have little choice but to sleep in the accommodation provided to them, even if they wish to stay elsewhere. The conditions in the living quarters are usually very simple and some sites have limited access to sanitation.⁷²⁸

5.3.2 Fishing and seafood processing

Thailand’s fishing industry is particularly notorious for employing large numbers of migrant workers from neighbouring countries. In recent years, many instances of serious exploitation and trafficking have come to light. The topic has caught the attention of national and international media and has caused Thai authorities to scrutinise recruitment, employment and working conditions in the fishing and seafood processing industries. At the time of writing, several initiatives were underway to enhance measures to prevent and combat exploitation and trafficking in these industries. As a result, some of the information in the following sections may no longer be fully up to date. These sections do document the levels and patterns as they have been reported in recent years.

⁷²⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 89–90.

⁷²⁶ Aree Jampaklay et al, ‘Gender and migration from Cambodia, Laos and Myanmar to Thailand’ in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 208.

⁷²⁷ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 19.

⁷²⁸ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 59; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 101.

Figures

Fishing industry

Thailand's fishing industry is a major employer for migrant workers from Cambodia and Myanmar.⁷²⁹ An estimated 75 per cent of all workers in Thailand's fisheries sector are labour migrants.⁷³⁰ Reported figures and estimates vary significantly and often fail to differentiate between regular and irregular workers, making it difficult to provide any indication of the number of foreign workers trafficked into this industry.

Some NGOs estimate that some 200,000 men and boys from Cambodia and Myanmar have been victims of trafficking in the Thai fishing industry.⁷³¹ In 2015, the ILO, citing 2009 and 2011 data from the Thai Office of Foreign Workers Administration, reported that 56,578 migrant workers were employed in Thailand's fishing industry and 136,973 in seafood processing. Most of these workers were Myanmar nationals, including 39,809 in fishing and 129,773 in seafood processing.⁷³² A 2011 publication found that some 20,989 irregular Cambodian migrants were working in Thailand fisheries and fisheries-related industries in 2009.⁷³³ In 2013, an estimated 14,988 Cambodians were working in fishing and 6,020 in the seafood industry in Thailand.⁷³⁴ The same source estimated that 16 per cent of all male Cambodian migrant workers in Thailand are employed on fishing boats.⁷³⁵

Migrant workers from landlocked Lao PDR do not work in Thailand's fishing industry in large numbers. In 2009, some 1,800 irregular migrants from Lao PDR were working in the fishing industry in addition to 1,180 in the seafood processing.⁷³⁶

Seafood processing

Many sources fail to distinguish between labour migrants who work on fishing vessels at sea and workers employed in the seafood processing industry, which is located on the mainland, especially in Samut Sakhon and other coastal provinces close to Bangkok. Migrant workers make up over half of the workers in Thailand's seafood processing industry and most of them are employed as temporary

⁷²⁹ Sophie Nonnenbacher, 'Trafficking at sea: The situation of enslaved fishermen in Southeast Asia' in Sallie Yea (ed), *Human Trafficking in Asia* (2014) 141, 144.

⁷³⁰ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 1.

⁷³¹ World Vision International, cited in Naparat Kranrattansuit, *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand and Viet Nam* (2014) 102; see also, Kate Bollinger & Kim McQuay, *Human Trafficking Rampant in Thailand's Deep-Sea Fishing Industry* (8 February 2012).

⁷³² ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

⁷³³ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10 citing figures from 2009.

⁷³⁴ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 22. See also, ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

⁷³⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 75.

⁷³⁶ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

workers.⁷³⁷

An estimated 13 per cent of all migrant workers from the Greater Mekong Subregion are employed in Thailand's "fish processing" industry.⁷³⁸ Two further publications make similar estimates, suggesting that 15 per cent of all migrant workers are employed in fishing and seafood processing.⁷³⁹ Another source estimates that 250,000 Myanmar nationals are working in the sea- and land-based sectors of Thailand's fishing and seafood processing industry.⁷⁴⁰

Working conditions

Fishing industry

There are extensive reports about the harsh and often cruel working conditions on Thai fishing vessels. Many sources confirm that labour exploitation and trafficking in this sector is widespread.⁷⁴¹ Deception in the recruitment process appears to be common.⁷⁴² Reports relating to the working conditions on Thai fishing vessels all refer to male labour migrants. Female migrants do not tend to work in this industry in significant numbers.⁷⁴³

Almost none of the migrants working on Thai fishing vessels have written contracts or full information about the conditions and types of work they can expect on the vessels, which makes them particularly vulnerable to exploitation.⁷⁴⁴ Once on the boats, migrants are often forced to carry out dangerous tasks with which they are not familiar and for which they have not been trained. This may also involve the use of heavy and dangerous equipment that can lead to serious injuries.⁷⁴⁵

Working hours on-board fishing vessels can be extremely long. A 2009 study of migrant workers in

⁷³⁷ ILO, 'Thailand's Shrimp and Seafood Industry: An Overview of Primary Processing in Samut Sakhon Province' (March 2013); Tun Min Sandar, 'A Study of Factors Influencing Remittances of Myanmar Migrants (Case Study in Samut Sakhon, Thailand)' (2011) 2, 6.

⁷³⁸ Chan Sophal, 'Economic Costs and Benefits of Labour Migration: Case of Cambodia' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 118, 118.

⁷³⁹ Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) xi; Philip Martin, *Migration in the Asia-Pacific Region* (2009) 32.

⁷⁴⁰ Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 286, citing Kate Bollinger & Kim McQuay, 'Human Trafficking Rampant in Thailand's Deep-Sea Fishing Industry' (8 February 2012).

⁷⁴¹ See generally, ADB & IOM, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013) 22.

⁷⁴² Sophie Nonnenbacher, 'Trafficking at sea: The situation of enslaved fishermen in Southeast Asia' in Sallie Yea (ed), *Human Trafficking in Asia* (2014) 141, 144.

⁷⁴³ See, for example, Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207.

⁷⁴⁴ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 84.

⁷⁴⁵ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 451–452; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs, in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 85.

Thailand found 61 per cent of the people surveyed worked more than 12 hours per day. 71.4 per cent complained of excessive working hours.⁷⁴⁶ While it should be noted that the study involved a very small survey group, a 2006 report by the ILO similarly found that 62 per cent of migrants on fishing vessels worked for more than 12 hours a day.⁷⁴⁷ Many other sources also show that migrant workers are forced to work extremely long hours on these vessels, are deprived of sleep and are often kept on the boats for several months and much longer than they anticipated.⁷⁴⁸

Because fishing vessels operate in extremely remote areas, it is very easy for superiors to exercise control over migrant workers. In these circumstances, migrants have severely restricted freedom of movement and little ability to leave their place of work and their traffickers. Some vessels even have close-circuit television (CCTV) systems installed to monitor workers.⁷⁴⁹ Some sources mention that traffickers have systematically deprived migrants of food and sleep in order to force them to work.⁷⁵⁰ A 2009 report (using a very small sample group) further found that 81 per cent of workers experienced verbal abuse by employers and superiors. Instances of physical abuse were also reported, but appear to be less frequent.⁷⁵¹ Other sources also recount instances in which migrant workers, some of them believed to be under the age of 18, were physically abused and, in some cases, beaten to death.⁷⁵²

⁷⁴⁶ IOM, *Trafficking of Fishermen in Thailand* (2011) 7, 28; Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207.

⁷⁴⁷ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 85; see also, Ligia Kiss et al, 'Health of men, women, and children in post-trafficking services in Cambodia, Thailand, and Viet Nam: An observational cross-sectional study' (2015) 3 *Lancet Global Health* 154, 158.

⁷⁴⁸ IOM, *Trafficking of Fishermen in Thailand* (2011) 7, 28; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 27; Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 286–287; Joanna G Sylwester, 'Fishers of men: The neglected effects of environmental depletion on labor trafficking in the Thai fishing industry' (2014) 23(2) *Pacific Rim Law & Policy Journal* 423, 424, 426–427; UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (28 September 2007) 5; UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 84–85; United States, Department of State, *Trafficking in Persons Report* (2015) 110, 330; United States, Department of State, *Trafficking in Persons Report 2014* (2014) 120–121; Habibur Haque Khondker, 'Migration, Displacement, and Precarity in a Globalised World' (2013) *ISA eSymposium for Sociology* 1, 8.

⁷⁴⁹ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 88; IOM, *Trafficking of Fishermen in Thailand* (2011) 9.

⁷⁵⁰ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 451–452; Jacqueline Joudo Larsen, *Migration and people trafficking in Southeast Asia*, Trends & Issues in Crime and Criminal Justice No 401 (2010) 3.

⁷⁵¹ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 210; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 84.

⁷⁵² IOM, *Trafficking of Fishermen in Thailand* (2011) 25; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 37, 40; UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (28 September 2007) 2; Sarah Murray, 'Casting a Tight Net' [2015] Fall *Stanford Social Innovation Review* 20, 20.

Interviews conducted for the purpose of this report similarly identified cases in which workers were killed or thrown overboard if they were not performing as expected or if they were ill and unable to work.

A further way employers exercise control over migrant workers and ensure they do not attempt to flee or change employers is to confiscate their identity documents. This practice seems to be particularly common on fishing vessels. A 2006 study, for example, found 71 per cent of workers on fishing vessels were not in possession of their documents.⁷⁵³

Interviews conducted for the purpose of this report in Thailand and the countries of origin revealed many stories of exploitation, long working hours, abuse, underpayment and instances in which migrant workers received no payment at all. Some interview respondents said migrant workers use or are given amphetamines to work several days without sleep and to cope with the tough working environments on fishing vessels.⁷⁵⁴

The restrictions imposed on the workers and their general working conditions seem to differ between short-haul and long-haul fishing vessels. Fishing vessels that run short-haul ventures tend to have better conditions and freedoms for workers, compared to long-haul ventures that may last several months or, in some cases, years.⁷⁵⁵ “Offshore vessels can become prisons” for the migrant workers, notes a 2013 UNODC publication, “as workers have no one to turn to and no prospects for escape.”⁷⁵⁶ Research conducted by UN-ACT in 2015 found that, of those surveyed, nearly half of all workers on fishing boats left their work by escaping or because vessels were raided.⁷⁵⁷

In recent years, stories have emerged about irregular migrant workers, most of them Myanmar nationals, who were kept in fenced camps or locked accommodation before being trafficked and “sold” to Thai fishing vessels.⁷⁵⁸ There are also reports that workers are sometimes “sold” from one vessel to another while at sea when manpower needs change.⁷⁵⁹

It is important to note that the Government of Thailand has implemented measures to protect migrants working in the country’s fishing sector. Interviews conducted for the purpose of this report identified that one important development has been a “Seaman Book”, which is now required for both Thai and migrant workers employed on fishing vessels. The development of the Seaman Book means that migrant workers employed on Thai fishing vessels are issued identity papers similar to those of their Thai co-workers. Interview respondents also noted, however, that migrant workers and employers have already identified means for fraudulently replacing a registered worker’s details or photo with one of an irregular or underage worker.

⁷⁵³ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 85

⁷⁵⁴ See also, Sophie Nonnenbacher, ‘Trafficking at sea: The situation of enslaved fishermen in Southeast Asia’ in Sallie Yea (ed), *Human Trafficking in Asia* (2014) 141, 144.

⁷⁵⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 110.

⁷⁵⁶ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 9.

⁷⁵⁷ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 44.

⁷⁵⁸ Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 447, 451–452. See further, Section IV.5.2.3 above.

⁷⁵⁹ UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (28 September 2007) 5.

Seafood processing

Information about the working conditions and instances of exploitation in Thailand's seafood processing industry are less frequent and somewhat anecdotal. This industry employs both male and female labour migrants in large numbers. A 2009 publication suggested that few of them have written contracts, get days off or paid leave and workers must work 12 hours or more per day. According to the report, which combines several samples, more than 53.2 per cent of men and 67.4 per cent of women also complained about being verbally abused by employers or superiors.⁷⁶⁰

In 2012, the World Bank reported that irregular migrant workers in the seafood processing industry are often paid on output, such as number of fish processed, which means they tend to work extremely long hours but still often earn very low wages.⁷⁶¹

Salaries and benefits*Fishing industry*

Salaries for foreign workers on Thai fishing vessels are quite low and there are reports of workers having unexpected charges deducted from their salaries and of wages being paid with much delay or, in some cases, not being paid all.⁷⁶² In some cases, the wages paid are performance-based, with the crew sharing the value of the catch. In such cases, workers have next to no knowledge of the amounts they can expect when they set off to sea and can easily be tricked by the captain or other workers. Some workers have their payments reduced or delayed if they make mistakes that lead to less fish being caught or to catch being spoilt.⁷⁶³

Average wages for workers in the seafood processing industry tend to range between THB 3,000 and 4,600 a month,⁷⁶⁴ though there are considerable differences between individual cases and circumstances. A report published in 2010, for instance, found persons who were trafficked into Thailand's fishing industry earned as little as THB 1,433 per month, while others earned THB 3,933 on

⁷⁶⁰ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207, 210; see also, Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 39–40.

⁷⁶¹ World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 15.

⁷⁶² Sophie Nonnenbacher, 'Trafficking at sea: The situation of enslaved fishermen in Southeast Asia' in Sallie Yea (ed), *Human Trafficking in Asia* (2014) 141, 145.

⁷⁶³ IOM, *Trafficking of Fishermen in Thailand* (2011) 20; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 86; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 21.

⁷⁶⁴ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 29; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 85; Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 208.

average.⁷⁶⁵ It has further been reported that wages in the fishing industry in Thailand have hardly increased over the past two decades. Despite inflation and the rise in living expenses and economic standards in Thailand, migrant workers currently earn the same wages as they did in the 1990s.⁷⁶⁶

Wage deductions mostly involve the repayment of broker and recruitment fees, which can be quite substantial and amount to a large portion of a worker's wages. Deductions for food and electricity may also be made and, in some cases, employers withhold part of the salary to pay "police fees". This money is used to pay off officials who may stop fishing vessels and arrest irregular migrant workers.⁷⁶⁷ However, it needs to be stressed that although reports of exploitation and non-payment of wages are quite common, many workers are paid their wages on time.⁷⁶⁸

Seafood processing

Wages in the seafood processing industry tend to be slightly higher than on fishing vessels, with workers earning between THB 150 and 300 a day, or THB 3,000–5,000 or more per month. In 2012, the Thai government introduced a daily minimum wage of THB 300 in some provinces, which may have led to a rise in daily wages in recent years.⁷⁶⁹ In 2016, a survey of 1,209 migrant workers from Lao PDR found the average monthly wage in the fishery and fishery-related sector in Thailand was approximately THB 9,100,⁷⁷⁰ significantly higher than other estimates. Women tend to earn slightly lower wages than men. There appear to be regional differences within Thailand, with workers in processing plants in Samut Sakhon province south of Bangkok earning higher wages than in Ranong Province in southern Thailand.⁷⁷¹

Accommodation

Employers usually arrange accommodation for workers in the fishing industry. Migrants working on vessels that venture further out to sea and do not return to port on a daily basis sleep on the vessels and have no opportunity to refuse to live "on-site".⁷⁷²

In more extreme cases of trafficking, workers are sometimes confined in storage facilities or other buildings before they are taken on-board the vessels and forced to work, often for many months

⁷⁶⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 92; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56. See also, Mohamed Mattar, 'Transnational Legal Responses to Illegal Trade in Human Beings' (2013) 33(1) *SAIS Review* 137, 146.

⁷⁶⁶ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 92.

⁷⁶⁷ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 92.

⁷⁶⁸ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 92.

⁷⁶⁹ ILO, 'Thailand's Shrimp and Seafood Industry: An Overview of Primary Processing in Samut Sakhon Province' (March 2013).

⁷⁷⁰ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 20.

⁷⁷¹ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 208; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 85; IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 19; cf Sarah Murray, 'Casting a Tight Net' [2015] Fall *Stanford Social Innovation Review* 20, 22.

⁷⁷² IOM, *Trafficking of Fishermen in Thailand* (2011) 27.

without any opportunity to escape.⁷⁷³

5.3.3 Construction

Figures

Thailand's construction industry is another important employer for migrant workers from Cambodia, Lao PDR and Myanmar, employing about 14–15 per cent of all workers from these countries.⁷⁷⁴ About 80 per cent of all workers in the construction industry are believed to be migrant workers.⁷⁷⁵ It is also an industry in which many irregular migrant workers can be found and in which cases of trafficking are not uncommon. Although migrant workers can be found on construction sites across Thailand, especially in the central provinces, a higher concentration exists in Thailand's main cities, especially Bangkok, which is home to about 54.5 per cent of all migrant construction workers in the country.⁷⁷⁶

Construction is the second most important sector for irregular migrants from Cambodia, employing about 32,465 or 26 per cent of Cambodians working irregularly in Thailand. According to data published in 2010, approximately 30 per cent of Cambodian workers in the Thai construction industry are unregistered. The industry employs both male and female workers from Cambodia, with men only slightly outnumbering women.⁷⁷⁷

In 2009, 12,635 irregular migrants from Lao PDR worked in the construction industry in Thailand. About 84 per cent of Lao construction workers in Thailand are unregistered and only 16 per cent are registered.⁷⁷⁸ The sector employs men and women from Lao PDR in similar numbers.⁷⁷⁹ About 24 per cent of migrants from Myanmar working in the Thai construction industry are unregistered.⁷⁸⁰

⁷⁷³ Joanna G Sylwester, 'Fishers of men: The neglected effects of environmental depletion on labor trafficking in the Thai fishing industry' (2014) 23(2) *Pacific Rim Law & Policy Journal* 423, 423; cf Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 38, 43.

⁷⁷⁴ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 18; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) xi; Rosalie Sciortino & Sureeporn Punpuing, *International Migration in Thailand 2009* (2009) 65.

⁷⁷⁵ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 1.

⁷⁷⁶ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 86–87.

⁷⁷⁷ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 22, 75; ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10. Note that these figures contradict data cited by the same report elsewhere; Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 18.

⁷⁷⁸ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

⁷⁷⁹ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 11.

⁷⁸⁰ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

Working conditions

A 2010 publication suggests about 33 per cent of migrant workers in Thailand's construction industry experience exploitation and 23 per cent experience situations of trafficking. Concerns and complaints by migrant workers about working conditions in the construction industry mostly relate to restrictions placed on their freedom of movement or on other personal freedoms. This involves controls exercised by employers and supervisors over workers that, in some cases, can involve the use of armed guards to ensure that workers do not escape, do not take long breaks and do not steal from construction sites. In a small number of cases, migrant workers are held in locked rooms or fenced compounds or may be monitored by CCTV.⁷⁸¹ Situations involving verbal abuse, threats, intimidation and coercion are also reported in the literature.⁷⁸²

A further concern relates to occupational health and safety on construction sites. Workers often lack protective clothing and other protective equipment and work with poorly maintained equipment without adequate safety measures. This can lead to accidents, injuries and other health problems. Long working hours are common in the construction industry. The fact that many migrants work seven days a week can lead to exhaustion, sleep deprivation and malnutrition if workers are given too few opportunities to rest and eat.⁷⁸³

The picture that emerges from the available literature and from interviews conducted for the purpose of this report suggest that, while working conditions in the construction industry can be harsh and dangerous, they tend to be more favourable than in other industries where migrant workers may be exploited or trafficked. The “worst cases of trafficking” are generally not found in the construction industry. The fact that construction sites are usually in or near larger urban centres has also been highlighted as a factor that works in favour of migrant labourers, especially if they require help or support from authorities or other people.⁷⁸⁴ A 2015 study surveying Cambodian migrant workers in Thailand found 79.8 per cent of respondents described their working conditions as fair or good. 87.6 per cent responded that they had little-to-no exposure to violence in the construction industry.⁷⁸⁵

Salaries and benefits

Instances of low wages and underpayment of migrant workers do appear to occur in Thailand's construction industry. A study published in 2015 involving surveys of Cambodian labour migrants found that nearly 25 per cent of workers in Thailand's construction industry were not paid at all.⁷⁸⁶

In many cases, workers are promised wages much higher than what they are actually paid. A 2010 study found that male workers from Cambodia were, on average, promised wages of THB 6,903 per

⁷⁸¹ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 86–88, 110

⁷⁸² Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53(4) *International Migration* 38, 45–46.

