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► Working and employment conditions in the agriculture sector in Thailand:

A survey of migrants working on
Thai sugarcane, rubber, oil palm
and maize farms



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► **Working and employment conditions in the agriculture sector in Thailand:**

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Sudarat Musikawong, Aree Jampaklay, Nara Khamkhom, Reena Tadee, Adisorn Kerdmongkol, Leonard Buckles, Suwichai Khachasin, and Anna Engblom

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► Foreword

At the global level, the agriculture sector employs about 874 million workers – more than any other industry. A significant share of these are international migrants from poorer countries, working on farms and plantations as wage earners.

While agriculture provides a livelihood to all these workers, many – particularly the most vulnerable and marginalized – experience decent work deficits. Globally, waged agricultural workers frequently experience unstable and/or temporary employment; receive very low wages; and often suffer hazardous, unhealthy work and poor living conditions.

Many agricultural workers are excluded from national labour protection laws, such as those specifying minimum wages, maximum hours of work, paid sick leave and social security. At the global level, the agricultural sector has the lowest level of organization into workers' organizations and employers' organizations. Women play a critical role in agriculture, often under irregular and casual forms of employment. A substantial number of children who work, are employed in agriculture, often in what is defined as being among the worst forms of child labour. In some places, agricultural workers are in situations of forced labour.

Migrants, who are increasingly part of the agricultural workforce in many countries, often face discrimination and large disadvantages. Despite low wages or other poor working conditions, many are unable to leave a job because of the real or perceived absence of employment alternatives, or because they have paid excessive recruitment fees and costs that effectively trap them in their employment. Migrant workers in irregular status and women migrants are especially at risk of various forms of exploitation.

Given the decent work deficits facing workers in the agricultural sector globally, this report aims to shed light on the specific situation of migrant workers in the agricultural sector in Thailand. It focuses on closing significant knowledge gaps on employment practices, including the recruitment and hiring process, and on the working conditions of migrant workers, including occupational safety and health conditions, housing, and access to social protection and other important support services. By determining the current situation for migrant workers employed in this sector, the report identifies key gaps in policies and practices that need to be addressed, and provides an important set of recommendations.

The ILO is committed to supporting its tripartite constituency in Thailand, including the Ministry of Labour, workers' organizations and employers' organizations, as well as civil society organizations and other stakeholders. I am confident that by working together, we can promote and protect the rights of all migrant workers, including those in the agriculture sector in Thailand, and ensure that both they and their employers, as well as the host nation, reap the benefits of a more just and equitable world of work.



Graeme Buckley

Director, ILO Country Office for Thailand, Cambodia
and Lao People's Democratic Republic

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► Abbreviations and acronyms

ASEAN	Association of Southeast Asian Nations
CI	certificate of identity
CSO	civil society organization
DLPW	Department of Labour Protection and Welfare
DOE	Department of Employment
GDP	gross domestic product
HICS	Health Insurance Card Scheme
ILO	International Labour Organization
IPSR	Institute for Population and Social Research
Lao PDR	Lao People's Democratic Republic
MOU	memorandum of understanding
MWAC	Migrant Workers Assistance Centres
MWG	Migrant Working Group
NSO	National Statistics Office
NV	nationality verification
OSH	occupational safety and health

Executive summary

Agriculture has historically been the backbone of the Thai economy, employing the majority of the national working age population. While the sector has seen a decline in the number of workers in recent years, some 12.7 million workers, approximately 30 per cent of Thailand's total labour force, work in agriculture today. The agricultural sector remains important for the economy, with agriculture, forestry and fishing contributing 8.1 per cent of Thailand's gross domestic product.

As the Thai economy has grown, and educational attainment increased, Thai workers are moving into higher-skilled occupations, creating labour shortages in the agricultural sector, which are increasingly filled by migrant workers. In 2019, 11.4 per cent of all registered migrant workers (317,996) were employed in the agricultural sector, as well as an unknown number of undocumented migrant workers.

► Research objectives, methodology and sample

This report presents the findings of a survey undertaken to better understand Thailand's labour migration and labour protection governance framework, with a specific focus on employment practices and working conditions for migrant workers in the Thai agricultural sector. The survey focuses on four crops – maize, oil palm, rubber and sugarcane – selected because they employ a relatively large number of migrant workers and because Thailand is a global leader in exports for these crops.