⁷⁸³ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40; cf UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 28.

⁷⁸⁴ Cf UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 110.

⁷⁸⁵ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 36, 37, 42.

⁷⁸⁶ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 30.

month and women THB 4,986, but actual monthly salaries only amounted to THB 3,258. In a number of cases, migrants received no pay at all or experienced long delays until they received payment. Employers also frequently made unexpected deductions from migrants' salaries, especially for "police fees", for food and electricity or to recoup brokerage fees.⁷⁸⁷ More recent studies suggest that migrant workers in the construction industry earn, on average, about THB 300 a day or about THB 4,120 a month, but the studies do not differentiate between salaries for regular and irregular migrant workers.⁷⁸⁸ As in other industries, salaries in the main urban centres, especially Bangkok, tend to be higher than in small towns and rural areas.⁷⁸⁹

Very few migrant workers have access to social security benefits, although this is mandated by law.⁷⁹⁰

Accommodation

Most migrant workers in Thailand's construction industry live in accommodation provided by their employers. This usually involves basic accommodation such as tents at or near construction sites. Workers usually have to share accommodation, with little or no privacy and poor or basic sanitary facilities.⁷⁹¹

5.3.4 Domestic services

Figures

Approximately 11 per cent of all migrant workers from Cambodia, Lao PDR and Myanmar work in domestic service roles in Thailand.⁷⁹² Over 50 per cent of domestic workers in Thailand are believed to be migrant workers, most of them women.⁷⁹³ According to official figures by Thai authorities, nearly 130,000 migrants were working in Thai households in December 2009.⁷⁹⁴

As of December 2009, the largest number of domestic workers in Thailand was from Myanmar, with a

⁷⁸⁷ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 91–92. See also, World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56.

⁷⁸⁸ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 19; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 29.

⁷⁸⁹ Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 22.

⁷⁹⁰ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 21.

⁷⁹¹ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 59; Sai S W Latt, 'Managing migration in the Greater Mekong Subregion: Regulation, extra-legal relation and extortion' (2013) 34 *Singapore Journal of Tropical Geography* 40, 48; Jackie Pollock, 'What's in a label' (2011) 37 *Forced Migration Review* 46, 46.

⁷⁹² Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 18; Rosalie Sciortino & Sureeporn Punpuing, *International Migration in Thailand 2009* (2009) 65.

⁷⁹³ Philip Martin, *Migration in the Asia-Pacific Region* (2009) 32; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) xi.

⁷⁹⁴ Cited in ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

total of 101,945 workers, or about 80 per cent of all workers. This included 84,968 women and 16,977 men.⁷⁹⁵ About 90 per cent of these workers were registered.⁷⁹⁶ 21,267 irregular migrant workers from Lao PDR were working in Thailand's domestic service industry in Thailand in December 2009. This included 18,040 women and 3,227 men.⁷⁹⁷ Unlike Myanmar nationals, about 96 per cent of domestic workers from Lao PDR were unregistered.⁷⁹⁸ In 2009, 6,578 irregular Cambodian migrants, including 5,156 women and 1,422 men, were working in the domestic service industry of Thailand.⁷⁹⁹

Working conditions

Concerns over the working conditions of foreign domestic workers in Thailand and instances of exploitation and trafficking frequently relate to restrictions on the freedom of movement. In a recent study by UN-ACT, labour migrants rated the "level of freedom at work" in the domestic service industry as considerably lower than in other industries.⁸⁰⁰

To further increase control over their workers, many employers confiscate passports and other identity papers. This seems to affect not only irregular migrant workers but also those who migrate through regular channels and are employed lawfully.⁸⁰¹ In these circumstances, it is very difficult and often impossible for domestic workers to seek outside help, to escape and to connect with family and friends.⁸⁰²

Because many domestic workers cannot freely leave their work premises, they have limited ability to communicate and socialise with people outside their workplace, and little access to doctors, health care and health information. Some employers do not permit their domestic workers to get medical aid, even when they are seriously ill. Employers often want to avoid the costs associated with medical care and, if workers show signs of physical or psychological abuse, do not want medical practitioners to

⁷⁹⁵ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25; Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2(1) *Asian Population Studies* 19, 22.

⁷⁹⁶ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

⁷⁹⁷ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25.

⁷⁹⁸ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

⁷⁹⁹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 25; Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10 citing 2009 figures.

⁸⁰⁰ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 42.

⁸⁰¹ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 90.

⁸⁰² See generally, Christa Foster Crawford, 'Cultural, economic and legal factors underlying trafficking in Thailand and their impact on women and girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 848.

discover it.⁸⁰³

Long working hours and a lack of rest days further characterise the working conditions of many foreign domestic workers in Thailand. Many workers start work early in the morning and finish late at night. A study published by the ILO in 2006 found more than 50 per cent of domestic workers had to work more than 14 hours a day, and approximately 82 per cent had to work more than 12 hours.⁸⁰⁴ A 2015 UN-ACT study identified that approximately 20 per cent of domestic workers (in a sample of Cambodians who had been deported from Thailand), had worked more than 12 hours or more a day.⁸⁰⁵ Workers may also be required to work or be on standby throughout the night, especially if they have to look after their employers' young children. Very few workers get a weekly or regular day off; some only get one day off per month or only get time off during particular holiday periods.⁸⁰⁶

Reports about threats and coercion by employers against their domestic workers are frequent. Verbal abuse by employers is common, particularly among young and new workers.⁸⁰⁷

Many foreign domestic workers experience physical and sexual abuse in the premises where they work and live. This ranges from unwanted and inappropriate touching to sexual advances, beatings and other forms of violence and instances of rape.⁸⁰⁸ In 2006, the ILO reported about 20 per cent of foreign domestic workers encountered unwanted physical contact by their employers, 9 per cent had been pushed, slapped or beaten, and about 8 per cent experienced sexual harassment.⁸⁰⁹

Employers may trick workers into situations they later cannot get out of, or deceive them about the working conditions and salaries they can expect. A 2006 study found that 14 per cent of foreign domestic workers had been tricked about their employment and 12 per cent had been deceived about

⁸⁰³ Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2(1) *Asian Population Studies* 19, 27.

⁸⁰⁴ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 90; Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2(1) *Asian Population Studies* 19, 26.

⁸⁰⁵ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 27.

⁸⁰⁶ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 29–30; see also, Mika Toyota, 'Health Concerns of 'Invisible' Cross-Border Domestic Maids in Thailand' (2006) 2(1) *Asian Population Studies* 19, 26; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 28; Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security — Securing South East Asia's Future* (2012) 75, 85.

⁸⁰⁷ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 91.

⁸⁰⁸ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 91.

⁸⁰⁹ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 91.

the salaries they would receive.⁸¹⁰

Migrants who come to Thailand to take up employment as domestic workers generally seem to have very little information about the nature of the work and the conditions they can expect at their workplace. This has been observed for both women and men.⁸¹¹ It is not uncommon for domestic workers to carry out duties unrelated to household work; many workers, for instance, also have to help out in the employer's business once they complete their daily household chores.⁸¹²

Despite the many accounts of poor working conditions, long working hours, threats and abuse experienced by foreign domestic workers in Thailand, it is important to note that many labour migrants do not have any of these experiences and that they generally tend to view working conditions in this industry as more favourable than others. In a study of Cambodian migrant workers who returned from Thailand, it was found that 80 per cent of respondents who had worked in the domestic services sector in Thailand viewed their working conditions as “fair to good”, a higher rating than in other industries except the service industry. Some 88 per cent reported the level of violence at their workplace was “fine to non-existent”. Furthermore, 80 per cent stated that they left their place of employment independently, and not as a result of an escape or raids.⁸¹³

Salaries and benefits

Foreign domestic workers in Thailand earn lower salaries compared to the other industries explored in this report. Many domestic workers also do not receive the full sums promised to them when they were employed or when they first agreed to move to Thailand. On average, most domestic workers tend to earn about THB 2,000 a month. Registered migrant workers tend to earn higher wages of between THB 2,000 and 4,000, compared to unregistered migrant workers who earn between THB 1,000 and 3,000.⁸¹⁴ If the foreign domestic worker is a minor, salaries tend to be lower still—and lower than those of Thai minors working in the industry.⁸¹⁵

In 2006, the ILO found that as many as 41 per cent of foreign domestic workers surveyed earned less than THB 1,000 and 33 per cent earned between THB 1,000 and 2,000. According to this study, only 11 per cent were able to earn THB 3,000 or more, which is a comparable to salaries expected in other migrant labour industries.⁸¹⁶ More recent studies, taking into account inflation and general development in the Thai economy, tend to make higher estimates of the average salaries of foreign domestic workers. A 2013 IOM report, for instance, found that more than 50 per cent of foreign

⁸¹⁰ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 91.

⁸¹¹ Aree Jampaklay et al, ‘Gender and migration from Cambodia, Laos and Myanmar to Thailand’ in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207.

⁸¹² ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 91.

⁸¹³ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 37, 36, 44.

⁸¹⁴ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56.

⁸¹⁵ Hans van de Glind & Anne Kou, ‘Migrant children in child labour: A vulnerable group in need of attention’ in Moussa Harouna Sambo & Fabrizio Terenzio (eds), *Children on the move* (2013) 27, 36.

⁸¹⁶ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 92; see also, Aree Jampaklay et al, ‘Gender and migration from Cambodia, Laos and Myanmar to Thailand’ in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207.

domestic workers in Bangkok were earning more than THB 300 per day and nearly 40 per cent were earning THB 300 a day.⁸¹⁷ A 2015 report by UN-ACT found that Cambodian domestic workers who had been deported from Thailand earned on average THB 4,194 per month. In 2016, a survey of 1,209 migrant workers from Lao PDR found the average monthly wage in the domestic service sector in Thailand was approximately THB 7,500,⁸¹⁸ significantly higher than other estimates.

Domestic workers generally do not receive social security benefits, which means they cannot get any assistance if they fall ill or remuneration for days they are unable to work.⁸¹⁹

Accommodation

It is common for foreign domestic workers to live at their place of employment. This is partly due to the fact they generally start work very early and often have to be available late in the evening or during the night to prepare meals or to attend to infant children. It is extremely rare for domestic workers to live independently or elsewhere away from their place of employment.⁸²⁰

The standard of accommodation for domestic workers tends to be moderately better than in other migrant labour industries in Thailand, though they often have to live or sleep in tiny quarters or share accommodation with little privacy if several domestic workers are employed in the same household. In some instances, they have to sleep in the same room as the children or other people in the household they care for.⁸²¹

The proximity to their place of employment and to their employers explains why domestic workers often work very long hours and rarely have rest days. These circumstances increase the risk that domestic workers are physically or sexually abused by their employers or other people in the household and it reduces their ability to communicate with friends or seek outside help.⁸²²

5.3.5 Hospitality and retail

Foreign workers are employed in Thailand's hospitality sector, including restaurants, bars, shops and wholesale sectors. The information relating to trafficking in persons in these sectors is very scattered and it is difficult to grasp the levels and characteristics of labour exploitation in the hospitality and retail industries.

⁸¹⁷ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 19.

⁸¹⁸ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 20.

⁸¹⁹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 21.

⁸²⁰ See generally, Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 22; Lee Sang Kook, 'State in a State: Administration and Governance in a Thailand–Burma Border Town' (2008) 36 *Asian Journal of Social Science* 187, 200.

⁸²¹ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 59; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 90.

⁸²² Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 90.

Figures

Relative to the other industries outlined in this chapter, the number of foreign workers in Thailand's hospitality, retail and wholesale sectors is considerably smaller. These sectors mostly employ labour migrants from Lao PDR, possibly because work in these sectors may require some ability to communicate in Thai, which (unlike migrants from other countries) most Lao nationals are able to do. In 2009, an estimated 13,074 irregular migrants from Lao PDR were working in hospitality (food and beverage) in addition to 7,565 in retail and wholesale in Thailand.⁸²³ Most of the Lao workers in this sector, about 70–80 per cent, are women.⁸²⁴

These sectors also employ a number of Cambodians, though their numbers are smaller than those of Lao nationals and considerably smaller than the number of Cambodian nationals working in other industries. Some 4,778 irregular Cambodia migrant workers worked in Thailand's wholesale and retail sector in 2009, in addition to 4,483 workers in the hospitality industry.⁸²⁵

Information relating to the number of irregular migrants from Myanmar working in hospitality, wholesale and retail in Thailand was not available at the time of writing.

Working conditions, salaries and benefits

Information about the working conditions, salaries and other benefits of irregular migrant workers in Thailand's hospitality, wholesale and retail sectors is mostly unavailable. It is difficult to grasp just how common harsh working conditions, long working hours, under-payment and labour exploitation in these sectors are. It appears that migrant workers in these industries have slightly better protections and are also eligible for social security benefits, though reportedly not all migrant workers can or want to register with Thailand's Social Security Office.⁸²⁶ A 2016 survey of 1,209 migrant workers from Lao PDR found the average monthly wage in the food and beverage, wholesale and retail sectors in Thailand was approximately THB 7,200.⁸²⁷

5.3.6 Manufacturing

Figures

Approximately 8 per cent of male and female Cambodian migrant workers in Thailand are work in factories.⁸²⁸ Some 36 per cent of Cambodian factory workers in Thailand are unregistered.⁸²⁹

Men and women from Lao PDR work in Thailand's manufacturing sector. While both genders can be

⁸²³ Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10.

⁸²⁴ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 11.

⁸²⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 22; and Hing Vutha et al, *Irregular migration from Cambodia: Characteristics, Challenges, Regulatory approach* (2011) 10, citing 2009 figures.

⁸²⁶ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 21.

⁸²⁷ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 20.

⁸²⁸ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 75.

⁸²⁹ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

found in manufacturing in similar numbers, approximately 85 per cent Lao workers in the garment industry are women.⁸³⁰ A 2010 ILO study found 76 per cent of factory workers from Lao PDR in the sample group were not registered in Thailand. Only 24 per cent were registered.⁸³¹

Many irregular migrants from Myanmar work in factories established right across the border in Thailand, especially in Tak Province around the city of Mae Sot. This makes it easy for workers to commute between their home and workplace on a daily or weekly basis. 68.65 per cent of workers in these factories, most of them producing garments and textiles, are from Myanmar.⁸³² A 2010 study by the ILO found that 91 per cent of factory workers from Myanmar were registered in Thailand and only 9 per cent were not.⁸³³

Working conditions

Instances of trafficking, labour exploitation and other concerns about the working conditions of regular and irregular migrants in Thailand's manufacturing sector mostly relate to harsh and often unsafe working conditions, long working hours and the lack of rest days and vacation periods. The problems in this sector are long-standing and extensively documented.⁸³⁴ UNIAP estimated about 33 per cent of irregular migrants engaged in factory work in Thailand are exploited and about 23 per cent are in situations of trafficking.⁸³⁵

Long working hours appear to be common among migrant factory workers. Most migrant workers work nine hours or more per day; many work more than 12 hours per day without adequate breaks, insufficient time to rest and sleep and no regular days off.⁸³⁶ In 2009, IOM reported that 41 per cent of female and 14.9 per cent of registered male and female factory workers complained about excessive

⁸³⁰ IOM, *Assessing Potential Changes in the Migration Patterns of Lao Migrants and their Impacts on Thailand and Lao People's Democratic Republic* (2016) 11.

⁸³¹ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

⁸³² Kettawa Boonprakarn et al, 'Flowers of the Dawn: Mediator and Facilitators of Social Justice for Transnational Laborers in the Thai-Burmese Borderland of Mae Sot District, Tak Province, Thailand' (2014) 10(6) *Asian Social Science* 7, 13.

⁸³³ ILO, *Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar: Synthesis report on survey findings in three countries and good practices* (2010) 3.

⁸³⁴ See generally, Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 73.

⁸³⁵ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 51; see also, UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 49.

⁸³⁶ ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 97; Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 77; Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 726; Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 38, 44.

working hours. The vast majority of migrant workers in the sample—94 per cent of women and 97.9 per cent of men—had no written contract. 80 per cent of the female workers and 73.8 per cent of the male workers did not get any paid leave.⁸³⁷ In Mae Sot, where many migrants from Myanmar work in textile and garment factories, workers usually work 12–16 hours a day.⁸³⁸

Some employers exercise tight control over their factory workers. Some confiscate migrant workers' personal documents or abuse the irregular status of many migrants. In some cases, other restrictions are placed on personal freedoms. Some factories do not permit migrant workers to leave factory compounds, install fences and locks and often have their workers stay on the same premises as their work.⁸³⁹

Unsafe working conditions and a lack of occupational health and safety measures in some factories lead to injuries and other health problems among workers. Many employers try to reduce their production costs by failing to install, check and replace safety equipment, protective clothing, et cetera. As a result, migrant factory workers may experience health problems or injuries. The long working hours and limited rest periods lead to exhaustion, sleep deprivation and other health problems.⁸⁴⁰

Reports of verbal and physical abuse of migrant factory workers are not uncommon, but tend to be lower than in the fishing and seafood processing industries. According to a 2009 report by IOM, 43.4 per cent of female and 32.6 per cent of male migrant labourers working in the manufacturing sector experienced verbal abuse by their employers, senior workers or others. 9.6 per cent of women and 6.4 per cent of men reported instances of physical abuse.⁸⁴¹ Irregular workers are generally not in a position to demand better working conditions, insist on the recognition of their rights or refuse to work, and there have also been reports about the use of force to break up protests by migrant workers in factories.⁸⁴²

Sexual harassment, abuse and rape of female and child migrant labourers have been reported,

⁸³⁷ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207.

⁸³⁸ Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1613.

⁸³⁹ Dennis Arnold & John Pickles, 'Global Work, Surplus Labor, and the Precarious Economies of the Border' (2011) 43(5) *Antipode* 1598, 1613; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 96; UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 110; Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 76.

⁸⁴⁰ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40.

⁸⁴¹ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 210.