The study employed a mixed-methodology approach, combining quantitative survey and qualitative interview data collection. A total of 528 documented and undocumented migrant workers – including 55 per cent women – from Myanmar (311), the Lao People's Democratic Republic (134) and Cambodia (83) were interviewed for the survey. In addition, in-depth interviews were conducted with 44 key informants, including representatives of employers, government officials, workers' representatives and NGOs.

The survey was conducted in four provinces where the four focus crops were highly concentrated:

1. Tak – Myanmar respondents only, primarily sugarcane and maize;
2. Loei – Lao respondents only, sugarcane;
3. Surat Thani – Myanmar respondents only, rubber and oil palm; and
4. Sa Kaeo – Cambodian respondents only, primarily sugarcane.

By crop sector, the highest proportion of respondents worked in sugarcane (47.5 per cent), followed by maize (29 per cent), rubber (19 per cent) and oil palm (5 per cent). The majority of Cambodian migrant workers (93 per cent) and all Lao migrant workers worked in sugarcane. Myanmar workers were employed in all four crops. The field work was conducted during January and December 2018.

► Survey findings

Migration status

Labour migration into Thailand is governed under the Royal Ordinance Concerning the Management of Employment of Migrant Workers B.E. 2560 (2017). The Royal Ordinance sets out that the only official channel for migrant workers in elementary occupations to enter Thailand is through a set of bilateral MOUs on employment cooperation with the governments of Cambodia, the Lao People's Democratic Republic and Myanmar. However, section 64 of the Royal Ordinance does offer one exception, the border employment regulation, which allows employers to recruit migrant workers living along Thailand's borders in Cambodia and Myanmar to work in Thailand on short-term (three month, renewable) contracts. At the time of conducting the survey (2018), the Royal Thai Government had also declared an amnesty that allowed undocumented migrant workers to come forward and regularize their status, referred to as the nationality verification (NV) process.

The survey found that among all respondents, 66.7 per cent had legal permission to work in Thailand; 30.1 per cent of the surveyed respondents were migrant workers in an irregular situation; and the remaining 3.2 per cent were in possession of stateless cards.

Of the total sample, only 14.9 per cent had entered Thailand under the MOU mechanism, and another 13.1 per cent were working under the border employment scheme; while 34.3 per cent had completed the nationality verification (NV) process. There were relatively large variations in migration status depending on nationality, with respondents from Myanmar being the most likely to be fully undocumented workers (at 25.4 per cent), and Lao workers were the most likely to be fully documented (80.6 per cent). Cambodian migrant worker respondents were the most likely to have entered Thailand through regular channels, but not be working legally (43.4 per cent). Of the total sample, slightly more women than men were fully undocumented (at 18.2 and 13.9 per cent, respectively).

The survey found that migrant workers employed in nonborder provinces or in crop production requiring continuous employment (rubber or oil palm) tended to have legal status, while the number of undocumented migrant workers was higher in border provinces, particularly in Tak.

Mode of recruitment, recruitment related costs and debts

The survey found that recruitment agencies and brokers play a relatively small role in migration for agricultural work, with 3.2 and 16.1 per cent of respondents using each, respectively. Instead, 36.7 per cent of migrants had found their work in Thailand through friends or family; 17.8 per cent were directly recruited by a Thai employer; and 26 per cent decided to come to Thailand on their own accord.

The survey showed migrant workers paid an average of 6,448 baht to migrate to work in the Thai agricultural sector, equalling on average just above one month of wages (the median monthly income was 6,000 baht). This includes costs and fees paid by migrant workers related to travel, temporary lodging, broker and agency fees, and documentation such as passports, visas, border passes, work permits, health exams, and various formal and informal registration fees. Men generally paid more than women, with the average cost among women respondents being 6,141 baht, versus 6,863 for men. Very large variations in costs were found depending on the country of origin, the respondent's location within Thailand, and whether a formal or informal migration channel were used.

Just 9.1 per cent of respondents reported paying no costs to migrate, with most of these respondents having migrated to a border province and all being undocumented. An additional 46.8 per cent paid less than 5,000 baht (US\$160), and 15 per cent paid between 5,000 and 10,000 baht. A total of 26.7 per cent paid 10,000 baht (US\$320) or more.

The survey found that 40.7 per cent of all migrant workers borrowed money to migrate to Thailand. There were large differences depending on nationality, with workers from Cambodia most prone to take on debt (68.7 per cent) and workers from Myanmar least prone (25.8 per cent). Among the migrant worker respondents who had borrowed for recruitment, the largest proportion were in debt to their current employer (53.1 per cent). Migrant workers who owed money had also borrowed from family members (20.4 per cent), other villagers (11.2 per cent) or friends (10.7 per cent) to pay for migration costs. A small number had also borrowed from their recruiter/broker.