⁸⁴² Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 37; Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 727–728.

including from factories in Mae Sot, which mostly employ workers from Myanmar.⁸⁴³

Despite the reports of harsh working conditions and instances involving threats and violence, it should be stressed that many regular and irregular migrant workers do not encounter such situations and tend to be generally satisfied with their conditions. A 2015 survey of Cambodian migrant workers who had been returned from Thailand found that 74.1 per cent of migrants who had worked in factories in Thailand rated their working conditions as “fair to good” and 90.5 per cent had not experienced any violence at their workplace.⁸⁴⁴

Salaries and benefits

Salaries of factory workers can vary greatly depending on the types of work and industry. 23.4 per cent of male and 26.5 per cent of female registered migrant factory workers surveyed in a 2009 study earned more than THB 5,000; 42.6 per cent of men and 34.9 per cent of women earned between THB 4,001 and 5,000. Overall, men tend to earn slightly higher wages than women. Registered workers also generally earn higher wages (THB 3,000–5,000) than migrant workers who are not registered (THB 1,000–3,000).⁸⁴⁵ According to a more recent study, most factory workers earn THB 300 or more per day.⁸⁴⁶

Some migrant workers often do not receive the same salaries as the ones they were promised. Many employers make unexpected deductions, withhold money to repay the expenses involved in recruiting migrants and bringing them to Thailand or fail to pay full salaries because they say they have insufficient funds. Overtime is rarely paid. Sometimes the pay is said to be performance-related, but promised bonuses or extra hours are not paid as promised.⁸⁴⁷ A survey of Cambodian migrant workers deported from Thailand found that 19.7 per cent of the sample group had not been paid for their work in Thai factories. The same study found that 34.7 per cent had left their work because of raids, 15.6 per cent had escaped from the workplace and 48.3 per cent had quit independently.⁸⁴⁸

⁸⁴³ Dennis Arnold & John Pickles, ‘Global Work, Surplus Labor, and the Precarious Economies of the Border’ (2011) 43(5) *Antipode* 1598, 1613; Edi C M Kinney, ‘Appropriations for the Abolitionists: Undermining Effects of the U.S. Mandatory Anti-Prostitution Pledge in the Fight Against Human Trafficking and HIV/AIDS’ (2006) 21 *Berkeley Journal of Gender, Law and Justice* 158, 187; Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 159, 169.

⁸⁴⁴ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 36, 37, 42.

⁸⁴⁵ Aree Jampaklay et al, ‘Gender and migration from Cambodia, Laos and Myanmar to Thailand’ in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 208; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56.

⁸⁴⁶ IOM & Asian Research Centre for Migration, Chulalongkorn University, *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand* (2013) 19.

⁸⁴⁷ Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study’ (2014) 53(4) *International Migration* 38, 44.

⁸⁴⁸ UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 30, 44.

Accommodation

Many migrant factory workers sleep in accommodation provided by their employers near their workplace. In many cases, the accommodation is part of the same compound in which the factory is located. While accommodation provided by employers may be less expensive and more convenient for workers, it also provides employers with a way to exercise close control over workers and monitor their whereabouts, reduces the workers' privacy and usually results in long working hours.⁸⁴⁹

Some employers provide accommodation in order to charge additional fees or to deduct money from workers' salaries. Many employers overcharge for accommodation or provide accommodation in lieu of payment. Some migrants work extra hours just to cover the cost of accommodation, which can range from THB 50 to 300 per month for dormitory-style accommodation in the factory compound.⁸⁵⁰ Many employers provide meals for their workers and use this as a further way to make money off their workers.⁸⁵¹

The standard of accommodation and food is often very poor. Many places lack air-conditioning or proper ventilation and have poor hygienic conditions in kitchens and sanitary facilities. Personal space is often extremely limited and dormitories can be very crowded. Some workers must share beds with others who work different shifts.⁸⁵²

5.3.7 Sexual services, prostitution and adult entertainment

Figures

Thailand is home to a sizeable sex industry, comprising of brothels, street prostitution, escort services, strip clubs and other adult entertainment venues, massage parlours and other premises offering sexual services. This industry is closely linked to Thailand's hospitality and tourism sectors and is particularly visible in Bangkok and Thailand's main tourist centres, such as Phuket and Pattaya. Because of the diversity of the sex industry and its nexus to other sectors, much of the industry operates in a legal grey area.⁸⁵³

Approximately 140,000 workers operate in the sex industry. about 90 per cent of these workers are female.⁸⁵⁴ Undated official surveys by the Thai government found between 76,000 and 77,000 people

⁸⁴⁹ Jackie Pollock, 'What's in a label' (2011) 37 *Forced Migration Review* 46, 46.

⁸⁵⁰ Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 77.

⁸⁵¹ Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 726.

⁸⁵² World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 59; Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 726.

⁸⁵³ Vidyamali Samarasinghe, 'Two to Tango: Probing the demand side of female sex trafficking' (2009) 16 (1+2) *Pakistan Journal of Women's Studies: Alam-e-Niswan* 33, 43–44.

⁸⁵⁴ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 17.

are engaged in prostitution in Thailand.⁸⁵⁵ Non-governmental organisations (NGOs) estimate that number to be much higher, suggesting that between 200,000 and 300,000 people work in Thailand's sex sector, including as many as 60,000 people under the age of 18.⁸⁵⁶ Other sources suggest that anywhere between 30,000 and 75,000 children under the age of 16 are working in the Thai sex industry.⁸⁵⁷ These figures are much higher than those of the late 1990s and early 2000s, when it was estimated that 18,248 foreigners working in the sex industry were living in Thailand, 90 per cent of which (16,423) came from Cambodia, China, Lao PDR, Myanmar and Viet Nam.⁸⁵⁸

As with other industries with large numbers of labour migrants, it is difficult to clearly identify cases of labour exploitation and trafficking in Thailand's sex industry. A 2013 study by UNODC estimates approximately 5,600 people in Thailand might be victims of trafficking for sexual exploitation, including Thai and foreign nationals. Approximately 3,750 victims are believed to be from neighbouring countries.⁸⁵⁹

Complete figures and reliable estimates of the number of persons trafficked from Cambodia, Lao PDR and Myanmar to Thailand for the sex industry are not available. Data collection is further complicated by the fact that many migrant workers in the sex sector do not disclose their nationality and pretend to be Thais to avoid arrest and deportation, as well as to earn higher wages in the sex industry.⁸⁶⁰

Working conditions

The exploitation, trafficking and maltreatment of labour migrants in Thailand's sex industry mostly relate to poor working conditions, long working hours and the dangers to the health and safety of workers.⁸⁶¹ Although some women are deceived about the nature of their work and the type of employment they can expect in Thailand,⁸⁶² most enter Thailand knowing they will engage in sex work. Many follow in the footsteps of friends, family members or others they knew before they came to Thailand.⁸⁶³ They are, however, frequently deceived about the working conditions, working hours and,

⁸⁵⁵ Cited in Geneva Brown, 'Women and children last: The prosecution of sex traffickers as sex offenders and the need for a sex trafficker registry' (2011) 31(1) *Boston College Third World Law Journal* 1, 23.

⁸⁵⁶ Geneva Brown, 'Women and children last: The prosecution of sex traffickers as sex offenders and the need for a sex trafficker registry' (2011) 31(1) *Boston College Third World Law Journal* 1, 23 with further references.; see also, J P Singh & Shilpa A Hart, 'Sex Workers and Cultural Policy: Mapping the Issues and Actors in Thailand' (2007) 24(2) *Review of Policy Research* 155, 160.

⁸⁵⁷ Ashley G Blackburn et al, 'Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia' (2010) 20(1-2) *Women & Criminal Justice* 105, 107.

⁸⁵⁸ Aungkana Kmonpetch, *The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand*, Kyoto Working Papers on Area Studies No 106 (2011) 2.

⁸⁵⁹ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 23.

⁸⁶⁰ Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 28; see also, Section IV.3.1.2 above.

⁸⁶¹ See generally, Aungkana Kmonpetch, 'The Phenomenon of Cross-Border Human Trafficking: Complexities of Exploitation Issues in Thailand', Kyoto Working Papers on Area Studies No 106 (2011) 11.

⁸⁶² See, for example, Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 38, 43.

⁸⁶³ J P Singh & Shilpa A Hart, 'Sex Workers and Cultural Policy: Mapping the Issues and Actors in Thailand' (2007) 24(2) *Review of Policy Research* 155, 165.

as the next section shows, the actual salaries associated with their work in Thailand.

To maximise their personal financial gain, brothel owners, pimps and traffickers frequently force workers under their control to work long hours, serve as many clients per day as possible and deny workers any days off.⁸⁶⁴ Some women are said to work between 10 and 18 hours a day and serve between 5 and 15 clients per day.⁸⁶⁵ Many workers have to be available or “on-call” 24 hours a day as clients may call or arrive at any time.⁸⁶⁶

The artificially inflated debts that many workers have, which sometimes amount to debt bondage, mean that many migrant workers must strive to work as much as they can to repay their debts and “buy their way out” of their situation. In such cases, payments are often withheld and records are kept about the number of clients serviced, the money earned and the repayment of debts.⁸⁶⁷

When migrants first arrive at their place of work, their employers often confiscate their travel and identity documents to ensure that workers do not abscond, and to limit their ability to seek assistance from Thai authorities or foreign consulates.⁸⁶⁸ Those in control of the workers sometimes introduce new workers to the environment by locking them in confined rooms or by beating and raping them. This serves as a way to intimidate the women and threaten them should they refuse to comply with the demands of their clients and the brothel managers and pimps. Physical and sexual violence, threats and deprivation of food are also used to discipline workers, who are predominantly women and girls, and to punish them if they do not make enough money or do not meet their quota of clients.⁸⁶⁹

⁸⁶⁴ Kim Sovankiry et al, ‘The Trafficking of Cambodian Women and Children’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 133–134.

⁸⁶⁵ Alexandra Seltzer, ‘Human trafficking: the case of Burmese refugees in Thailand’ (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 288.

⁸⁶⁶ Matthew Clarke, ‘Over the border and under the radar: Can illegal migrants be active citizens?’ (2009) 19(8) *Development in Practice* 1064, 1072.

⁸⁶⁷ Kim Sovankiry et al, ‘The Trafficking of Cambodian Women and Children’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 136; Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 228.

⁸⁶⁸ Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 228.

⁸⁶⁹ Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 235; Yvonne Rafferty, ‘Child Trafficking and Commercial Sexual Exploitation: A Review of Promising Prevention Policies and Programs’ (2013) 83(4) *American Journal of Orthopsychiatry* 559, 563; Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 187; Kim Sovankiry et al, ‘The Trafficking of Cambodian Women and Children’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 136

The types of sexual practices workers must offer are usually determined by brothel managers and clients.⁸⁷⁰ Some brothel owners instruct or force their workers to meet any of their clients' wishes. As a result, many workers have to perform sexual practices they are uncomfortable with, engage in sex with multiple clients or endure sexual practices that may be considered degrading and dangerous. It further means that workers may have to engage in unsafe sex and run a risk of contracting sexually transmitted diseases and, if they take no contraceptives, of becoming pregnant. The demand for unprotected sex is generally high and some workers are reportedly not allowed to refuse sex without a condom.⁸⁷¹ The fact that foreign workers can be more easily coerced into engaging in unsafe and unwanted sexual practices is said to be one reason why foreigners have replaced Thai nationals in some parts of the Thai sex industry.⁸⁷² It also explains why sexually transmitted diseases and HIV infections are much more common among foreign workers who have been trafficked to Thailand.⁸⁷³

Some women are forced to work when they are sick or during menstrual cycles. Some literature points to the phenomenon of "selling virginity," in which higher prices are demanded for sex with virgin girls.⁸⁷⁴ Access to health information, health care, condoms and contraceptives are often unavailable for workers or denied them by their traffickers.⁸⁷⁵ Because prostitution is technically illegal in Thailand, many migrants working in Thailand's sex sector cannot obtain health services through official channels.⁸⁷⁶ The control that brothel owners exercise over their workers can mean that the workers must engage with clients who are drunk or drugged or who are abusive and violent.⁸⁷⁷

Some workers are kept in confined spaces and are not allowed to leave the premises in which they work. For these workers, clients often represent their only means of communicating with the outside world and organising an escape or rescue. For this reason, some brothel owners exercise very close control over their workers and forbid them to talk to clients or to spend more time than necessary

⁸⁷⁰ UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 20.

⁸⁷¹ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 194–196; Kim Sovankiry et al, 'The Trafficking of Cambodian Women and Children' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 133–134

⁸⁷² Stephanie A Limoncelli, 'The trouble with trafficking: Conceptualizing women's sexual labor and economic human rights' (2009) 32 *Women's Studies International Forum* 261, 263.

⁸⁷³ Ramona Vijeyarasa, 'The State, the family and language of 'social evils': re-stigmatising victims of trafficking in Viet Nam, *Culture, Health & Sexuality*' (2010) 12 *Culture, Health & Sexuality* 89, 94.

⁸⁷⁴ Kim Sovankiry et al, 'The Trafficking of Cambodian Women and Children' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 136.

⁸⁷⁵ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 197.

⁸⁷⁶ Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 81.

⁸⁷⁷ Kim Sovankiry et al, 'The Trafficking of Cambodian Women and Children' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 133–134.

with them.⁸⁷⁸

It is not necessary for many traffickers to intimidate or exercise tight control over their workers. The debt owed to them closely ties victims to their traffickers. Furthermore, many victims fear being caught by Thai authorities, detained and swiftly returned to their country of origin if they were to flee.⁸⁷⁹

Because of the harsh working conditions migrants endure in the sex sector, drug use is reportedly common. For some workers, using illicit drugs serves as a way to endure the physical and psychological pain associated with their work or to “escape” and disengage from their situation. For others, drug use is forced on them as a means of increasing their dependency on pimps and traffickers. The available literature suggests that the workers’ use of drugs, particularly when needles are shared, may increase their risk of contracting diseases such as HIV.⁸⁸⁰

Commercial sexual exploitation and trafficking not only occurs in Thailand’s sex industry, but also can sometimes occur in private locations, including houses. Well-to-do men keep “rented wives”—women or girls who are kept in a private home for any length of time and are used for sexual purposes when desired. The extent to which such situations may result in trafficking in persons offences is currently not covered in the available literature. Identified cases have involved minor girls (under the age of 18), some of whom were virgins when they first took up their role as a “rented wife”.⁸⁸¹

Salaries and benefits

Information about the salaries foreign workers receive in the sex sector in Thailand is scattered and estimates vary greatly between sources. Some reports suggest many workers do not receive any payments at all and others suggest some workers may earn several hundred US dollars each month. The literature notes some migrants working in Thailand’s sex industry may earn wages that are higher

⁸⁷⁸ Kim Sovankiry et al, ‘The Trafficking of Cambodian Women and Children’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 133–134.

⁸⁷⁹ Alexandra Seltzer, ‘Human trafficking: the case of Burmese refugees in Thailand (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 288; Jennryn Wetzler, ‘Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs’ in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia’s Future* (2012) 75, 84.

⁸⁸⁰ Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 235; Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 187; Kim Sovankiry et al, ‘The Trafficking of Cambodian Women and Children’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 136.

⁸⁸¹ Pimpawun Boonmongkon et al, ‘From Trafficking to Sex Work: Burmese Migrants in Thailand’ in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 191.

than in other industries employing labour migrants.⁸⁸² It is common for artificially inflated debts to be applied to migrants working in the sex sector in Thailand, as illustrated by the following quote from a 23-year-old migrant worker:

When the boss told me that I got total 8,700 Baht (salary) (USD 296), I was so happy as it had been only a month. When she gave me, the boss told me that she had to give 5,000 Baht (USD 170) to (the broker) who brought me here. And it was 2,200 Baht (USD 75) for the clothes and cosmetic. So after all these deductions, I had only 1,500 Baht (USD 50) left.⁸⁸³

Some employers withhold large portions of the workers' income over long periods, saying the money is used to pay for the workers' accommodation, food and healthcare. In some cases, up to 50 per cent of a migrant's income is withheld for these reasons.⁸⁸⁴ It is also not unusual for employers to pay their workers only when the workers want to send remittances to their families. Employers have also been known to not provide any money to migrant workers for their personal use.⁸⁸⁵

The fees brothel owners and related persons charge for a migrant worker's sexual services and the actual amounts of money paid to the workers vary greatly and depend on a range of factors. The available literature suggests that the youth, beauty and general appearance of a worker appears to be the main criteria for payment, such that some girls can earn between THB 500–700 per client while others are paid only THB 200–300 for doing the same work.⁸⁸⁶ This literature, however, fails to separate voluntary employment in the sex sector with cases of trafficking for sexual exploitation. It is likely that trafficked persons are unable to retain much of these fees themselves, with the bulk of the money remaining with the trafficker. One source reports women are paid about THB 2,000 by each client. They then have to surrender THB 1,000 to their employer, pimp or trafficker and pay THB 500 to police officers or other officials to avoid being arrested. This leaves them with only THB 500 for themselves.⁸⁸⁷

Accommodation

It is common for foreigners who work in Thai brothels to live at or near the venue where they work. Accommodation is usually provided by the brothel owners or managers, who then deduct money from the workers' salaries for accommodation and food. Very frequently, these deductions are artificially

⁸⁸² Christa F Crawford, 'Cultural, economic and legal factors underlying trafficking in Thailand and their impact on women and girls from Burma' (2006) 12 *Cardozo Journal of Law & Gender* 821, 826; J P Singh & Shilpa A Hart, 'Sex Workers and Cultural Policy: Mapping the Issues and Actors in Thailand' (2007) 24(2) *Review of Policy Research* 155, 160.

⁸⁸³ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 38, 44.

⁸⁸⁴ Sverre Molland, 'The Perfect Business: Human Trafficking and Lao–Thai Cross-Border Migration' (2010) 41(5) *Development and Change* 831, 840.

⁸⁸⁵ Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 193.

⁸⁸⁶ Utit Sankharat, 'Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand' (2013) 9(11) *Asian Social Science* 24, 30.

⁸⁸⁷ Kim Sovankiry et al, 'The Trafficking of Cambodian Women and Children' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 126.

inflated and are far greater than actual expenses. It is not uncommon for migrants to work in low-end hotels that simultaneously serve as the migrants' main place of accommodation. This raises concerns about hygiene standards and the ability of workers to leave these premises. Such arrangements may also mean that workers often have to be available to serve clients 24 hours a day, seven days a week. The spaces in which the workers live are often very small, crowded and offer little, if any, privacy.⁸⁸⁸

5.3.8 Trafficking in children

General information

In general, many of the causes, conditions, circumstances and consequences of trafficking in children from Cambodia, Lao PDR, and Myanmar to Thailand share similarities to trafficking in adults. The sectors and industries into which children are trafficked are, as the following sections show, also similar. Children differ in their vulnerability and the particular risks they face to their development, education, personal safety and physical and mental health if they are trafficked or otherwise exploited.

Entry into Thailand

Reliable figures about the number of irregular migrant children and children trafficked into Thailand are not available. A 2011 publication cites an ILO estimate that approximately 377,000 migrant children reside in Thailand, most of them in an irregular situation.⁸⁸⁹ The source does contain further information as to how many of these children have been trafficked into Thailand.