Money borrowed from employers is often in the form of no-interest loans, and the amount is deducted from the workers' salaries. This practice is allowed under the Royal Ordinance (sect. 49), which allows employers to deduct recruitment related costs and fees from migrant worker's monthly wages, at maximum 10 per cent of the monthly wage.

Workers don't only borrow from their employers for recruitment, but also for a range of other needs, such as daily living expenses or family emergencies. Most workers reported that they are able to pay off debt over time, but a few of those interviewed reported still having debts related to their own household agricultural expenses or medical expenses back in their country of origin.

A total of 50.6 per cent of migrant worker respondents reported experiencing wage deductions, with 35.4 per cent of workers having experienced wage deductions for as long as they have been employed.

Among the migrant workers who reported wage deductions, deductions for electricity/water were the most common (41.6 per cent), followed by deductions for document costs and recruitment fees (22.9 per cent), tools/equipment (20.6 per cent), food/drinking water (18.7 per cent) and health services (13.9 per cent). Only 4.9 per cent had deductions made for housing costs. A significant outlier within the data was that 98.1 per cent of sugarcane workers in Sa Kaeo Province had money deducted for tools and equipment, which is not allowed according to the Labour Protection Act B.E. 2541 (1998).

Employment contracts prior to migration

The survey found that only 31 workers (5.9 per cent) had signed a written contract before they left their home country, almost all of whom were seasonal workers. This is notable, as all MOU workers, who made up 14.8 per cent of the respondents, are supposed to sign a written contract before leaving their home country. In all, 56.8 per cent of respondents reported that they had secured employment in Thailand prior to migration, but had crossed the border with no contract whatsoever, and 33.5 per cent only had a verbal agreement.

There were large differences between nationalities, as 20.9 per cent of Lao workers, all employed in the sugarcane sector, had a written contract. A reason for this is because Lao workers primarily migrated through the more stringent MOU process. At the other end, 93.6 per cent of migrant workers from Myanmar had either migrated for a job without a contract or had crossed the border without first arranging any employment. While none of the respondents from Cambodia had a written contract before migrating to Thailand, 74.7 per cent had a verbal contract.

Wages, working hours, and paid days off

The Labour Protection Act B.E. 2541 (1998) ensures that all workers, regardless of their nationality and legal status, are guaranteed equal conditions and protections with regards to minimum wage, working hours and corresponding rest periods, paid leave, discrimination, workplace harassment, etc., unless otherwise specified in secondary laws.¹ Concerning the agriculture sector, the Labour Protection Act only gives full effect to those who are employed full-time for the extent of at least one year, which is estimated to only be 7.9 per cent of all agriculture workers included in this survey. The remaining 92.1 per

¹ Section 22 of the Labour Protection Act states: "Agriculture, sea fishing, loading or unloading of marine cargoes, home work, transport work and other work as provided in the Royal Decree may be prescribed in the Ministerial Regulations for the protection of labour differently from the protection under this Act."

cent are only covered by reduced protections as outlined in the Ministerial Regulation concerning Labour Protection in Agricultural Work. The Ministerial Regulation excludes workers from a number of important protections, including minimum wage, set normal working hours and rest time; specific overtime wages; national holidays and paid annual leave; and severance pay.

While the survey found that migrant worker income varied significantly depending on gender, crop, nationality, type of labour, and province of employment, two trends are clear: migrant workers are generally paid below minimum wage (which, at the time of the survey, ranged between 305 and 308 baht per day), and there is a large gender wage gap. A striking 58.7 per cent of migrant worker respondents who reported working full time or more (that is, at least eight hours per day) made less than the statutory minimum wage of the province in which they were employed. And while 50 per cent of men were paid less than the minimum wage, 65.7 per cent of women were paid less, representing a 15.7 per cent gendered minimum wage gap differential among respondents who work eight hours or more per day.

Workers in Tak Province (all from Myanmar) are particularly badly off. Assuming a worker works 24 days per month, with a regular eight-hour workday (though, as below, according to the survey, workers work more days and hours than this), the monthly salary in Tak Province based on the minimum wage should be 7,320 baht (305 baht x 24). However, 95.4 per cent of migrant workers in Tak reported that they earned less than that, with a striking 39.4 per cent earning less than 3,600 baht per month, which is less than half the minimum wage. By comparison, 74.4 per cent of workers in Sa Kaeo (where all workers were from Cambodia) were paid less than minimum wage, while almost 35 per cent of workers in Surat Thani (all workers were from Myanmar) and only 3.7 per cent of workers in Loei (all from the Lao People's Democratic Republic) earned below the minimum wage.

According to the law, for employees covered under the Labour Protection Act, the maximum number of working hours is eight hours a day and not more than 48 hours a week. Work above 48 hours must be compensated by overtime compensation. Further, employers should provide a weekly holiday of at least one day a week. However, as noted above, the vast majority of agricultural workers are excluded from certain protections under the Labour Protection Act, including provisions for normal working hours, rest time and overtime pay.

Across the sample, 95.4 per cent reported working eight hours a day or more. A total of 41.3 per cent worked more than eight hours and up to 12 hours per day, and 8.8 per cent reported working more than 12 hours per day. The survey also found that more than half of all respondents (53.3 per cent) worked seven days a week with no rest days, including 55.6 per cent of men and 51.4 per cent of women.

Although some crop sectors may require workers to work every day, workers reported that they were still able to take a rest day if needed. As workers tend to be paid day rates according to how many days they work, workers receive no pay when they do not work. Fewer than a dozen respondents (out of 528) reporting being able to receive paid days off for any reason (including sick leave, holiday or maternity leave).

Occupational safety and health, personal protective equipment

Employers' responsibilities to uphold and provide occupational safety and health (OSH) protections for all their workers regardless of nationality are stipulated in the Occupational Safety, Health and Environment Act B.E 2554 (2011) and its accompanying ministerial regulations. While workplace safety appears to be improving overall, because relevant statistics are not disaggregated for agriculture or by nationality, it is hard to say whether these reductions extend to migrant agriculture workers.

According to the survey, the most common OSH hazards migrant workers reported being exposed to were direct sunlight (61.8 per cent), dust (34.1 per cent), high temperatures (31.2 per cent) and pesticides (29.9 per cent). While these hazards are present among all four crops, each sector has a unique blend of occupational hazards.

Among all the migrant workers surveyed, 13.8 per cent had experienced a workplace injury that required medical attention. This might not be a surprise as, contrary to the Occupational Safety, Health

and Environment Act B.E. 2554 (2011) (sect. 16 and 22), 85 per cent of all workers had not received any personal protective equipment (PPE) nor training on how to safely operate their equipment. Further, the survey found that 7.6 per cent of respondents were given training only; 5.9 per cent were only given PPE; and just 1.7 per cent were given both PPE and training to perform their work.

The dominant health problems experienced across the entire respondent group were severe joint and muscle pain (54.6 per cent), headaches (52.5 per cent), dizziness (45.3 per cent) and abdominal pain (34.7 per cent).

Housing conditions

Agricultural employers usually provide residential areas for migrant workers, who typically build their own temporary work camps near the harvest location. Across the four sectors, 86.4 per cent of respondents reported that their housing was rent-free and provided by the employer. This was especially true for migrant workers working in the longer-term oil palm and rubber sectors (93.9 per cent), where housing is more permanent, built with stronger building materials, has better access to clean water and electricity, and has more adequate sanitation facilities. By contrast, in the more seasonal maize and sugarcane sectors, the norm was to provide materials (bamboo, roof thatching, metal scraps) for migrant workers to construct their own housing on the farm. Water sources are either natural ponds or employer-dug ponds with no filtration. Due to poor housing materials and the often open-air structures being located in close proximity to crop fields, workers reported being vulnerable/exposed to heavy chemical spraying, as well as to storms. Some 13.3 per cent of respondents reported having inadequate toilet facilities and 9.1 per cent indicated that they did not have a clean water supply. Overall, a small number of respondents expressed concern over violence and abuse in their housing, with 4.7 per cent of migrant workers – 8 men and 17 women – stating that they had any such concerns.

Indications of forced labour

Thailand has ratified the three instruments related to forced labour: the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), and the Protocol of 2014 to the Forced Labour Convention, 1930. Over the years Thailand has made significant progress in addressing forced labour by reforming its law and policy frameworks and by building capacity of key stakeholders, including policy makers, law enforcers, private sector and others. Despite this, forced labour persists in certain sectors.

While this study was not designed to provide numerical estimates, the analysis confirms that the Thai agricultural sector is not free from it. Following the ILO measurement framework of forced labour (which refers to situations in which persons are made to work against their will through the use of deception, violence, or intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of deportation), the study found examples of situations where combinations of factors linked to involuntariness and coercion were present. This included for example payment of low wages, abusive overtime requirements, restrictions on mobility, living in degrading conditions, indebtedness to employer or broker/recruiter, withholding of identification documents, and fear of being excluded from other job opportunities and/or risk of arrest or deportation.