Children may be brought into Thailand alone, in groups or with their families.⁸⁹⁰ In some instances, they become separated from their parent(s) during the journey or after their arrival in Thailand, or, because their parents are unable to care for them, are left alone, exacerbating their vulnerability to trafficking. In such situations, children may be forced to look for work. Migrant children may seek refuge in shelters, but the available literature suggests that many children are forced to fend for themselves and are vulnerable to exploitation and trafficking.⁸⁹¹

In interviews conducted for the purpose of this report, it was stressed that in cases involving the identification of children who have lived in Thailand for some time, children may no longer recall where they are from, their native language or the location of their parents. Interview respondents suggested that it is not uncommon for Thai authorities to be alerted to children living on the streets who only speak Thai, and who are unable to recall the circumstances in which they became separated from their parents. Interview respondents in Thailand explained that in many of these cases, migrant families

⁸⁸⁸ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 59; Pimpawun Boonmongkon et al, 'From Trafficking to Sex Work: Burmese Migrants in Thailand' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 157, 190.

⁸⁸⁹ Jerrold W Hugué & Aphichat Chamrathirong, 'Introduction' in Jerrold W Hugué, Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for development in Thailand: Overview and tools for policy makers* (2011) 1, 4.

⁸⁹⁰ Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 85.

⁸⁹¹ Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 16; Alexandra Seltzer, 'Human trafficking: The case of Burmese refugees in Thailand' (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 287.

arrived in Thailand together but for various reasons, became separated. Children subsequently had to fend for themselves on the streets, or were recruited by traffickers to beg or sell small items such as flowers. For Thai authorities, it is particularly complex to identify the child's family and safely return the child to his or her country.

Because of the lack of clarity in the existing literature regarding the legal status of child migrants in Thailand, and the uncertainties of Thai authorities in cases involving separated children who have been in Thailand for some time, some of the information presented in the following sections may refer to children who have not, in fact, entered Thailand as irregular migrants. The literature also suggests that not all children working in Thailand are necessarily trafficked. A study published in 2011, for instance, found that as of 2008, 12,900 migrants from Cambodia, Lao PDR and Myanmar aged 15 to 18 years held valid work permits issued by Thai authorities and that their living and working conditions were fairly adequate.⁸⁹²

Most of the children who are trafficked to Thailand tend to be adolescents aged between 13 and 17 years, and most are 15 or 16 years old. The average age of trafficked girls tends to be slightly higher than boys. Most boys trafficked to Thailand come from Cambodia, followed by Myanmar and Viet Nam. Most trafficked girls come from Lao PDR and Viet Nam.⁸⁹³

Experiences

It is difficult to generalise the experiences of children trafficked to Thailand, as the following section shows, these experiences may differ between industries. Many children experience physical violence, with the literature suggesting that boys experience physical violence more than girls. Girls are reportedly more frequently subject to sexual exploitation and violence. In most cases, violence occurs at the hands of the children's employers, who sometimes inflict serious harm and injury to children. Violence can also occur at the hands of clients. Sexual and physical violence appears to be more common for children in the sex industry where, according to a 2015 publication, 71 per cent of girls may experience sexual violence by a client.⁸⁹⁴

Long working hours and the inability to take days off work are common concerns for child labour migrants in Thailand. Most children work seven days a week, with boys reportedly working longer hours than girls, often in excess of 10 hours a day. Because of the nature of their work, boys tend to sustain injuries more often than girls and seem to experience worse living conditions.⁸⁹⁵

The harsh working conditions experienced by child migrants in Thailand affects children in the short, medium and long term. A 2015 study found that the levels of self-harm among such children are

⁸⁹² Aree Jampaklay, 'Migration and Children' in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 95, 99.

⁸⁹³ Ligia Kiss et al, 'Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion' (2015) 169(9) *JAMA Pediatrics* 1, 3.

⁸⁹⁴ Ligia Kiss et al, 'Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion' (2015) 169(9) *JAMA Pediatrics* 1, 4; Yvonne Rafferty, 'Child Trafficking and Commercial Sexual Exploitation: A Review of Promising Prevention Policies and Programs' (2013) 83(4) *American Journal of Orthopsychiatry* 559, 563.

⁸⁹⁵ Ligia Kiss et al, 'Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion' (2015) 169(9) *JAMA Pediatrics* 1, 4–5.

alarming high and many children have considered harming themselves or even taking their own lives.⁸⁹⁶

Child sexual exploitation

Trafficking in children from Cambodia, Lao PDR and Myanmar to Thailand for the purpose of sexual exploitation, commercially and otherwise, is a longstanding issue and a considerable body of literature engages with this topic.

According to some sources, sexual exploitation seems to be the most common form of trafficking involving girls.⁸⁹⁷ Most migrant girls working in Thailand's sex industry are 16 to 18 years of age. The demand for sex with adolescent girls appears to be driven by notions of youth and beauty and also by the belief that younger girls are less likely to be infected with sexually transmitted diseases, including HIV. If very young children are involved, clients usually fit the profile of paedophiles, as in they are sexually attracted to prepubescent children.⁸⁹⁸

There is conflicting information about the level of prior knowledge migrant children have of the fact they will be engaging in sex work. Some sources say children usually end up in the sex industry unwittingly, sometimes after being lured with promises of other types of work.⁸⁹⁹ Some sources contend this is not the case and say that migrant children, adolescent girls in particular, find their way into Thailand's sex industry by "following [the footsteps] of a sibling, mother, aunt, or grandmother".⁹⁰⁰ Others suggest that children usually "start to sell sex" in Thailand after failing to find employment in other industries or after realising that work in the commercial sex sector is better paid than working in agricultural or manufacturing sectors.⁹⁰¹

Substance and drug abuse and other types of addictive behaviour have been observed among migrant children working in Thailand's sex industry. Some minors resort to this line of work to earn money to pay for their addictions, whereas others develop drug addictions after working in the sex sector. Such circumstances may further increase the vulnerability of children and make it more likely they will be exploited by clients. Many clients are Asian and Western men who solicit the sexual services of girls

⁸⁹⁶ Ligia Kiss et al, 'Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion' (2015) 169(9) *JAMA Pediatrics* 1, 7.

⁸⁹⁷ Ligia Kiss et al, 'Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion' (2015) 169(9) *JAMA Pediatrics* 1, 3.

⁸⁹⁸ Ashley G Blackburn et al, 'Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia' (2010) 20(1–2) *Women & Criminal Justice* 105, 109, 117.

⁸⁹⁹ Ashley G Blackburn et al, 'Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia' (2010) 20(1–2) *Women & Criminal Justice* 105, 108.

⁹⁰⁰ J P Singh & Shilpa A Hart, 'Sex Workers and Cultural Policy: Mapping the Issues and Actors in Thailand' (2007) 24(2) *Review of Policy Research* 155, 165.

⁹⁰¹ Heather Montgomery, 'Defining Child Trafficking & Child Prostitution: The Case of Thailand' (2011) 9(2) *Seattle Journal for Justice* 775, 788; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 87; Utit Sankharat, 'Cambodian Child Migrant Workers in the Rong Kluea Market Area in Thailand' (2013) 9(11) *Asian Social Science* 24, 29.

and boys in tourist hot spots such as Pattaya and other major tourist towns.⁹⁰²

Child labour

As in the case of adults, it appears that most instances of irregular migration and trafficking in children from Cambodia, Lao PDR and Myanmar relate to labour migration and labour trafficking. Children from these countries are most commonly found working in Thailand's fishing, seafood processing and agriculture industries and, in the case of girls, in domestic services.

During interviews conducted for the purpose of this report, it was emphasised that migrant children can be found working in a great range of industries. Girls, for instance, work in industries such as domestic services, agriculture, construction, retail et cetera. Children are often used to carry out very simple and menial tasks, such as carrying materials at construction sites or preparing food. The interviews further highlighted that many children work alongside their parents, sometimes unpaid. Children who are in Thailand without their parents are at even greater risk of exploitation and many interview respondents reported that homeless children are one of the most at-risk groups for exploitation.

Thailand's seafood processing industry is reportedly one of the main employers of migrant children. This has been attributed to the fact that children can work alongside their parents, and seafood processing often involves simple manual work that can easily be performed by children. Children can also be paid less than adults for the same work. Some migrant children "grow up" in the seafood processing industry, in the sense that they initially enter the industry with their parents, who cannot afford childcare, and then gradually learn basic tasks, help their parents and, as they get older, become workers themselves. Long working hours, low salaries and abuse are common in this industry. Children usually do not have contracts and are paid by the volume or weight of seafood processed, not by the hour.⁹⁰³ Some migrant children, most of them boys aged 15 to 17, find their way independently into Thailand's fishing industry, where they work in particularly hazardous conditions. Some children are forced to work on fishing vessels.⁹⁰⁴

Migrant children working in labour are unable to attend school and live a normal childhood in a child-friendly environment surrounded by their family and friends. Child labour migrants in Thailand are also vulnerable to exploitation, overwork and inadequate remuneration.⁹⁰⁵ The available literature suggests that, prior to their departure for Thailand, children do not know the full extent of the working conditions, living arrangements and exploitation they may experience once in Thailand. These may involve, among others, hazardous work environments, long working hours, no days off and physical

⁹⁰² Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 87.

⁹⁰³ ILO, *Migrant and Child Labor in Thailand's Shrimp and Other Seafood Supply Chains: Labor Conditions and the Decision to Study or Work* (2015) 77, 87–91, 117.

⁹⁰⁴ Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 85.

⁹⁰⁵ Aree Jampaklay, 'Migration and Children' in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for development in Thailand: Overview and tools for policy makers* (2011) 95, 99.

and sexual violence.⁹⁰⁶

Forced begging

A further form of trafficking in children from Cambodia, Lao PDR and Myanmar to Thailand is forced begging. Though this phenomenon has been observed in many large cities and tourist towns, it remains poorly documented and researched. The term “begging” must be understood broadly in this context, as it may also include children who sell flowers or small goods in the streets, either alone, in the company of other children or an adult, sometimes a parent.⁹⁰⁷ In interviews conducted for the purpose of this report, respondents suggested that some migrant children engage in begging because it is the only activity available to them in terms of making money. Or, rather than begging, children ask for money to carry out menial tasks such as carrying bags for tourists.

From the available information, forced begging appears to involve children who are brought from neighbouring countries to Thailand for this purpose (often under the disguise of other activities) and children who are born to Cambodia, Lao and Myanmar parents in Thailand. Children engaged in forced begging usually have to surrender most if not all of the money they receive and often only receive accommodation and food from their traffickers. Many children experience violence at the hands of their traffickers and hostile reactions and abuse from passers-by. The literature also includes reports of children being forced to use drugs while working in this sector.⁹⁰⁸

A 2015 study found that 29 per cent of migrant boys surveyed had been recruited for street begging.⁹⁰⁹ It remains unclear to what extent begging is organised.

5.4 Vulnerabilities and exploitation

5.4.1 Circumstances that make migrants vulnerable to trafficking

Irregular migrants from Cambodia, Lao PDR and Myanmar are particularly vulnerable to deception, coercion, violence, exploitation and trafficking due to a number of factors, including their irregular status, fear of deportation, lack of knowledge of their rights and of the laws applicable to them,

⁹⁰⁶ Aree Jampaklay, ‘Migration and Children’ in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for development in Thailand: Overview and tools for policy makers* (2011) 95, 99; Roy Huijsmans, ‘Children working beyond their localities: Lao children working in Thailand’ (2008) 15(3) *Childhood* 331, 344.

⁹⁰⁷ Cf Aree Jampaklay, ‘Migration and Children’ in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011. Migration for development in Thailand: Overview and tools for policy makers* (2011) 95, 99.

⁹⁰⁸ Iveta Cherneva, ‘Human Trafficking for Begging’ (2011) 27 *Buffalo Human Rights Law Review* 25, 31.

⁹⁰⁹ Ligia Kiss et al, ‘Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion’ (2015) 169(9) *JAMA Pediatrics* 1, 3.

language barriers and limited access to authorities and people outside their workplace.⁹¹⁰ These vulnerabilities and the risks of exploitation are amplified for women, children and persons with special needs.⁹¹¹

Thai labour law, principally the *1998 Labour Protection Act*, affords regular foreign workers the same rights, protections and benefits as Thai workers. It mandates rest days, maximum daily working hours, annual leave, maternity leave, employer grievances procedures, severance payments and, among others, prohibits forced or unpaid overtime.⁹¹² These protections are not available to irregular migrant workers.⁹¹³ In reality, even migrants who come to Thailand through official channels and work in the country legally often are at risk of exploitation and trafficking.⁹¹⁴

Many migrant workers take up employment in jobs that are described as “dirty, dangerous and difficult” and that many Thai nationals are unwilling to fill.⁹¹⁵ These jobs frequently entail hazardous tasks or dangerous working conditions that expose workers to risks of injury and illness.⁹¹⁶ As a way to reduce production costs, some employers fail to install safety mechanisms and other protections from occupational health hazards, which can place workers at risk of being severely injured, especially if

⁹¹⁰ See generally, Stephen Campbell, ‘Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand’ (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 271–272; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 55; Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40.

⁹¹¹ Hans van de Glind & Anne Kou, ‘Migrant children in child labour: A vulnerable group in need of attention’ in Moussa Harouna Sambo & Fabrizio Terenzio (ed), *Children on the move* (2013) 35.

⁹¹² World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 10; Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 39–40; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 22.

⁹¹³ Christa Foster Crawford, ‘Cultural, economic and legal factors underlying trafficking in Thailand and their impact on women and girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 848; World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 57.

⁹¹⁴ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 55; ILO, *The Mekong Challenge: Underpaid, Overworked and Overlooked — The realities of young migrant workers in Thailand*, volume 1 (2006) 57.

⁹¹⁵ Anna Knoll & Niels Keijzer, ‘Will a post-2015 development framework acknowledge migration?’ in IOM (ed), *Migration and the United Nations Post-2015 Development Agenda* (2013) 53, 55; UN-ACT, *Human Trafficking Trends in Asia: Migration experiences of Cambodian workers deported from Thailand in 2009, 2010 & 2012* (2015) 3.

⁹¹⁶ Yongyuth Chalamwong & Raphaella Prugsamat, ‘The Economic Role of Migration: Labor Migration in Thailand: Recent Trends and Implications for Development’ (2009) 24(3) *TDRI Quarterly Review* 3, 5; Mary Rose Geraldine A Sarausad, ‘Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand’ paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19–22 September 2011, 8.

they operate dangerous machinery or work without proper safety equipment.⁹¹⁷ Irregular migrants can also encounter poor and hazardous conditions in their places of accommodation. Many migrants have to live in squalid conditions, share large dormitories or sleep on floors. Many have little privacy, inadequate sanitary facilities and are poorly fed.⁹¹⁸

Migrant workers are more vulnerable to abuse and exploitation if they work in places hidden from the public eye or in rural and remote areas. Workers on fishing vessels, rubber plantations and agricultural fields often have limited contact with individuals and organisations outside their workplace. As a result, they may find it difficult to seek assistance from authorities or get outside advice or help.⁹¹⁹

Irregular migrants are in a particularly precarious situation if they arrive in Thailand without passports or other identity documents or if these documents are lost or confiscated by their traffickers or employers. They may find it difficult to seek help from Thai authorities or from embassies and consulates and are at greater risk of being arrested. Many traffickers deliberately abuse these circumstances and confiscate these documents to exercise closer control over migrants and force them to work long hours. Some traffickers reportedly also exercise control over migrants by threatening to destroy their personal documents or by threatening to report them to authorities.⁹²⁰

It is not uncommon for migrants to encounter working conditions and types of employment that differ greatly from those originally agreed upon. Many migrants experience “contract substitution” once they reach Thailand, as brokers lead them to occupations, workplaces and into industries vastly different from the original plan. Given their irregular status and limited rights, few migrants worker are willing or able to act against these changes and instead surrender to their new circumstances.⁹²¹

The debts that many migrant workers owe for the recruitment, transportation and job-finding process also place them at the mercy of their brokers and employers. Employers often force migrants to work long hours without time off in order to recoup the money owed. It is not uncommon for employers to further inflate a migrant’s debts by charging additional amounts for accommodation, food and local transportation. Employers may also charge interest on the debt or for late payments. As mentioned earlier, many irregular labour migrants in Thailand find themselves in situations akin to debt bondage.⁹²²

⁹¹⁷ Yongyuth Chalamwong et al, ‘Management of Cross-border Migration: Thailand as a Case of Net Immigration’ (2012) 40 *Asian Journal of Social Science* 40 (2012) 447, 452; Christa Foster Crawford, ‘Cultural, economic and legal factors underlying trafficking in Thailand and their impact on women and girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 849.

⁹¹⁸ ILO, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 6.

⁹¹⁹ Stephen Campbell, ‘Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand’ (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 272.

⁹²⁰ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1; Christa Foster Crawford, ‘Cultural, economic and legal factors underlying trafficking in Thailand and their impact on women and girls from Burma’ (2006) 12 *Cardozo Journal of Law & Gender* 821, 849.

⁹²¹ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1

⁹²² ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 1.

Many foreign workers, both regular and irregular, are not well-informed about the working conditions, wages and rights they can expect in Thailand. Some migrants receive only scant information from their brokers, employers and others involved in the recruitment and placement process. Some employers also deliberately withhold information or actively take steps to ensure their workers cannot access such information.⁹²³

Few irregular migrant workers have written contracts that spell out their salaries, working hours, duties and working conditions. Without written contracts, they have limited power to hold employers accountable if their agreed arrangements are ignored or violated and if salaries are not paid in full, not paid on time or not paid at all.⁹²⁴

Most foreign workers, regular and irregular, have no coverage under national security programmes and workers' compensation schemes in Thailand. If they have coverage, most workers have no effective ways to access these benefits.⁹²⁵ Healthcare is not available to most irregular migrant workers or, if it is, only at a significant cost.⁹²⁶

Official complaint mechanisms for irregular migrant workers in Thailand remain limited. If they do exist, few workers are willing to use them for fear of repercussions from their employers. This is a concern also shared by many regular workers, as they are usually not permitted to change employers and also fear repercussions.⁹²⁷

Workers' unions offer little assistance in helping individual foreign workers with claims and grievances and often do not strongly advocate for the rights of foreign workers. Under the *Labour Relations Act*, foreign workers in Thailand are prohibited from forming their own unions and union representation is limited in the towns and rural areas that are heavily populated by migrant workers.⁹²⁸ Some provinces also prohibit migrant workers from holding public gatherings unless prior permission is sought. These provinces may also impose other restrictions on the freedom of movement and communication of migrant workers, making it difficult for workers to share their experiences and voice their grievances

⁹²³ Aree Jampaklay et al, 'Gender and migration from Cambodia, Laos and Myanmar to Thailand' in IOM (ed), *Gender and Labour Migration in Asia* (2009) 193, 207; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 21.

⁹²⁴ Mary Rose Geraldine A Sarausad, 'Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand' paper presented at the conference *Rethinking Development in an Age of Uncertainty*, University of York, 19-22 September 2011, 12.

⁹²⁵ Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 40 (2012) 447, 452.

⁹²⁶ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 10; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 77; ILO, *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand* (2009) 6.

⁹²⁷ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 21.

⁹²⁸ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 56; Jerry Huguet et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute, October 2012, 5.

collectively.⁹²⁹

A recent phenomenon observed in a 2015 ILO publication is the emergence of “labour consulting companies” on the Thai side of the borders to Cambodia, Lao PDR and Myanmar. These companies either bring in migrant workers from abroad or promote their services to new arrivals in Thailand. It is extremely unclear how lawful these companies are and which laws apply to them. The companies appear to use a model where they serve as a migrant’s primary employer, but then subcontract the migrant to their actual place of work. There have been concerns that these companies recruit many more migrant workers than they can employ and pay and that they use murky contractual arrangements involving many unforeseen deductions and lower wages for migrant workers.⁹³⁰

Irregular migrants in Thailand are not only vulnerable to abuse and exploitation by traffickers and employers, but also to coercion, extortion, violence and other ill-treatment by other individuals and officials. Many people recognise just how vulnerable irregular migrants are and prey on them by extorting money, coercing them, robbing them, taking advantage of their inability to speak the local language and, in some cases, physically or sexually abusing them.⁹³¹

5.4.2 Means of exploitation and trafficking

Traffickers employ diverse means to control and exploit their victims, ranging from the use of force to more subtle means of threats and coercion. Common means include physical abuse and violence, sexual violence and harassment, threats, intimidation and coercion, withholding of wages, confiscation of documents, extortion and debt bondage. A 2016 study of Cambodian labour migrants in Thailand found 19.5 per cent of respondents had experienced some form of exploitation or abuse by their employers.⁹³²

Physical and sexual violence

Physical abuse and violence are used to control migrant workers, force them to work and surrender to commands and punish them for mistakes and attempts to flee. In some cases, systematic violence, including torture and murder, are used to silence victims of trafficking and to ensure they do not report to police and collaborate with authorities in investigations and other proceedings against traffickers. The literature contains examples of unlawful arrest, detention and other forms of confinement and deprivation of liberty by traffickers.⁹³³ A 2016 study of Cambodian workers in Thailand found that 4.2

⁹²⁹ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 30; Amarjit Kaur, ‘Labour migration trends and policy challenges in Southeast Asia’ (2010) 29 *Policy and Society* 385, 395.

⁹³⁰ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 19–20.

⁹³¹ Jennryn Wetzler, ‘Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs’ in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia’s Future* (2012) 75, 84–85; Sai S W Latt, ‘Managing migration in the Greater Mekong Subregion: Regulation, extra-legal relation and extortion’ (2013) 34 *Singapore Journal of Tropical Geography* 40, 52.

⁹³² Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 22.

⁹³³ Kritaya Archavanitkul & Andy Hall, ‘Migrant Workers and Human Rights in a Thai Context’ in Jerrold W Huguet & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for development in Thailand: Overview and tools for policy makers* (2011) 63, 66; UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 44.

per cent of male and 1.4 per cent of female respondents had experienced physical abuse by their employers.⁹³⁴

Sexual violence and harassment is most commonly used to intimidate female adult victims of trafficking but is also used against children, including boys. Some employers sexually abuse victims if they fail to follow instructions. Some traffickers rape and sexually assault their victims in order to prepare them for working in the sex industry. Traffickers reportedly do this so migrants submit to their client's demands and do not resist if clients have unusual sexual demands. Sexual violence of this kind is referred to as the "breaking in" of trafficking victims and often leaves victims mentally scarred for life.⁹³⁵

Physical and sexual violence and harassment may not only be perpetrated by traffickers and employers, but also by clients in the sex industry, by third parties and by corrupt officials.⁹³⁶

Threats, intimidation, and coercion

Irregular migrants experience threats, yelling and verbal abuse. A 2016 study of 667 returned Cambodian workers in Thailand found 3.8 per cent of male and 0.8 per cent of female respondents had experienced threats by their employers. In addition, 7.7 per cent of male and 7 per cent of female respondents experience emotional abuse.⁹³⁷

Traffickers and employers use these means to maintain control over their workers. Threats often involve threats of physical and sexual harm, not just against victims but also against their family and friends. Threats and intimidation can also involve confiscating property or documents, reducing a workers' pay or inflating debts should the traffickers' demands not be met. It is also common to threaten irregular migrants with reporting them to the authorities, which could result in their detention and deportation.⁹³⁸

⁹³⁴ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 23.

⁹³⁵ Sarah R Meyer et al, 'Trafficking, Exploitation and Migration on the Thailand-Burma Border: A Qualitative Study' (2014) 53(4) *International Migration* 38, 39; Hing Vutha et al, 'Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach' (2011) 38(70) *Philippine Journal of Development* 1, 11.

⁹³⁶ Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 76; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 81; Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 15; Matthew Clarke, 'Over the border and under the radar: Can illegal migrants be active citizens?' (2009) 19(8) *Development in Practice* 1064, 1072; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 36.

⁹³⁷ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 23.

⁹³⁸ Kritaya Archavanitkul & Andy Hall, 'Migrant Workers and Human Rights in a Thai Context' in Jerrold W Huguett & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 – Migration for development in Thailand: Overview and tools for policy makers* (2011) 63, 66.

Withholding of wages

One common exploitative practice for traffickers is to withhold some or all wages and threaten workers with dismissal and deportation if they protest. A 2016 study of Cambodian labour migrants in Thailand found that 8.7 per cent of male and 7 per cent of female respondents had their wages withheld by their employers.⁹³⁹ Many migrants who arrive in Thailand with the aid of brokers usually have some money (a set amount or a percentage) deducted from their monthly salary to repay the costs for recruitment, transportation and connecting them to their place of employment. These debt arrangements tie workers closely to their brokers and employers and place them at greater risk of exploitation and withholding of wages.⁹⁴⁰

In many cases, employers make deductions from workers' salaries that are above and beyond agreed repayments. Employers claim that these extra deductions are needed to cover the costs for accommodation and food, but in many instances, the deductions are arbitrary and illegal.⁹⁴¹ Some migrants end up receiving less than 15 per cent of the salary they were originally promised. In a study involving Cambodian labour migrants who had been returned from Thailand, researchers found that the average promised or negotiated salary was THB 3,665 per month but the actual salary paid per month was only THB 430.⁹⁴²

Some employers do not pay their irregular foreign workers at all and even refuse to pay when workers demand payment after several months of work. A 2009 study by UNIAP estimated as many as 29.8 per cent of all irregular migrant workers in Thailand end up not being paid at all.⁹⁴³ In the literature and in interviews conducted for the purpose of this report, it was repeatedly noted that it is not uncommon for employers to threaten their workers with reporting them to authorities should they insist on receiving their agreed salaries. In many cases, employers do not pay their workers at all and then tell police to arrest them, which usually results in workers being deported.⁹⁴⁴ In other cases, employers tell their workers they have to withhold money to pay off police so the workers will not be arrested.

⁹³⁹ Brett Dickson & Andrea Koenig, *Assessment report: profile of returned Cambodian migrant workers* (2016) 23.

⁹⁴⁰ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 55; Srawooth Paitoonpong, *Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN: Thailand (Immigration)* (2011) 27; Kyoko Kusakabe & Ruth Pearson, 'Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities' in Thanh-Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 77.

⁹⁴¹ Eliza Marks & Anna Olsen, 'The Role of Trade Unions in Reducing Migrant Workers' Vulnerability to Forced Labour and Human Trafficking in the Greater Mekong Subregion' (2015) 5 *Anti-Trafficking Review* 111, 126; Stephen Campbell, 'Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand' (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 270.

⁹⁴² UNODC, *Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment* (2013) 14.

⁹⁴³ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 44.

⁹⁴⁴ Kritaya Archavanitkul & Andy Hall, 'Migrant Workers and Human Rights in a Thai Context' in Jerrold W Huguet & Aphichat Chamratrithirong (eds), *Thailand Migration Report 2011 – Migration for development in Thailand: Overview and tools for policy makers* (2011) 63, 66; Ahsan AKM Ullah & Mallik Akram Hossain 'Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand' (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283.

However, in most cases, such payments provide migrants no protection from arrest and deportation.⁹⁴⁵

The fear of deportation and non-payment of wages keeps many irregular migrants in jobs where they earn much less than the legal minimum wage and their salaries are paid with long delays, if they are paid at all.⁹⁴⁶ The literature contains several accounts of workers who remain with their employers, even when they did not receive any pay at all.⁹⁴⁷

Migrant workers often remain in these situations because they fear the shame of returning to their families and local communities with no money to support them, even if they are deported. In interviews conducted for the purpose of this report, respondents explained that, in these circumstances, families may blame returning workers rather than brokers. Many deportees, especially young, fit men, do not want to admit they were exploited. These factors explain why many returnees do not self-identify as victims of exploitation and trafficking. While they may admit they did not receive their agreed salaries or that they “had a hard time”, they often do not want to be seen as victims or as failures in their quest to make a living abroad. By identifying themselves as trafficking victims, migrants also may be asked to live in protection centres in Thailand while authorities pursue investigations into their traffickers. The length of these investigations—often a year or longer—deters many migrants from identifying themselves as victims. Instead, migrants may choose to move to Thailand again in hopes that their second or third migration attempt will result in more favourable working conditions and the payment of promised salaries.

Debt bondage

Debt bondage is closely associated with the withholding and underpayment of wages. Debt bondage situations are a main characteristic of trafficking from Cambodia, Lao PDR, and Myanmar to Thailand and permeate much of the migration process, as well as during a migrant’s employment in Thailand.⁹⁴⁸

Once in Thailand, irregular migrants frequently incur additional debts for the costs associated with accommodation, food, local transportation, clothing, work tools and other equipment. Unable to pay for these expenses in advance, most employers deduct these costs, which are frequently artificially inflated, from a migrant worker’s salary. In many cases, these debts are not properly recorded and so grossly inflated that migrants take years to repay the costs.⁹⁴⁹ These heavy debt burdens tie workers

⁹⁴⁵ Sarah R Meyer et al, ‘Trafficking, Exploitation and Migration on the Thailand–Burma Border: A Qualitative Study’ (2014) 53(4) *International Migration* 38, 43.

⁹⁴⁶ Kyoko Kusakabe & Ruth Pearson, ‘Burmese Female Migrant Workers in Thailand: Managing Productive and Reproductive Responsibilities’ in Thanh–Dam Truong et al (eds), *Migration, Gender and Social Justice* (2014) 69, 77; World Bank, *Gaining from Migration: Migration Trends and Policy Lessons in the Greater Mekong Sub-region* (2012) 15; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 20; Stephen Campbell, ‘Cross-ethnic Labour Solidarities among Myanmar Workers in Thailand’ (2012) 27(2) *Sojourn: Journal of Social Issues in Southeast Asia* 260, 270.

⁹⁴⁷ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 65.

⁹⁴⁸ See Section V.3 above.

⁹⁴⁹ Kritaya Archavanitkul & Andy Hall, ‘Migrant Workers and Human Rights in a Thai Context’ in Jerrold W Hugué & Aphichat Chamrathirong (eds), *Thailand Migration Report 2011 — Migration for development in Thailand: Overview and tools for policy makers* (2011) 63, 66.

to their employers and often lead to situations not dissimilar to bonded labour.⁹⁵⁰ According to one source, Thai traffickers use complex debt structures to control their victims from the moment they are recruited and throughout their employment in Thailand. This practice appears to be more common in cases involving trafficking for the purpose of commercial sexual exploitation.⁹⁵¹

Confiscation of documents

A further way to exercise control and exploit irregular migrants is to confiscate their identity and travel documents, a common practice used by many employers and traffickers. Employers and traffickers often justify such practices by arguing that they require these documents to record and register the migrants and to ensure they remain at their place of work. Based on interviews conducted for the purpose of this report, it appears that most employers of low and unskilled workers—both regular and irregular—often confiscate a foreign worker’s identity documents when they first start their jobs.

All too frequently, the confiscation of identity documents, passports in particular, is used to coerce migrant workers to remain with the same employer and force them into working conditions they would otherwise not accept.⁹⁵² Without their documents, migrants are at the mercy of their employers and encounter great difficulty if they seek outside help. If they contact Thai authorities, migrants run the risk of being arrested, detained and deported. It is also difficult for migrants to get access to consular officials or obtain other help from their home countries, including assistance to return home, without their documents.⁹⁵³

Extortion

Irregular migrants are not only at risk of exploitation by their employers and traffickers but are also vulnerable to extortion by third parties, who take advantage of a migrant’s irregular status and desperation. In some instances, migrants are robbed of their sparse belongings and any money they carry.⁹⁵⁴

Extortion of money and other valuables is a widespread problem. Police and low ranking officials have

⁹⁵⁰ Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40; Alexandra Seltzer, ‘Human trafficking: The case of Burmese refugees in Thailand’ (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 286.

⁹⁵¹ Geneva Brown, ‘Women and children last: The prosecution of sex traffickers as sex offenders and the need for a sex trafficker registry’ (2011) 31(1) *Boston College Third World Law Journal* 1, 9–10.

⁹⁵² Ahsan AKM Ullah & Mallik Akram Hossain ‘Gendering Cross-Border Networks in the Greater Mekong Subregion: Drawing Invisible Routes to Thailand’ (2011) 4(2) *Austrian Journal of South East Asian Studies* 273, 283.

⁹⁵³ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 20; Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 88.

⁹⁵⁴ Jennryn Wetzler, ‘Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs’ in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia’s Future* (2012) 75, 81.

reportedly demanded money from migrants or coerced them into paying bribes.⁹⁵⁵

Private individuals sometimes extort money from irregular migrants by pretending they are government officials. They take advantage of the fact that many migrants cannot understand Thai and are not familiar with how uniformed and non-uniformed police officials are supposed to look and operate. Some people approach irregular migrants while pretending they are non-uniformed officers. Others wear fake badges or, in some cases, use stolen uniforms and police insignia.⁹⁵⁶

5.5 Release and return

5.5.1 Exit from trafficking situation

Information about how victims of trafficking are identified in Thailand and how they leave their situation is extremely limited. At present, there is no reliable data or analysis showing how victims are found in the course of investigations and interventions by law enforcement and other authorities, whether and how clients and other third parties report suspicions about trafficking to Thai authorities or assist victims in fleeing from their exploiters and traffickers, whether traffickers release their victims after a certain period of time, or how many victims themselves escape from their trafficking situation independently. Information on these matters is vital to better understanding victims' situations and for establishing mechanisms that would make it easier for victims to seek assistance and for others to report instances of trafficking.

In 2010, UNIAP published a study involving 400 Cambodian returnees who had lived and worked in Thailand in an irregular status. Of those returnees, UNIAP identified at least 92 as victims of trafficking, though Thai or Cambodian authorities had not formally identified them as such. Most of the 400 respondents, approximately 74 per cent, left their employers independently, either by quitting or escaping. 19 per cent left after being arrested by or surrendering to immigration and police authorities. The remaining individuals were either terminated by their employers or had to leave for health reasons.⁹⁵⁷ Interviews conducted for the purpose of this report similarly identified that it is more frequent for migrants to escape situations of exploitation themselves than for them to be rescued by Thai authorities or other individuals. Interview respondents emphasised that it is extremely challenging for Thai authorities to monitor and conduct raids on all the factories, farms, fishing boats, construction sites, bars, brothels and other sites that are scattered across the country's urban and rural areas. For this reason, investigations, arrests and prosecutions often only begin when victims independently escape their situation and report to the authorities.

5.5.2 Remaining stay in Thailand

If and when trafficked persons are identified by Thai authorities, they may be identified as irregular

⁹⁵⁵ Myat Mon, 'Burmese labour migration into Thailand: governance of migration and labour rights' (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 40; Erick Gjerdingen, 'Suffocation inside a cold storage truck and other problems with trafficking as 'exploitation' and smuggling as 'choice' along the Thai-Burmese border' (2009) 26(3) *Arizona Journal of International & Comparative Law* 699, 725; Jennryn Wetzler, 'Irregular Migration in Thailand: New Possibilities for Anti-Trafficking and Development Programs' in Benny Teh Cheng Guan (ed), *Human Security – Securing South East Asia's Future* (2012) 75, 81.

⁹⁵⁶ Human Rights Watch, *From the Tiger to the Crocodile: Abuse of Migrant Workers in Thailand* (2010) 67.

⁹⁵⁷ UNIAP, *Human Trafficking Sentinel Surveillance* (2010) 113.

migrants instead of victims of a crime and subsequently detained and ultimately returned to their home country. If migrants are found to be victims of trafficking, a number of government-run shelters are available to safely accommodate victims, provide them with basic necessities and medical care and offer them a reflection and recovery period while they consider whether they would like to proceed with participating in the investigations and prosecutions of their traffickers.

Information about the total number of irregular migrants from Cambodia, Lao PDR and Myanmar who are apprehended, arrested and detained each year is not available. This is partly due to incomplete reports but can also be attributed to the fact that some migrants immediately return to their country of origin without reporting to authorities. Some may also escape from their work situations and remain in Thailand clandestinely.

5.5.3 Legalisation: The Nationality Verification System

One option for irregular migrants from Cambodia, Lao PDR and Myanmar to remain in Thailand lawfully is the Nationality Verification System, which was first established for Cambodian and Lao nationals in 2006 and was extended to Myanmar nationals in 2009.⁹⁵⁸

Previously, irregular migrants could register with the Thai government through certain avenues that were limited geographically, by sector or only available to particular countries of origin.⁹⁵⁹ In 2001, the government established the first national and industry-wide registration process, which was followed by a further pilot scheme in 2004.⁹⁶⁰

Since 2006, the Nationality Verification System has provided a way for irregular migrants from neighbouring countries to regularise their status and remain in Thailand lawfully for a set period. The system requires irregular migrants to register for the process by certain deadlines. Once their applications have been received, migrants can obtain a temporary permit while they complete the remaining steps of the process. The process usually takes two years, though the deadline has been extended several times in the past. Next, migrants have to verify their nationality and obtain a passport or certificate of identity through authorities in their country of origin. Once they obtain this document, migrants can apply for a work permit, which allows them to remain and work in Thailand lawfully, usually for a period of two years. Upon receiving a temporary visa, migrant workers also gain access to social security and health care, worker's compensation insurance and freedom of movement within

⁹⁵⁸ ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 33.

⁹⁵⁹ Jerrold W Huguet et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute, October 2012, 2.

⁹⁶⁰ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Wins and Losses' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 1, 77–78; Philip Martin, *The economic contribution of migrant workers to Thailand* (2007) 3–4; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 5.

Thailand.⁹⁶¹ Social security and health benefits available to registered workers have improved over time. On several occasions, the Thai government permitted workers to renew their work permits and remain in Thailand longer than the original permit allowed.⁹⁶²

Figure 21: Completion of Nationality Verification Process by year and nationality, Thailand 2006–2012⁹⁶³

year	Cambodia	Lao PDR	Myanmar
2012	71,624	44,780	567,161
2011	29,872	27,793	318,040
2010	25,374	25,207	1,513
2009	Data not available	Data not available	Data not available
2008	5,037	167	0
2007	8,299	12,502	0
2006	37,329	43,657	0

Figure 21 above shows that, since the Nationality Verification System's inception, several hundred thousand migrants have participated, turning a large number of irregular migrants into regular migrant workers and furnishing them with greater rights and legal status.