Indications of child labour

Thailand has ratified the two ILO fundamental Conventions on child labour and has adjusted its legal framework in line with these Conventions. Accordingly, the minimum age for employment in the agricultural sector in Thailand is set to 15 years of age, while children aged below 18 are not allowed to engage in tasks that are considered hazardous.

The survey included questions related to children's presence in the sector and the extent to which they were working. However, given the complexity of determining whether or not agricultural work performed by a child above 15 but below 18 constitutes child labour, this survey was not able to make any

definitive conclusions. What can be said with certainty is that migrant children were present and doing work in these farming environments. The survey found that 30.9 per cent of migrant worker respondents had their children living with them on the farm. Another 18.5 per cent reported that children under the age of 18 worked with them on the farm. Further, among the migrant workers who responded to the survey, ten were aged 16–17.

Labour complaints and access to complaints mechanisms

Across the entire sample, 29.2 per cent of migrant workers – or 154 respondents – stated that they had experienced problems at work. Based on the in-depth interviews with migrant workers, the most common problems in the sector are mainly related to withheld or underpaid wages, excessive work hours, restricted mobility from work and/or housing, confiscation of documents by employers, OSH complaints, and wrongful termination.

However, only 10 of the 154 migrants who experienced problems reported having made a complaint, and none complained through an official government channel. The most common reasons for not lodging a complaint were the language barrier, the migrant's lack of legal status in Thailand, lack of knowledge about how to make a complaint, mistrust of the complaint system or mistrust of government authorities, and not even being aware that they could make a complaint. In addition, many workers reported that they feared some form of retaliation, such as wrongful termination, wages being withheld, refusals to renew work permits or threatened deportation, from their employer if they made a complaint.

The complaints mechanism established under the labour Protection Act makes it possible to lodge labour disputes directly with the Royal Thai government. Labour-related complaints are mostly under the mandate of the Department of Labour Protection and Welfare, while social security complaints fall under the Social Security Office, and document-related issues under the Department of Employment. The Ministry of Labour has also established Migrant Workers Assistance Centres that are able to receive complaints from migrant workers and have translators on staff. Given the above-mentioned reasons for not lodging formal complaints, it is perhaps not surprising that migrant workers prefer to resolve their dispute directly with their employer/manager or to ask friends/family to intervene, or when needing external support, choose to rely on NGOs for legal support.

Trade unions and other membership-based organizations can be powerful allies in resolving members' work-related problems and employment disputes. However, of the 528 migrant workers surveyed, none reported that they had joined a registered trade union, while 24 reported that they had joined informal migrant worker organizations while working in Thailand (23 from Myanmar and 1 from the Lao People's Democratic Republic).

Access to social security and medical services

Migrant workers and Thai nationals have equal access to social protection, including standard social security benefits for those who contribute as regulated under the Social Security Act. Workers are also conferred rights and entitlements under the Workmen Compensation Fund. However, the extent to which a worker can access these rights and entitlements is dependent on factors such as their sector of employment, whether their employer complies with legislation, their legal status, language barriers, and their ability to stay in the country long enough to claim benefits after loss of a job.

Documented migrant workers in agriculture who are employed with the same employer for a whole year should be insured under the Social Security Fund. The Workmen's Compensation Fund also allows for the inclusion of migrant workers with shorter employment contracts, including those under the border employment scheme. All documented workers who are not eligible to enrol in the Social Security Fund should be enrolled in the Health Insurance Card Scheme (HICS). Undocumented migrant workers are

in theory eligible for government health insurance but in practice it is unfortunately rare that hospitals allow undocumented workers or their dependents to buy the health insurance.

The survey found that migrant respondents were not enrolled in these benefit schemes anywhere near to the extent that they should have been under legal requirements. Documented migrant workers accounted for 66.7 per cent of the sample group, yet only 33.6 per cent of them were enrolled in at least one of the three social benefit programmes. A solid majority were not enrolled in anything at all, leaving them uncovered in the event they required medical treatment or could not work as a result of injury or childbirth, among other situations covered by social security.

There are a number of barriers that hinder migrant workers' access to healthcare, even when they have health insurance coverage. One of the most prominent of these barriers is likely the language barrier between the hospital staff and migrant workers. Cost is also an issue, even for those with insurance. Further, migrant health insurance through HICS is restricted for use at the hospital from which the insurance card was purchased. This presents a problem for those who live far from the hospital of registration, as travel time and costs can be high if they no longer live in that area.