To facilitate the process of registration, the governments of Cambodia and Lao PDR have set up offices, mobile teams and mechanisms in Thailand that would allow their nationals to apply for verification of their nationality and a temporary passport or certificate of identity without having to return to their country of origin. This means that irregular migrants from these countries can remain in Thailand and continue to work while their applications are processed and their documents issued.⁹⁶⁴

The option to legalise status for Myanmar nationals was created three years later than for Cambodian and Lao nationals, as the Government of Myanmar was reportedly less responsive and cooperative in creating this mechanism. But even after nationality verification became a possibility for Myanmar nationals in 2009, the process remained complex and deterred many irregular migrants from Myanmar who were living and working in Thailand. In particular, the Government of Myanmar required their nationals to return to Myanmar for verification and also asked for detailed personal information from those wishing to participate in the process. These circumstances deterred many Myanmar nationals, especially ethnic minorities and those who feared they would be arrested for having left Myanmar

⁹⁶¹ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book: In-depth Study: Arrest, Detention and Deportation* (2008) 193–197; Jerrold W Hugué et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute, October 2012, 2; Michiko Ito, 'Thailand's Approach Toward the Management of Migrant Workers' in Masami Ishida, *Border Economies in the Greater Mekong Subregion* (2013) 29, 32–33; ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 34.

⁹⁶² For an overview of the evolution of the Nationality Verification System see Mekong Migration Network, 'Migration to Thailand: Timeline of Facts and Figure', January 2013.

⁹⁶³ Mekong Migration Network, 'Migration to Thailand: Timeline of Facts and Figure', January 2013.

⁹⁶⁴ Jerrold W Hugué et al, *Thailand at a Crossroads: Challenges and Opportunities in Leveraging Migration for Development*, Issue in Brief No 6, IOM Regional Office for Asia and the Pacific and Migration Policy Institute (2012) 2.

unlawfully.⁹⁶⁵

When the Nationality Verification System was first established, it entailed 13 separate steps and lengthy bureaucratic procedures, as well as medical check-ups.⁹⁶⁶ The process was later simplified and streamlined. However, the Nationality Verification System continued to be a difficult process for many irregular migrants, especially if they did not hold the documents needed to apply for the process or if they did not understand the individual steps and requirements. Interviews conducted for the purpose of this report revealed that Cambodians in particular are deterred from registering by the significant amounts of paperwork required. Many Cambodians found this burdensome.

The complexity of the registration process has bred a grey market of brokers who offer to assist migrants in return for payment. Brokers typically charge anywhere between THB 7,000 and 14,000 to help with gathering and producing documents and completing relevant forms. Concerns over excessive broker's fees led the Thai government to introduce a licensing system for services of this kind and to cap fees at THB 5,000.⁹⁶⁷

The Nationality Verification System officially ended in 2013 and no applications were accepted after 11 August 2013. Since then, the Thai government has launched several other programmes and initiatives to register and regularise irregular migrant workers. These programmes share many similarities with the Nationality Verification System and are often referred to by this name in the literature.⁹⁶⁸ In addition, several “service centres” were established across Thailand to enable migrant workers to obtain new documents if their previous permit had expired or if they were not previously registered.⁹⁶⁹

5.5.4 Return to home country

The return of trafficking victims from Thailand to Cambodia, Lao PDR and Myanmar may occur through formal or informal channels. It is widely believed that most victims return independently or remain unidentified and are deported along with other irregular migrants.⁹⁷⁰

After being housed in trafficking shelters in Thailand, Cambodian nationals who have been identified as victims of trafficking in persons are usually sent to the Transit Centre in Poipet, Cambodia. There, the returnees are assessed and interviewed. They also begin a process to find their families. At present, this process is managed by IOM. Returnees usually only stay in the centre for one night, or even just several hours before they return to their family. If they are unable or unwilling to do so, returnees are

⁹⁶⁵ ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 33–34.

⁹⁶⁶ Claudia Natali et al, ‘International Migration Policy in Thailand’ in Jerrold W Hugué (ed), *Thailand Migration Report 2014* (2014) 13, 15.

⁹⁶⁷ ILO, *Regulating recruitment of migrant workers: An assessment of complaint mechanisms in Thailand* (2013) 34.

⁹⁶⁸ Claudia Natali et al, ‘International Migration Policy in Thailand’ in Jerrold W Hugué (ed), *Thailand Migration Report 2014* (2014) 13, 17.

⁹⁶⁹ Mekong Migration Network, ‘Migration to Thailand: Timeline of Facts and Figure’, January 2013; Claudia Natali et al, ‘International Migration Policy in Thailand’ in Jerrold W Hugué (ed), *Thailand Migration Report 2014* (2014) 13, 18.

⁹⁷⁰ Jerrold W Hugué & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-Region* (2007) 28.

transferred to NGO-operated centres in Cambodia's main cities, where they can receive short, medium and long-term assistance and access to medical care and counselling. Shelters for trafficked persons can also accommodate victims if family tracing takes more than a few days. Special care arrangements are also available for trafficked children who return from Thailand to Cambodia.⁹⁷¹

Voluntary return

After experiencing exploitation in Thailand, many migrant workers desire to return to their home communities and be reunited with family and friends. Many migrant workers escape from their employers and return to their home countries upon realising that their type of employment, working conditions and pay were not as promised. Some victims are able to escape exploitation and leave Thailand independently. In other cases, they turn to or are rescued by police, other authorities or third parties in order to return to their home country as quickly as they can.⁹⁷²

For many others, the decision to return to Cambodia, Lao PDR or Myanmar is not as easy. This is especially the case if migrants and their families made large investments and took out loans to enable the person to move to Thailand, find employment and support the family through remittances. If migrants return prematurely, they often feel they have failed in their goals and disappointed their families, regardless of the dangers, abuse and exploitation they may have experienced. Many victims are fearful of other negative consequences should they return to their home communities. Some victims initially emigrate to escape poverty, debt, domestic violence or because of other rifts with their families. Some may no longer have the relatives and support networks they had when they left and have little to go back to.⁹⁷³

Forced return

Based on the available data, tens of thousands of irregular migrant workers are deported each year. In some years, more than 100,000 people were deported to Cambodia and more than 25,000 to Lao PDR.⁹⁷⁴ The number of deportations usually rises in periods following the end of registration rounds for irregular migrants. Once these rounds end, Thai authorities move to identify, arrest, detain and return irregular migrants who failed to register.⁹⁷⁵ Deportations also appear to be more common in periods of economic downturn, such as the Asian financial crisis of 1997.⁹⁷⁶ It is difficult, however, to

⁹⁷¹ Jerrold W Huguet & Varamon Ramangkura, *The Long Road Home: Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-Region* (2007) 7–8.

⁹⁷² Yongyuth Chalamwong et al, 'Management of Cross-border Migration: Thailand as a Case of Net Immigration' (2012) 40 *Asian Journal of Social Science* 447, 459; UNIAP, *Exploitation of Cambodian men at sea*, SIREN case analysis, CB-02 (2007) 2–3.

⁹⁷³ Kim Sovankiry et al, 'The Trafficking of Cambodian Women and Children' in Thomas E Blair (ed), *Living on the Edges: Cross-Border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-Region* (2006) 93, 144.

⁹⁷⁴ Mekong Migration Network & Asian Migrant Centre, *Migration in the Greater Mekong Subregion Resource Book* (2013) 93; ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 23.

⁹⁷⁵ Hossein Jalilian & Glenda Reyes, 'Migrants of the Mekong: Lessons' in Hossein Jalilian (ed), *Costs and Benefits of Cross-Country Labour Migration in the GMS* (2012) 359, 382.

⁹⁷⁶ Lee Sang Kook, 'State in a State: Administration and Governance in a Thailand–Burma Border Town' (2008) 36 *Asian Journal of Social Science* 187, 206.

make generalisations about the risks, regularity and patterns of deportations.⁹⁷⁷

Fear of deportation makes unregistered irregular migrant workers more vulnerable to exploitation and trafficking. Many go into hiding to avoid detection by authorities, which also makes it more difficult for them to seek help if they are abused or injured.⁹⁷⁸

Refugees from Myanmar are particularly fearful of deportation, especially because they potentially face persecution in the country. Thailand is not a State Party to the *Convention and Protocol relating to the Status of Refugees*. Although it offers protection to some refugees and has admitted persons fleeing from Myanmar in large numbers, Thai law does not contain specific protection mechanisms from refoulement and Thai authorities have periodically returned large numbers of irregular migrants to Myanmar.⁹⁷⁹ To prevent the refoulement of refugees, UNHCR monitors deportation procedures, identifies refugees and registered asylum-seekers and removes them from deportation lists.⁹⁸⁰

5.5.5 Re-victimisation and re-trafficking

Irregular migrants who return to their country of origin are at high risk of re-victimisation and re-trafficking. This is particularly the case if conditions in a migrant's home country remain unchanged. If the causes and circumstances that led migrants to be trafficked to Thailand in the first place are still the same when they return, they remain vulnerable to exploitation and trafficking.⁹⁸¹

The available research contains many accounts in which returning and deported migrants are preyed upon by traffickers and other groups once they return from Thailand to Cambodia, Lao PDR and Myanmar. Some of the recruiters and traffickers initially responsible for bringing migrants to Thailand often await their return and ask them to repay outstanding debts. This is a particular risk for deportees who return to their country of origin before they are able to repay their loans and discharge the debt they may owe to their recruiters. Upon return, migrants may be forced to work to pay off their debts, often at an interest, or may feel compelled to move to Thailand again to earn money.⁹⁸² Local people, drivers and third parties have also deliberately targeted deportees to extort money, coerce them or rob them of their sparse belongings or to facilitate their re-trafficking.⁹⁸³

⁹⁷⁷ ILO, *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (2015) 23.

⁹⁷⁸ Karen Human Rights Group, *Abuse between borders: vulnerability for Burmese workers deported from Thailand* (2010) 2.

⁹⁷⁹ Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 285.

⁹⁸⁰ Women's Commission for Refugee Women and Children, *Abuse Without End: Burmese Refugee Women and Children at Risk of Trafficking* (2006) 13.

⁹⁸¹ Jayagupta Ratchada, 'The Thai Government's Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion' (2009) 47(2) *International Migration* 227, 237–238.

⁹⁸² Jerrold W Huguet & Varamon Ramangkura, *Analysis of Regional and National Processes for the Return and Reintegration of Victims of Trafficking in the Greater Mekong Sub-region* (2007) 7; Alexandra Seltzer, 'Human trafficking: the case of Burmese refugees in Thailand' (2013) 37(4) *International Journal of Comparative and Applied Criminal Justice* 279, 285; Karen Human Rights Group, *Abuse between borders: vulnerability for Burmese workers deported from Thailand* (2010) 4.

⁹⁸³ United States, Department of State, *Trafficking in Persons Report 2015* (2015) 215.

Evidence shows that migrants are undeterred from immediately trying to return to Thailand, even if they have been deported or have had negative experiences in the country.⁹⁸⁴ Many of the people who are returned to their home communities in Cambodia, Lao PDR or Myanmar quickly seek to return to Thailand to work, which makes them particularly vulnerable to re-trafficking. This risk is even higher if there are no rehabilitation, reintegration and employment programmes available in the home countries.⁹⁸⁵

5.6 Secondary movements and regional issues

Another facet of irregular migration, smuggling of migrants and trafficking in persons from Cambodia, Lao PDR and Myanmar is the role Thailand plays as a transit country. Although smaller in number, so-called “secondary movements”, which involve the onward movement of migrants from Thailand to another country, are an important issue. Secondary movements affect the levels and patterns of irregular migration, smuggling and trafficking to and from Thailand. The topic has gained greater attention since 2015, when abandoned camps and mass graves were discovered in the Thailand-Malaysia border region. Many irregular migrants from Myanmar were kept in subhuman conditions in these camps.⁹⁸⁶

Malaysia plays a particularly important role in this context, as the country is home to a large and growing migrant worker population, including many nationals from Cambodia, Lao PDR and Myanmar. Many of these migrants are smuggled or trafficked directly from their home country by boat, but migrants from Lao PDR and Myanmar often transit through Thailand, using a combination of land and sea-borne transportation methods.⁹⁸⁷ Malaysia’s role in trafficking in persons and smuggling of migrants in Southeast Asia is a complex one, as the country is also used as a transit point for irregular migration and smuggling from South-West Asia to Indonesia and Australia. It also serves as a destination country for many irregular migrants from Indonesia.⁹⁸⁸

Thailand and Cambodia as well as Malaysia are affected by irregular migration from Viet Nam. Many Vietnamese nationals are drawn to these countries because of higher wages and job opportunities, but also because of existing Vietnamese diaspora communities, especially in Cambodia. There is some information suggesting that large numbers of irregular migrants travel from Viet Nam to Cambodia, Thailand and Malaysia, though the information about the *modi operandi* and means of transport is

⁹⁸⁴ World Vision, *The Vulnerability Report, Human Trafficking in the Greater Mekong Sub-region* (2014) 9

⁹⁸⁵ Jayagupta Ratchada, ‘The Thai Government’s Repatriation and Reintegration Programmes: Responding to Trafficked Female Commercial Sex Workers from the Greater Mekong Subregion’ (2009) 47(2) *International Migration* 227, 246.

⁹⁸⁶ See further Section IV.5.2.3 above.

⁹⁸⁷ Azizah Kassim & Ragayah Haji Mat Zin, *Policy on Irregular Migrants in Malaysia: An Analysis of its Implementation and Effectiveness*, Discussion Paper Series No 2011-34, Philippine Institute for Development Studies (2011) 53–67; AKM Ahsan Ullah, ‘Theoretical Rhetoric About Migration Networks: A Case of a Journey of Bangladeshi Workers to Malaysia’ (2013) 51(3) *International Migration* 151, 158–159; Human Rights Watch, *Perilous Plight: Burma’s Rohingya Take to the Seas* (2009) 8.

⁹⁸⁸ See further, UNODC, *Migrant Smuggling in Asia, Country Profiles: Southeast Asia* (2015) 29–38.

sparse.⁹⁸⁹

Thailand's relative wealth, labour demand and its importance as a regional hub for travel and transportation attract irregular migrants from a range of countries outside Southeast Asia including, among others, Bangladesh, China, Russia, the Democratic People's Republic of Korea and countries in Central and South-West Asia. Some of these migrants come to Thailand to seek employment and often encounter the same situations and risks of exploitation and trafficking as irregular migrants from Cambodia, Lao PDR and Myanmar. Some use Thailand as a transit point for further migration.⁹⁹⁰

⁹⁸⁹ Pei Palmgren, 'Navigating a Hostile Terrain: Refugees and Human Rights in Southeast Asia' (2011) 5(5) *Sociology Compass* 323, 327. See further, UNODC, *Migrant Smuggling in Asia, Country Profiles: Southeast Asia* (2015) 71–82.

⁹⁹⁰ Ashley G Blackburn et al, 'Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia' (2010) 20(1–2) *Women & Criminal Justice* 105, 110; UNODC, *Migrant Smuggling in Asia, Country Profiles: Southeast Asia* (2015) 61–64; United States, Department of State, *Trafficking in Persons Report 2016* (2016) 364.

6 Observations and Intervention

This report has highlighted the many dimensions, facets and complexities of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand. It has identified the levels, patterns and characteristics of trafficking, the motivation and *modi operandi* of traffickers and the experiences of victims of trafficking in persons.

Trafficking in persons to Thailand is not a new phenomenon. Yet what is most alarming about trafficking from Cambodia, Lao PDR and Myanmar to Thailand is the sheer size of the problem and the very large number of people affected by this crime or who are at risk of becoming victims. This includes women, men and children of all ages and from a diverse range of backgrounds. Although the true extent of the problem may never be known, trafficking in persons, including sexual exploitation, labour exploitation and forced labour, trafficking in children and forced begging concerns all communities, rural or urban. Few people are immune to the promises of traffickers.

Many victims of trafficking endure unspeakable hardship. Physical violence, sexual abuse, harassments, threats and coercion are common for many trafficked persons. These experiences leave most victims scarred for life. Some suffer serious trauma and depression; others are marked by injury or contemplate self-harm. Some lose their lives at the hands of ruthless traffickers, who exploit their victims' vulnerabilities and turn their dreams of a better life into nightmares.

Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand is driven by a complex set of causes and conditions. These conditions vary between the three source countries, but what the countries do have in common is weak and uneven economic, social and political developments, low wages, high youth unemployment and limited opportunities for education and skilled employment. These factors, combined with close geographic proximity long, porous borders, and higher wages and considerable labour demand in Thailand, drive migration.

Despite the harsh realities many migrants face in Thailand, and despite the very many instances of exploitation and trafficking, regular and irregular migrants from Cambodia, Lao PDR and Myanmar continue to move to Thailand in large numbers. Irregular migration, smuggling and trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand thrives because of the great demand for migration to Thailand and the limited opportunities to do so lawfully, inexpensively and efficiently through regular channels. As a result, trafficking to Thailand constitutes an economy of scale with many individuals, groups and governments benefiting directly and indirectly from the status quo and from the grey areas in which much of this labour migration takes place.

This report has shown that trafficking in persons is not a new phenomenon that exists in isolation but is, rather, one that is deeply embedded in the socio-economic, demographic and political realities of the source and destinations countries. It needs to be stressed again that irregular migration, smuggling and trafficking in persons exist along a spectrum and are often not mutually exclusive. In particular, the smuggling of migrants can quickly change into situations of trafficking, especially when migrants are exploited, coerced or deceived, or when smugglers or traffickers treat migrants in a particularly harsh and degrading way.

It is beyond the scope of this report to address the complex root causes of irregular migration and displacement that make migrants vulnerability to becoming victims of trafficking in persons. This report pursues a more modest goal, which is to identify some of the key push factors for trafficking in persons, address knowledge gaps, promote information exchange and further research and, in particular, provide a platform on which evidence-based policies and criminal justice responses can be developed.

The following sections of this report focus on the most crucial and immediate aspects of trafficking in

persons from Cambodia, Lao PDR and Myanmar to Thailand. Action is urgently needed in these areas, but there is also great promise and potential for new and innovative intervention. While these sections acknowledge the complexities of trafficking in persons in all its forms, and recognise that a holistic approach is needed to prevent and combat trafficking effectively, the main emphasis on the following observations and recommendations is on research, information exchange and law enforcement and criminal justice interventions. The suggestions made here need to be seen in the context of—and are meant to complement—the myriad of ideas and initiatives taken by national agencies and international organisations, chief among them UNODC, ILO, IOM, UNHCR, UN-ACT, UNICEF, as well as civil society.

6.1 Government and policy

Although trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand crosses international borders, national governments have a crucial role to play in preventing trafficking, prosecuting traffickers and protecting victims of trafficking. Regrettably, some governments and state agencies have few concerted policies against trafficking, and play a limited role in counter-trafficking measures. In such environments, trafficking activities are highly likely to rise and prosper and traffickers can operate with near impunity.

6.1.1 Accepting responsibility

Trafficking in persons, smuggling and irregular migration from Cambodia, Lao PDR and Myanmar to Thailand are widespread phenomena and occur within a grey area where laws and law enforcement are not fully developed.

The first and most important step governments need to take to counteract trafficking is to accept responsibility for all forms of migration into and out of their territory. In the 21st century, all countries need to confront the reality of international migration. Governments worldwide need to recognise that migration is not a phenomenon that can be stopped or prohibited, but one that can be controlled and managed. In a world where goods and capital can travel freely and where people are networked and communicate extensively worldwide, it is not possible to turn back time, hermetically seal international borders, cut lines of communication and prevent people from seeking to better their lives by moving abroad.