► Recommendations

The report ends with a comprehensive set of recommendations broadly structured into six thematic areas: (1) increase access to safe and regular migration; (2) ensure safe and fair recruitment; (3) increase labour protection; (4) ensure effective collective bargaining and access to justice; (5) increase access to social protection and health services; and (6) occupational safety and health, housing standards, and children's welfare.







1. Introduction and situational analysis

► 1.1. Thailand's agriculture sector

In Thailand – defined as an upper-middle income country since 2011 – agriculture has historically been the backbone of the economy, employing the majority of the national working age population. In recent years, however, the agriculture sector has seen a rapid decline ²; from 51 per cent of the total labour force in 2005 to 32 per cent in 2018 (Roonnaphai 2006; National Statistical Office 2018). Because of factors such as increased educational attainment, better job prospects in other sectors, a demographic shift toward an aged society and lower fertility rates that are resulting in an overall reduction in the Thai labour force, Thailand is increasingly relying on migrant workers from neighbouring countries to sustain its agriculture sector and other elementary occupations (see section 1.3) (ILO 2020a; Chalamwong 2015).

Approximately 30 per cent of Thailand's total labour force, or 12.7 million national workers, work in agriculture (NSO 2019). According to the Ministry of Labour (2019), some 317,996 registered migrant workers were employed in the agriculture sector in 2019. This amounts to 11.4 per cent of the 2,788,000 documented migrant workers in Thailand in that year (DOE 2019).

While crop production has declined in Thailand since 2011, the agricultural sector remains very important for the economy. In 2018, agriculture, forestry and fishing contributed 8.1 per cent of Thailand's gross domestic product (GDP), equivalent to US\$40.9 billion (World Bank 2019).

In 2018, 67 per cent (US\$337 billion) of Thailand's GDP (at USD\$505 billion) was earned through export of goods and services. Approximately 60 per cent of all agricultural production in Thailand is intended for the export market, and agricultural exports were worth US\$23.2 billion in 2018. In the same year, Thailand's top eight agricultural commodities were rice, rubber, cassava, fruits and vegetables, and the four crops studied in this report – oil palm, rubber, sugarcane and maize – were all among Thailand's top 20 agricultural export commodities. ³ The majority of Thailand's agricultural exports (60 per cent) were destined for other Asian countries, with top importers being China (25 per cent), Japan (14 per cent) and the United States of America (6 per cent) (Ministry of Commerce 2019b).

About 43 per cent of Thailand's land is under cultivation (World Bank 2019). In 2017, there were 2,635 large-scale agricultural crop plots in the country, representing 3.42 million rai (547,200 hectares), with at least 258,229 farms and 78 types of agriculture products (Office of Agricultural Economics 2018).

According to the 2013 census, over half of Thailand's agricultural land was under rice cultivation (51.3 per cent), followed by field crops such as maize, cassava and sugarcane (22.4 per cent); rubber (14.5 per cent); long-term permanent crops and forest, such as oil palm (8.5 per cent); pastureland (2.5 per cent); and vegetable and flower production (0.8 per cent) (NSO 2013).

² This drop is a result of the diversification of the economy (leading to growth of other sectors such as manufacturing and services), reduced growth in global crop prices, and other factors.

³ In 2015–19, concerning the export of crops from Thailand, rice ranked No. 1, followed by rubber. Oil palm, including other oil plants, ranked 17th and corn/maize ranked 20th (Ministry of Commerce 2019b). Regarding sugarcane, it is exported as a raw product but is also agro processed in Thailand as well, and therefore the data are inclusive of both raw and processed sugar products. In 2015–19, Thailand ranked second in the world in sugarcane exports (by weight) behind Brazil (Ministry of Commerce 2019c).

► 1.2. The study's focus crops: Economic value and the agricultural supply chain

This survey focuses on four crops – maize, oil palm, rubber and sugarcane. These crops were selected based on Thailand's relatively high ranking for these commodities among global exports and because they employ a relatively large number of migrant workers.

1.2.1. Natural rubber

Natural rubber is an important crop for Thailand due to the relatively high revenues earned from its export (Jawjit, Kroeze, and Rattanapan 2010; Workman 2018). In Thailand, the proportion of cultivated land used in rubber cultivation increased from 9 per cent to 13 per cent from 2003 to 2013 (NSO 2003; NSO 2013). As of 2016, rubber was the second-most planted crop by land area (15.6 per cent) (Ingalls et al. 2018).