States need to regain their ability to manage the flow of people across their borders and control migration in a positive way that provides fair and feasible options for those seeking to migrate. States need to actively promote safe migration and deter the use of irregular migration. For too long, many states have taken measures to close borders and throw up other obstacles that make it harder for people to leave or enter. Such measures have pushed many migrants to accept offers by smugglers and made others vulnerable to recruitment by traffickers.

For many countries in Southeast Asia, including Cambodia, Lao PDR, Myanmar and Thailand, mastering the challenges of managing migration seems daunting. Many countries have historically been passive about developing comprehensive policies and laws around migration. In many parts of the region, emigration was discouraged and, in some cases, punishable. Migrant workers, refugees and other emigrants were often seen as traitors turning their backs on their place of origin. It is important that these anti-migration sentiments, wherever they still exist, need to be overcome quickly. States that have not already done so need to accept the reality and value of migration. The states that are most successful at managing and controlling migration flows are those that recognise the benefits of

international migration—not only for individual migrants and their families, but also for the national economies and the wider population of sending, transit and destination countries. Remittances, transfer of knowledge and international cooperation can strengthen states. States need to become partners in migration, not obstacles.

Law enforcement and other components of the criminal justice system have an important role to play in this context. They too can be used to facilitate and manage regular migration, promote safe migration, deter irregular migration and, importantly, punish those who prey on the vulnerability and desperation of migrants.

6.1.2 Policy development and implementation

To prevent and combat trafficking in persons, maximise the benefits of international migration and protect the rights of migrants, it would be greatly beneficial to develop comprehensive labour migration policies that take due account of the country-specific nature of irregular migration, national economic developments, labour market needs unemployment rates, and medium and long-term demographic developments. This is an important step to gain better control of migrant flows, manage the demand and supply of labour migrants and produce real benefits from migration to local communities, industries and the national economy. Policymaking in this field can also help raise awareness of the advantages of controlled labour migration and reduce xenophobia and other negative sentiments against foreign workers.

To be effective, policy development needs to be based upon sound data. Policy announcements must be followed by implementation and enforcement. This requires human and financial resources that collect and analyse data for the purposes of policy development and then turn policy goals into practical measures. It also needs political willingness to face the challenges and obstacles that may be associated with drafting relevant legislation, setting up institutions and procedures, working with a range of different stakeholders and convincing industry, foreign workers and voters of the advantages of controlled labour migration.

Sending countries may fear that any increased facilitation and promotion of labour migration may lead to a greater “brain drain” of skilled and educated workers. This is a valid concern, especially for economies that offer few job opportunities for such workers and, if they do, involve jobs that are poorly paid in comparison to Thailand. For this reason, the development of labour migration policies and mechanisms must go hand in hand with the development of national labour and economic policies, as well as the creation of job opportunities in the countries of origin. These are long-term goals that will have little immediate effect on would-be migrants. Sending countries need to acknowledge and maximise the benefits of labour migrants sending remittances to their home communities and of the “brain gain” that returning workers bring to the national economy.

Given the close historical, political and cultural ties between Cambodia, Lao PDR, Myanmar, Thailand and other Southeast Asian nations, it would be desirable to consider international cooperation and policy development at the regional level. ASEAN, the Association of Southeast Asian Nations, provides a suitable forum for such discussion, not least because it brings together ten countries from the region that are all greatly affected by regular and irregular migration, labour migration, trafficking and smuggling. It is conceivable for ASEAN to work towards coordinated immigration policies and a common labour market. This is an ambitious goal but one that would lead to further integration between the ten nations and produce many valuable opportunities for governments, industry and individuals across the region.

6.1.3 'Root causes'

The diverse and complex reasons behind why people emigrate and why they may resort to smugglers are beyond the scope of this report. It is nevertheless important to note that migration from Cambodia, Lao PDR and Myanmar to Thailand is driven by a range of circumstances, some of which leave people no choice but to move abroad in order to escape poverty or persecution. Chapters II, III and IV have shown that the economic discrepancies between Cambodia, Lao PDR and Myanmar on the one hand and Thailand on the other are the main reasons why many people seek to move to Thailand, where wages are higher and job opportunities more plentiful. Some migrants are displaced forcibly and move to Thailand hoping to find greater safety for themselves and their families. Natural disasters, deforestation and environmental degradation play a further part in why some people choose to emigrate.

It is important that any strategy aimed at preventing and suppressing trafficking in persons to Thailand takes due account of the root causes that trigger migration and displacement. While many policies and practical measures have sought to address the symptoms of trafficking and smuggling, the underlying factors, structural deficits and political and economic realities are often overlooked. Any meaningful attempt to reduce if not eliminate irregular migration must go hand in hand with efforts to promote sustainable development, economic growth, democracy, the rule of law and peace.

A point of particular importance in this context is access to and the quality of education, especially in rural and remote areas of Cambodia, Lao PDR and Myanmar. It has been shown that irregular migration mostly involves people with limited schooling and skills. In some areas, women are disproportionately affected, as families prefer to keep their sons in school and send their daughters to work. A lack of education not only limits the employment opportunities at home, but also makes people more vulnerable to the promises of smugglers and traffickers. One important step in combating trafficking thus involves improving school attendance, reducing early school leavers and ensuring that both boys and girls are given fair, equal and easy access to primary and secondary education. Such measures need to be complemented by other initiatives to foster tertiary education and skills training and improve employment opportunities for school graduates so they have incentives to complete school and pursue a career in their home country.

6.1.4 Remittances

One main driving force for many migrants is the ability to send remittances from Thailand to their remaining relatives and friends in their home country. Long before they make the decision to emigrate, many potential migrants would have seen how other individuals and families in their home communities have benefited from money, gifts and goods sent to them by working family members in Thailand. Many families have come to depend on the financial support they receive from abroad to cover expenses from routine chores to paying off personal loans.

In 2006, the World Bank estimated that anywhere between USD 177 million and 315 million are remitted from Thailand to Cambodia, Lao PDR and Myanmar each year, a figure that is likely to be much higher today.⁹⁹¹ The true magnitude of remittance flows is not fully known because many migrants use informal channels to transfer funds to their home communities or may carry cash or purchased goods when they return or visit their relatives at home. Especially in the case of Myanmar, it is widely believed that many, if not most, remittances do not flow through the official financial sector,

⁹⁹¹ World Bank, *Labor Migration in the Greater Mekong Sub-region. Synthesis Report: Phase I* (2006) 10.

making it impossible to estimate the true volume of money that flows across the border.⁹⁹²

Given the scale of remittance flows and their importance to individual workers, their families and local communities, state authorities need to work with migrant workers to ensure that remittances can be transferred quickly, inexpensively and without much bureaucracy. States also need to work with the financial sector to introduce more transparency into the flow of remittances and to prevent the use of informal, unreliable, expensive and underground financial transaction systems.

6.2 Law and law enforcement

The development of comprehensive legal frameworks and their consistent enforcement are central to any strategy aimed at combating trafficking in persons and the smuggling of migrants. In their absence, these crimes are likely to flourish as traffickers and smugglers take advantage of legal loopholes and of the inability or unwillingness of authorities and officials to rigorously enforce existing laws.

6.2.1 National laws against trafficking in persons and smuggling of migrants

National laws criminalising trafficking in persons and smuggling of migrants are the cornerstones for any legitimate and effective action to prevent and suppress these crimes. For traffickers and smugglers to be identified, investigated, arrested, prosecuted and convicted, it is essential that domestic criminal codes or other statutes clearly articulate the elements of these crimes, penalties and other sanctions and create liability for aiding, abetting, organising and attempting these crimes.

These criminal offences need to be accompanied by legal frameworks permitting police and other authorities to conduct investigations, arrest suspects, confiscate property and seize assets. Relevant police powers and their limitations need to be clearly articulated and relevant officials adequately trained in their use. It is also important to bring clarity to the “who is who” and “who does what” in trafficking in persons and migrant smuggling enforcement, as doubts about the authority to enforce relevant laws may lead to difficulties, discrepancies and duplication.

The United Nations *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children* and the *Protocol against the Smuggling of Migrants by Land, Sea, and Air* set out comprehensive and universally accepted frameworks for the criminalisation of trafficking in persons and smuggling of migrants, for international cooperation and for the protection of victims of trafficking and smuggled migrants. The Protocols supplement the *Convention against Transnational Organised Crime*, which contains additional tools that assist state parties in their quest to prevent and combat organised crime and enhance cross-border law enforcement and judicial cooperation. The Convention and Protocols are supplemented by a great range of legislative guides, toolkits, issue papers and model laws that provide blueprints for national lawmakers and practical assistance in implementing, understanding and interpreting the purpose and requirements of these instruments.

Thailand has taken significant steps to strengthen its legal framework in order to better protect the victims of trafficking in persons. The latest amendment of the *Prevention and Suppression of Human Trafficking Act*, which became effective on 28 January 2017, increases the Act’s clarity and operational efficiency. It revises the definitions of “exploitation” to include practices similar to slavery and “forced labour or services” to include the seizure of identification documents and debt bondage. It also

⁹⁹² Myat Mon, ‘Burmese labour migration into Thailand: governance of migration and labour rights’ (2010) 15(1) *Journal of the Asia Pacific Economy* 33, 41; Mary Rose Geraldine A Sarausad, *Cost or Benefit? Valuing Migration through Remittances by Irregular Migrants in Thailand* (2011) 10–11. See further, Section IV.2.1.3 above.

increases protection for children under the age of 15 by providing that forcing or procuring children to carry out extremely dangerous work or perform work in dangerous environments are offences under the Act.

Although the main focus of this report has been on the criminology, levels and characteristics of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand, it became evident during research that national laws, including criminal offences, are not always complete and consistent, nor are they always consistent with international requirements. This hampers domestic efforts to prevent and combat these crimes as well as international cooperation in this field. On this background, it is recommended that further research thoroughly examines national laws pertaining to trafficking in Cambodia, Lao PDR and Myanmar, assesses these against the requirements of the Convention and Protocols and develops recommendations to close existing gaps and ensure greater conformity with international standards.

6.2.2 Law enforcement

Law enforcement agencies, including police, border agencies, coast guards immigration authorities et cetera, have an essential role to play, not only to investigate cases of trafficking in persons, identify suspects, arrest offenders and seize the assets of such crimes, but also in identifying, rescuing and assisting victims. For law enforcement to be meaningful, investigators of trafficking need to be equipped with relevant powers that enable them to conduct searches, interview witnesses and suspects, enter premises, seize assets and make arrests. As these powers are intrusive, they need to be limited and monitored to prevent the abuse of powers and unnecessary infringements of human rights and civil liberties.

In most jurisdictions, there will be more than one entity responsible for enforcing the many aspects associated with trafficking in persons. Even in jurisdictions with a single national police force, there are likely to be additional law enforcement organisations with either highly specialised skills or specific functions. The investigation of trafficking is a challenge for multiple branches of government and is not limited to law enforcement agencies. It usually involves a variety of government departments and other entities, each of which helps to bring an additional dimension to the response. Accordingly, dealing with trafficking and smuggling in isolation, especially without the buy-in of enforcement agencies such as police and immigration, affects the ability to effectively address the causes and consequences of these phenomena. For these reasons, national coordination, consultation with key stakeholders and building partnerships are crucial in combating trafficking and smuggling. Mechanisms such as joint investigation taskforces that bring relevant agencies together under one roof have proven to be a successful way of achieving law enforcement coordination in a number of settings. Further study would be required to determine whether such a solution would be effective in the countries covered by this report.

Collaboration between different agencies is not always easy. Some organisations and entities may be reluctant to assist law enforcement agencies because of concerns they might alienate their constituents, because their priorities may be different, because sufficient resources may not be available or because there are legal constraints (for instance, in the case of classified information and data protection). For these reasons, enhanced consultation and partnership building between relevant agencies and stakeholders is essential, particularly at the operational level. It is further important that all agencies involved in preventing and suppressing trafficking in persons and smuggling of migrants share relevant information and engage in frequent communication, both domestically and internationally.

When apprehended by authorities, victims of trafficking in persons may be in urgent need of shelter,

food and basic medical care. In many instances, migrants are found in situations of emergency, exposed to the elements, dehydration, suffocation and drowning. As first responders, law enforcement agencies are in a unique position to identify victims of trafficking, rescue them from their situations and protect the rights of trafficked persons and smuggled migrants. For these reasons, it is crucial that officials who are likely to come into contact with victims of trafficking and smuggled migrants are adequately informed about the vulnerabilities and rights of the persons they encounter and are appropriately trained and equipped to provide immediate assistance without further traumatising or harming victims. Such officials also need to be prepared to secure the crime scene to increase the chances of success for any ensuing investigation.

A detailed examination of the powers, organisations, responsibilities and operation of law enforcement agencies responding to trafficking in persons is beyond the scope of this report. The research did, however, unearth some common gaps in law enforcement across all four countries. Adequate resourcing of law enforcement was raised as an issue in the source countries in particular. Sources reported that police often lack the numbers and equipment to carry out effective investigations in remote areas and that the number of female police officers is often insufficient to fulfil the duty of care owed to female victims of sexual exploitation. Add to this the fact that poorly paid law enforcement are more likely to engage in corrupt practices, and the issue of adequate resourcing is clearly a serious one that needs to be addressed.

Proactive, intelligence-led investigations are an essential part of disrupting trafficking and smuggling networks. Yet interlocutors highlighted that many police lack the awareness and expertise to engage in such investigations. Capacity building is an essential part of the solution, but is not sufficient in isolation. Law enforcement senior leadership and policymakers need to understand the importance of developing and using quality intelligence to target higher-level crime figures. Mechanisms to collect, analyse and share intelligence should be established and an environment created where law enforcement are encouraged to tackle more significant and complex cases.

Successful prosecutions of trafficking in persons cases are, generally, more dependent on victim testimony than many other transnational crimes. Victim cooperation is therefore a fundamental requirement for almost all trafficking investigations. A lack of trust between victims and law enforcement was identified as a barrier to successful trafficking prosecutions in the target countries. One way to gradually rebuild trust is for the criminal justice systems in the target countries to fully embrace a “victim-centred approach”. Such an approach seeks to minimise additional trauma associated with the criminal justice process by providing adequate support to victims of trafficking and placing their needs at the centre of the process rather than subjugating them to the demands of the investigation and prosecution of traffickers. Over time, a victim-centred approach can yield results by improving the relationship between law enforcement and victims without compromising the victims’ needs and rights.

Building on these observations, it would be desirable to conduct more comprehensive assessments of the criminal justice response to trafficking and smuggling in Cambodia, Lao PDR, Myanmar and Thailand to identify and close relevant gaps and address weaknesses in how law enforcement, prosecutors and the judiciary respond to these crimes.

6.2.3 International cooperation

A further crucial element in the fight against trafficking in persons is international cooperation at all levels of government. Although it is well known and self-evident that cooperation across borders is needed to fight transnational criminal activities, and the tools and frameworks to facilitate such cooperation have been available for some time, actual cooperation and practical measures that involve

partners from more than one country remain the exception rather than the rule. The opportunities offered by international cooperation remain underutilised and many criminal elements greatly benefit from the fact that investigations and other police work often struggle to move beyond borders.

While law enforcement is generally confined to one country, this report has shown that trafficking in persons and smuggling of migrants are not. Criminal elements are mobile and operate across borders and often seek to evade detection, arrest and punishment by moving to other countries. They avoid being caught by taking advantage of borders and the frequent reluctance of law enforcement authorities to engage in complicated and expensive cross-border investigations and prosecutions. The limited capacity of any one country to address some of these threats effectively translates into an overall weakness in the international system of criminal justice cooperation. Accordingly, many instances of trafficking and smuggling remain undetected. This is why comprehensive, multi-agency and flexible cross-border cooperation is essential to ensure appropriate investigation and prosecution of both crimes.

The *Convention against Transnational Organized Crime* and the *Trafficking in Persons and Smuggling of Migrants Protocols* set out a myriad of avenues to enable and facilitate international law enforcement and judicial cooperation. If implemented and utilised effectively, these measures can make a real difference in preventing and suppressing trafficking and smuggling, arresting offenders and protecting the rights of trafficked persons and smuggled migrants.

Simple measures, such as establishing clear lines of communication, can also make a difference. When interviewed, a number of law enforcement representatives identified not knowing whom to contact as one of the most significant barriers to international cooperation, resulting in limited and sometimes even duplicate investigations. Constantly changing focal points and language differences also present practical challenges. Transnational cooperation and communication becomes simpler when more formal and informal channels of communication can be established and reinforced through cross-border training, liaison officers are posted to corresponding countries and bilingual officers are identified and used optimally.

6.2.4 Corruption and accountability

The topic of corruption surfaced repeatedly during the course of this research and was mentioned consistently in interviews conducted in Cambodia, Lao PDR, Myanmar and Thailand for the purpose of this report. Allegations that corrupt police officers, immigration officials, border guards and other persons acting in official capacities tolerate or actively assist trafficking and smuggling activities also permeate the literature. Many sources suggest that trafficking, smuggling and irregular migration between these four countries would not occur at such high levels if it was not facilitated by corrupt officials at all levels of government. This creates an environment in which these activities can prosper and perpetrators can act with relative impunity.

During this research, many attempts were made to find further information, concrete evidence and actual case examples of corruption that are directly linked to trafficking and smuggling. Such information was, however, nearly impossible to locate and it is difficult to prove many allegations of corruption made in the literature. Actual prosecutions and reported cases are few and far between. This is a facet of trafficking to Thailand that urgently needs further research and investigation and where more reliable evidence needs to be presented.

It is evident that public officials can be vulnerable to corruption or may otherwise collude with persons and organisations involved in illegal activity such as trafficking in persons and smuggling of migrants. Furthermore, conflicts of interest may arise if an officer's enforcement duties conflict with personal interests, for example if relatives or friends are among the smuggled migrants or if they appear to have

committed an offence. It is important that public officials are accountable for their decisions and that action is taken if suspicions of corruption arise. Clear codes of conduct must be established to ensure the integrity of officials and their departments.

Public officials may be held accountable in a number of different ways. They may be accountable in management or business terms for their performance and productivity, perhaps against government or community-set targets and objectives, but, more importantly, they must be accountable for the way in which they exercise the powers vested in them. Public officials may also be held criminally liable for actions that constitute corruption. In less serious instances, officers may face disciplinary action from their employer.

All four target countries have some form of national anti-corruption commission. As a first step, attempts should be made to connect the work of these commissions with the work of the anti-trafficking and anti-smuggling authorities. This would raise anti-corruption officials' awareness of trafficking and smuggling, and of the points in the trafficking and smuggling processes where corruption can play a facilitating role.

It would also be desirable to commission further research that examines where corruption pertaining to smuggling of migrants and trafficking in persons is occurring and where it is most likely to occur. Furthermore, relevant offences, legal frameworks, administrative and preventive measures to act against corruption in Cambodia, Lao PDR, Myanmar and Thailand should also be identified and assessed against international law and best practice standards.