In 2018, Thailand produced a total of 4.8 million tons of natural rubber (Ministry of Commerce 2019a). Thailand was also the largest exporter in the world of natural rubber ⁴, at 23 per cent of global export supply (worth US\$4.6 billion ⁵), with Indonesia the second-largest exporter at 18 per cent and Malaysia a distant third at 4 per cent. In 2018, the top destinations for Thai natural rubber were China (43 per cent), followed by Malaysia (14 per cent) and Japan (6 per cent) (UNDESA, Statistics Division 2019).

The rubber supply chain goes through various stages from small farms to midstream and upstream manufactures. There are five major Thai rubber export companies. However, while approximately 6 million people are dependent on rubber production, downward pricing has led to crop diversification into oil palm farming (Nobnorb and Fongsuwan 2015). Rubber farms, 90 per cent of which are small-holder farms, hire domestic Thai workers or migrant workers to plant, maintain and tap rubber for at least ten months, although workers sometimes work year-round.

At the farm level, workers collect raw liquid rubber in large buckets, which is then molded and left to dry in sheets. The sheets are then transported to processing plants, the revenue from which is split by farmers with workers. This study found that rubber employment in the southern provinces is unique in that employers view workers as year-round independent contractors who usually receive 30–40 per cent of the revenue, making workers' wages sensitive to global rubber pricing. Rubber employment in other provinces do not universally follow this pattern, relying on a fixed rate by unit of time or crop measurement. The supply continues to rubber processing plants for midstream handling and processing, and finally to upstream operations for processing of tires, gloves, hoses, elastics and condoms for the domestics and export markets (Chanchaichujit and Saavedra-Rosas 2017).

1.2.2. Oil palm

In 2013, oil palm plantations covered 4 per cent of agricultural land (NSO 2013). By 2016, that grew to 6 per cent (4.7 million rai, or 7.52 million hectares), indicating a relatively quick growth of investments in oil palm. Producing an output of over 11 million tons of palm oil, Thailand was the third largest global producer of palm oil in 2016 (Petchseechoung 2016b). However, Thailand's palm oil production appears to be mostly for internal use, as it only exported 0.8 per cent of 2018's global export share. The world's top palm oil exporters in 2018 were Indonesia (60 per cent), Malaysia (30 per cent) and the Netherlands (19 per cent), with Thailand ranked ninth. The major importer of Thailand's palm oil is India, importing 91 per cent of Thailand's export in 2018. Thailand also exports oil palm kernels, accounting for 13 per cent of the world's exports, over 99 per cent of which are imported by Malaysia (UNDESA, Statistics Division 2019).

⁴ Thailand is also the third-largest global exporter of artificial rubber, at 5.5 per cent of global export supply (UNDESA, Statistics Division 2019).

⁵ It should be noted that the global rubber prices fluctuate dramatically, with the value of exports rising to about US\$6 billion in 2017 – 23.4 per cent higher than the previous year – only to decline to US\$4.6 billion in 2018 (UNDESA, Statistics Division 2019).

The palm oil supply chain is long and complex, from small farmers to midstream, upstream and downstream manufactures. At the farm level, workers are hired as temporary and day labour to plant, maintain and harvest palm plants year-round. Farmers sell crops to agents, who supply the products to fruit separation mills. The crop is then sold and transported to oil crushing mills for midstream handling, and then sent to refineries and bio-diesel plants for development of higher value products. There are 137 palm-crushing mills and the 18 oil palm refineries in Thailand, with a total capacity of 22–23 million tons of palm oil (Petchseechoung 2017). Currently, 19 Thai palm oil producing or processing companies (down from a total of 26) are members of the Roundtable on Sustainable Palm Oil.⁶

1.2.3. Sugarcane

In 2018, Thailand was the world's second-largest exporter of sugarcane at 19 per cent of global exports (worth over US\$1,000,000), with Myanmar exporting 72 per cent and Malaysia exporting 6 per cent. The major destinations for Thai sugarcane were Myanmar (43 per cent), Canada (15 per cent) and Japan (11 per cent). Thailand also produces refined sugars and molasses from cane. In 2016, Thailand was the fourth-largest producer of sugar in the world, with 52 sugar mills with a total processing capacity of 105.96 tons of sugarcane, equivalent to 11.34 million tons of sugar (Petchseechoung 2016). Thailand was also the fourth-largest exporter of refined sugarcane products in the world, valued at about US\$211 million. The top importers of sugarcane products from Thailand are the Republic of Korea (52 per cent), the Philippines (22 per cent) and New Zealand (19 per cent) (UNDESA, Statistical Division, n.d.).