6.3 Prevention and protection

To prevent trafficking in persons and protect victims of trafficking, it is essential for countries to explore avenues to reduce irregular migration and promote the use of safe and legal avenues for migration. Any strategy seeking to reduce the levels of trafficking and smuggling needs to involve practical measures that encourage the use of legal migration options and dis-incentivise the use of smugglers and traffickers.

6.3.1 Promoting safe migration

A central feature of national and international efforts to prevent smuggling of migrants and trafficking in persons is to promote safe migration. This means that states adopt strategic and practical measures diverting migration flows from irregular to regular avenues and take active steps to ensure the safety of migrants during their journey from their place of origin to their destination.

Promoting safe migration involves creating incentives and highlighting the advantages of official and managed migration that is free from exploitation and trafficking and does not place the lives and safety of migrants at risk during the journey to Thailand. Legal and safe migration options need to be designed in a way that is perceived by migrants as easy, affordable, effective and preferable to irregular and clandestine avenues.

These efforts need to go hand in hand with measures designed to dis-incentivise the use of smugglers and other forms of irregular migration. The high costs, dangers and uncertain outcomes of smuggling need to be communicated to would-be migrants. This has to be supplemented by greater efforts to criminalise, investigate, arrest and prosecute smugglers and traffickers, such that smuggling and trafficking change from high-profit, low-risk activities into high-risk, low-profit crimes.

6.3.2 Legal avenues for migration

A precondition for promoting safe migration is the existence of meaningful avenues for legal migration. This involves the creation of fair, fast and efficient processes that enable would-be migrants to apply for visas, work-permits and, where applicable, protection. This report has clearly shown that so long as legal avenues remain non-existent, closed, cumbersome or too costly, migrants will opt for irregular avenues of migration that involve the risk of smuggling and trafficking.

The suggestion here is not to abandon immigration controls or to encourage an uncontrolled influx of migrants. With the very high number of irregular migrants entering Thailand each year, the country presently has limited control over the levels of migration, the whereabouts of migrants and their identity and background. By opening legal avenues for migration, states like Thailand regain the ability to monitor and manage migration flows, direct them to the places and industries where labour migrants are most needed and conduct proper checks of those seeking to enter the country.

The *Memoranda of Understanding* between Thailand and Cambodia, Lao PDR and Myanmar are important first steps to facilitating and managing labour migration between these countries. Hundreds of thousands of migrants have benefited from these MoUs, which enabled them to enter and work in Thailand lawfully and gain some protection under Thai law. However, the operation of the MoUs involves slow and expensive procedures and do not sufficiently protect migrant workers from exploitation and trafficking. Nevertheless, they represent starting points on which to develop additional programmes that make it possible to lawfully migrate to Thailand. It would be desirable to expand the scope of the existing MoUs to further professions and reduce the time, costs and bureaucracy involved in the current processes. There needs to be more initiatives that would enable, for instance, sponsored programmes involving temporary entry into Thailand for training and education purposes, which would serve as one way to prevent “brain drain” from source countries. Creating further avenues for refugees and other forcibly displaced persons to seek asylum in Thailand would be another step to improving the status of many irregular migrants in the country.

Further difficulties stem from high costs associated with present labour migration channels and from the many documents that migrants are required to present when they apply to move to Thailand for work. This report has shown that many migrants are unable to pay the high fees associated with formal migration programmes and do not have the documents needed to participate in them. The difficulties, delays and costs associated with obtaining these documents are a further reason many migrants prefer irregular migration channels to legal avenues. It is thus important that migrants be given easier and faster access to legal documents. The possession of legal documents also greatly improves the status, safety and autonomy of labour migrants once they are in Thailand. In this context, it may also be worth exploring the introduction of a separate offence criminalising persons who unlawfully confiscate or withhold the travel and identity documents of migrant workers, which is a commonly used tool to control and exploit labour migrants in Thailand.

6.3.3 The spectrum of smuggling and trafficking

In trying to tackle trafficking in persons, it is important to see that trafficking is not a stand-alone phenomenon but one that, along with the smuggling of migrants, exists along a spectrum. Irregular migration is best understood as a continuum, which, if facilitated by persons seeking to gain financial or other material benefits, can amount to the smuggling of migrants⁹⁹³ or can constitute trafficking if

⁹⁹³ Article 3(a) *Smuggling of Migrants Protocol*.

done for the purpose of exploitation using any of the means that define trafficking.⁹⁹⁴

This report has repeatedly shown that irregular migration, smuggling of migrants, and trafficking in persons, while defined and conceptualised differently, are often inseparable. Situations that begin as smuggling may transcend into instances of trafficking. “Even those migrants who clearly use smugglers voluntarily”, notes a key policy paper,

may become victims who require protection if they subsequently suffer violence or exploitation. The distinction has merit to the degree that it draws attention to groups of migrants who are particularly exposed to risk and exploitation. However, it would be sounder to think of ‘smuggled’ and ‘trafficked’ as points on a continuum rather than discrete categories. Were points on this continuum to be correlated with degrees of coercion (reflecting a migrant’s reasons for leaving as well as his or her experiences en route and after arrival), it could become feasible to provide corresponding and appropriate levels of rights protection.⁹⁹⁵

For these reasons, trafficking in persons and smuggling of migrants must not be seen in isolation but must be addressed comprehensively as part of a wider plan to tackle irregular migration in all its forms. While the topic of trafficking in persons has gained some attention and countermeasures have gained traction in Cambodia, Lao PDR, Myanmar and Thailand, the topic of smuggling of migrants has not. Efforts to research, understand, conceptualise, criminalise and prevent the smuggling of migrants in these countries and in other parts of Southeast Asia are still in their infancy. Several countries have yet to introduce specific offences and articulate clear policies to combat migrant smuggling.

6.3.4 Community-based interventions

This report has shown that trafficking in persons from Cambodia, Lao PDR and Myanmar does not affect all people and all parts of each country equally. Certain communities and people of certain backgrounds are much more likely to fall victim to traffickers. Rural and remote areas where sustainable full-time employment is scarce and where farmers struggle to feed their families and pay their bills are particularly vulnerable to false promises and the lure of jobs and higher incomes in Thailand.

Young people, both men and women, are particularly affected, especially when youth unemployment is high. Whether of their own accord or at the initiative of their parents and other family, young men and women are often the first to move to Thailand seeking to support their families through remittances. Many of them are ill-prepared and have limited understanding about the travel arrangements, legal status, employment opportunities, wages and working conditions they can expect in Thailand.

Further research is needed to better profile victims of trafficking in persons and identify the causes that led them to leave their home communities, move to Thailand and into situations involving exploitation. This needs to be followed by targeted interventions that economically empower communities most vulnerable to trafficking. Further information needs to be gathered on the negative impacts of micro-lending in rural areas and more needs to be done to lift the heavy debt burden that micro-credits create for many families and individuals.

In many areas, women and girls are particularly disadvantaged, do not have equal rights and have

⁹⁹⁴ Article 3(a) *Trafficking in Persons Protocol*.

⁹⁹⁵ International Council on Human Rights Policy, *Irregular Migration, Migrant Smuggling and Human Rights: Towards Coherence* (2010) 28–29.

limited access to education and training. Some families thus see them as dispensable and encourage them to move to Thailand to find work and support the family through remittances. Many sources show that parents and other relatives sometimes collude with recruiters and traffickers and accept money to encourage their daughters to go abroad. To prevent and combat trafficking in persons, especially sex trafficking and trafficking into Thailand's domestic service industry, it is necessary to give women greater access to education, training and local labour markets so they gain greater independence and can make decisions about their lives more autonomously.

6.3.5 Education and training

Community-based interventions and greater rights for women need to be accompanied by efforts to keep young people in school and provide better access to and better quality primary and secondary schooling for boys and girls. At present, many young people leave school prematurely to help their families earn money, which often leads to situations of child labour and child exploitation. The report has shown that many teenagers are migrating to Thailand for the same reasons as adults and end up in situations involving trafficking.

One main priority in prevention efforts must be to keep children in school, enable them to grow up in environments that are adequate for children and equip them with the knowledge and skills so they can compete in the national and international labour market. Better access to schooling and higher attendances rates need to be supplemented by higher quality teaching and learning and greater access to skills training and tertiary education. This will lead to a better-educated and better-skilled workforce that is able to take up more qualified, better paid jobs and is more resilient to the promises made by traffickers.

6.4 Research and knowledge gaps

Despite the seemingly endless list of books, articles, reports and other publications that directly or indirectly cover the topic of trafficking to Thailand, this report has shown that many facets of this phenomenon remain poorly documented and not well-researched. Moreover, many sources are based on anecdotal evidence, selective and small-scale surveys. Some publications appear to be preoccupied with promoting certain positions and ideologies rather than presenting facts that can inform policy making, legislative development, and law enforcement responses in a meaningful and sustainable manner.

6.4.1 Information gaps

Types of trafficking

Over the past fifteen years, international organisations and many researchers have shifted their attention from sex trafficking to labour trafficking and the exploitation of migrant workers from Cambodia, Lao PDR and Myanmar to Thailand. It is now widely acknowledged that situations of trafficking and exploitation of migrant workers in Thailand are extensions of irregular migration and arise because of the very vulnerable position of foreign workers in Thailand, many of whom are young, unskilled and have limited education. The close nexus between labour migration, irregular migration, smuggling of migrants and trafficking in persons is now widely recognised, as is the fact that labour trafficking is the most common form of exploitation of migrants from Cambodia, Lao PDR and Myanmar in Thailand.

Other forms of trafficking in persons to Thailand remain poorly documented. Although they are likely

to occur on a smaller scale than trafficking for the purpose of sexual or labour exploitation, these other forms of trafficking may nevertheless involve serious violations of fundamental human rights. Many aspects of trafficking in children, for instance, remain clouded in uncertainty and mystery. This is partly due to the fact that some sources do not differentiate between adults and minors and make generalisations that include all age groups. In many cases of trafficking, there are uncertainties about the true age of victims and whether they are young adults or teenagers. While adults and children are frequently exploited in the same way, children are nevertheless more vulnerable, require special protection and have special needs that must be considered when developing and adopting measures to prevent and suppress trafficking in persons and to protect victims of trafficking. For these reasons, it is important that more attention is drawn to the specific causes, conditions and consequences of trafficking in children from Cambodia, Lao PDR and Myanmar to Thailand.

Closely related to the topic of trafficking in children is the issue of trafficking to Thailand for the purpose of forced begging. Data on the scale of this phenomenon and on the profile of victims, most of whom are believed to be children, is non-existent. The available literature remains extremely limited. Many sources point to the problem of forced begging and mention the nexus to trafficking, but none contain detailed information and comprehensive analysis of these issues. Research on this topic is urgently needed, especially on the reasons that lead foreign unaccompanied minors to beg in the streets of Thailand, the background and living conditions of these children and the involvement of criminal elements in recruiting, accommodating and controlling these children.

Information on the topic of forced marriages involving women from Cambodia, Lao PDR and Myanmar is slowly forthcoming, though it appears that this phenomenon mostly involves Chinese husbands and concerns trafficking to China. It would be desirable to explore whether forced and sham marriages may also be used to traffic or smuggle women into Thailand or whether this can be ruled out as a significant problem. Similarly, it is surprising that there are no reports of trafficking in persons for the purpose of organ removal. This is a complex phenomenon that remains under-researched worldwide and it would be beneficial to examine to what extent Cambodia, Lao PDR, Myanmar and Thailand are affected by this issue.

Source countries

The focus of this report is the trafficking of men, women and children from Cambodia, Lao PDR and Myanmar to Thailand. Based on the available figures, this focus is justified as the level of trafficking between these countries is very high by any standard and because the problem is a long-standing one. The greater integration of the region and the increasingly close cooperation between Cambodia, Lao PDR and Thailand, and now also with Myanmar, further explain why this report has been tailored in this way.

Considering the existing data and literature, it is noteworthy that irregular migration and trafficking in persons from Cambodia is reasonably well documented. This is due in part to Cambodia's longstanding internal and external trafficking problem, the magnitude of this problem, and the good work of many international and non-governmental organisations that have been working tirelessly for many years to explore trafficking in and from Cambodia, raise awareness and fight against its causes and consequences.

Data and literature from Lao PDR is available, but many gaps remain and in many instances, this report had to rely on single sources or on interviews conducted in Lao PDR and Thailand. More research on the diverse facets of trafficking from Lao PDR and, in particular, on the profile of trafficked persons and their traffickers would help paint a more complete picture of the levels and characteristics of trafficking in persons from Lao PDR to Thailand.

Research on irregular migration, smuggling of migrants, and trafficking in persons from Myanmar is only emerging and many gaps remain in the available literature. The political and economic isolation of the country that lasted for over 20 years meant that long term trends are not or not yet documented. Further complicating research on Myanmar is the complexity of irregular migration and the combination of economic and political factors. The situation in Rakhine state and the difficulties of communicating with Myanmar authorities on the plight and displacement of Rohingyas is a further obstacle to better documenting and understanding smuggling and trafficking from Myanmar.

Regional perspectives

Trafficking from Cambodia, Lao PDR and Myanmar to Thailand does not exist in isolation and there are other important source countries of persons who are trafficked to Thailand and Cambodia and other important destination countries for irregular migrants, including trafficked persons, from Cambodia, Lao PDR and Myanmar.

Of particular significance in this context is Viet Nam, not least because it shares long borders with Cambodia and Lao PDR and a long and at times turbulent history with Thailand. Viet Nam is also an important source country of persons who migrate, are smuggled or trafficked to Cambodia and Thailand.

Malaysia has emerged as another important destination country for labour migrants from a range of countries in Southeast Asia, especially Cambodia and Myanmar. The shared border between Thailand and Malaysia, which measures 595 kilometres in length, is, as the events of 2015 have shown, of particular importance to smuggling and trafficking operations. This involves movements from Myanmar and Bangladesh via Thailand to Malaysia and from Cambodia via Malaysia to Thailand.

Considering the roles of Malaysia and Viet Nam and also taking into account the levels and characteristics of irregular migration to and from other countries in the region, such as Indonesia, the Philippines, Singapore and Brunei Darussalam, it becomes evident that smuggling of migrants and trafficking in persons are of concern to all ten ASEAN Member States. Given the close political ties between ASEAN members and the economic integration, labour migration and personal relationships among them, it would be advantageous to examine smuggling and trafficking more broadly in this region.

The first edition of UNODC's *Migrant Smuggling in Asia* report, published in 2015, which contains a dedicated chapter and a separate volume on Southeast Asia, is an important step towards building a comprehensive collection of information and a continuing capacity to conduct research in this field. This needs to be followed now by further research and analysis of the criminal laws pertaining to smuggling of migrants and trafficking in persons, the implementation of international laws and best practice, the capacity and operation of law enforcement and border control agencies, the protection of the rights of migrants and trafficked persons and of the cooperative efforts among ASEAN member states to prevent and suppress smuggling and trafficking throughout the region.

6.4.2 Insufficient data

Complete and reliable data on the levels and types of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand, the profile of trafficked persons and the profile of traffickers is limited. This is not surprising given the clandestine nature of trafficking and the difficulties in detecting cases and identifying victims. The available data consists mostly of estimates, which provide a general idea of the scale of the problem but are insufficient to identify trends and developments or to provide specific information on individual industry sectors and patterns of trafficking. Moreover, some reported figures and some available estimates appear to be quite fanciful and should be used with great caution.

The collection of data relating to trafficking in persons, smuggling of migrants and other forms of irregular migration is a challenge for all countries, not least because traffickers and smugglers go to great lengths to conceal their activities from authorities and the general public. An important first step towards better and more accurate data collection would be the recording of reports, investigations, arrests, prosecutions and convictions of cases involving trafficking and smuggling and on the profile of the perpetrators and their victims. Such data should be collected systematically and country-wide and should be published at least annually, if not on a month-by-month basis. If done correctly and consistently, such records can provide a basis on which to conduct further research, identify trends and patterns and develop informed policies and countermeasures.

UNODC's Voluntary Reporting System provides a regional database to collect data, cases and other information pertaining to the smuggling of migrants in Asia and the Pacific region. Launched in 2013 by UNODC's Regional Office for East Asia and the Pacific in Bangkok, the Voluntary Reporting System is an internet-based, secure database to collect, share and analyse information on migrant smuggling, irregular migration and other related conduct. For participating states, the Voluntary Reporting System provides an online mechanism to collect and share information so they can identify trends and develop policies to prevent and combat migrant smuggling and related phenomena such as trafficking in persons.⁹⁹⁶ Expanding the database—or creating a parallel database—to handle trafficking-specific data should also be considered.

In addition, UNODC operates the SHERLOC database, an online portal to facilitate the dissemination of information regarding the implementation of the *Convention against Transnational Organized Crime* and its three Protocols, including the *Smuggling of Migrants Protocol* and the *Trafficking in Persons Protocol*. Among many features, SHERLOC contains databases of cases, legislation and literature relating to trafficking and smuggling and provides easy access for officials, practitioners, researchers, students and those working on the frontline to combat trafficking and smuggling.⁹⁹⁷

It would be desirable for governments, national authorities, experts, civil society groups and other individuals to provide more input to these UNODC databases and utilise them in their work on smuggling of migrants, trafficking in persons or other forms of organised crime.

6.4.3 Policy and legal analysis

Better data collection and better documentation of the levels and characteristics of trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand need to be followed by thorough analysis of the policy, legislative and practical measures adopted by these countries to prevent and suppress trafficking in persons along with smuggling of migrants and other forms of irregular migration. This report has shown that there is growing awareness among these countries that trafficking in persons is a pressing issue involving serious violations of human rights, but that responses by states to combat this phenomenon often remain untested and are not critically evaluated.

While this report sought to document the status quo of trafficking in persons and the related phenomena of irregular migration and smuggling of migrants, other research needs to follow that assesses what governments have done in response and what measures have been taken to protect the rights of irregular migrants and trafficked persons. This involves a close examination of high-level declarations, statements and policy announcements and of the actual implementation of policies. Further, the laws adopted to criminalise smuggling and trafficking, enhance law enforcement, enable international cooperation and protect the rights of smuggled migrants and victims of trafficking need

⁹⁹⁶ For further information, visit <https://www.unodc.org/southeastasiaandpacific/en/vrs-msrc.html>.

⁹⁹⁷ For further information and access to SHERLOC, visit <https://www.unodc.org/cld/v3/sherloc/>.

to be evaluated against the standards set by international law and best practice guidelines, chief among them the *Trafficking in Persons Protocol* and the *Smuggling of Migrants Protocol*.

Additional research should focus on the practical measures adopted by states and civil society to prevent and combat trafficking in persons. This includes exploration of a great range of activities and initiatives, including research into the identification of victims, investigations and arrest of suspects, prosecution and trial of offenders, protection and assistance of victims, protection of witnesses, education and awareness campaigns and the availability of support by NGOs, to name but a few.

The ultimate goal here is to produce a more complete picture of all aspects associated with trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand and build an ongoing capacity for information gathering, research and analysis and regular reporting on this issue. A better and more complete evidence base will not only provide for a better understanding of the phenomenon but will also improve policy development and the adoption of more effective countermeasures.

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