The sugarcane supply chain flows from farms to sugar refineries. Sugarcane harvesting, performed manually in Thailand, requires more labour than other crops, with cultivation normally occurring in November–March. Workers are mainly required to perform cane cutting, burning and cleaning before transporting the cane to sugar mills. Due to the limited cultivation period, workers are required to engage in excessive working hours. As Thailand has a robust beverage, food and dairy export market, refined white sugar produced in the country supplies large-scale factories that produce carbonated beverages, milk-based products and pharmaceuticals.

1.2.4. Maize

In 2018, the top exporters of maize were the United States, Brazil and Argentina. Thailand was the world's 24th largest exporter – at 0.2 per cent of the world's maize exports, worth US\$120 million. In 2018, the main importer of Thai maize was the Philippines, importing 91 per cent of Thailand's export (UNDESA, Statistics Division 2019).

Maize production in Thailand has fallen from 4.7 million tons in 2014 to 4 million tons in 2017, mostly due to diminishing yields and planting area (Win 2017). Over 80 per cent of Thai maize is used in the production of animal feed for domestic use and in the production of maize seed for export. Less than 10 per cent of maize is used for human consumption in Thailand or is exported as canned sweet baby corn (Alavi 2011; USDA 2018). In 2018, fresh maize and canned corn exports were worth US\$186.5 million and US\$223 million, respectively (International Trading Centre 2019; Chuasuwan 2018a; Ministry of Commerce 2019a). Maize is also mixed into animal feed, which in 2016, was exported at a value of US\$1.25 billion (Hayward 2018, table 5).

Supply chain connections are defined vertically as crop by-products (in this case maize-based animal feed), which are used to support protein exports – mostly pork and chicken. In 2017, the Thai Feed Mill Association relied on imports for 50–60 per cent of maize-feed as a result of increased demand. This study found that employment in maize is intensive during harvest season, usually characterized by temporary day labour with payments determined by piece-work, with workers paid daily or bi weekly per bag harvested.

⁶ The Roundtable on Sustainable Palm Oil is a multi-stakeholder initiative dedicated to promoting the sustainable production of palm oil worldwide, including adherence to safe and decent work throughout the supply chain. In addition to biofuel, the oil is used in noodles, non-dairy creamers, beverages, soaps, cosmetics, lubricants and plastics.

► 1.3. Migration into Thailand

In recent decades, Thailand has been a growing destination for migrant workers from its neighbouring countries, as migrant workers in elementary occupations from the Greater Mekong Subregion sought work in its growing economy. Today, Thailand is the largest destination country for migrant workers in the South-East Asian region, with the vast majority of its migrant workers coming from neighbouring Cambodia, the Lao People's Democratic Republic and Myanmar.

Despite transitioning from being a net-sending country to a net-receiving country during the 1990s, Thailand's labour migration governance framework has remained largely ad hoc. In 2002 and 2003, the Royal Thai Government signed memoranda of understanding (MOUs) on employment cooperation with the governments of Cambodia, the Lao People's Democratic Republic and Myanmar, which established a channel for regular labour migration into Thailand. However, up until recently, only a small proportion of migrants have entered Thailand through the MOU process due to the complicated, lengthy and expensive procedures involved. In 2015 and 2016, Thailand revised the MOUs to broaden cooperation on labour issues, including skills development and social protection, and signed a new agreement with Viet Nam ⁷.

During 2016–18, Thailand developed a more comprehensive legal framework, including the adoption of the Royal Ordinance Concerning the Management of Employment of Migrants to manage labour migration in parallel with the implementation of the MOU processes. The Royal Ordinance sets out that the MOU process is the only official channel for migrant workers in elementary occupations to enter Thailand. However, section 64 of the Royal Ordinance offers one exception, known as the border employment regulation, which allows employers to hire cross-border migrants for a short time (as, for example, seasonal agricultural workers). The Royal Ordinance is developed further in section 1.5.2 below.

In reality, however, due to the porous borders of Thailand, the complicated and often time-consuming and expensive MOU processes, and the limited functionality of the border permit scheme, many migrant workers enter Thailand irregularly. In response, and for the past two decades, the Royal Thai Government has been relying on periodic regularizations of migrants in an irregular situation who are already in country, which is accomplished (in part) by declaring amnesties. Many migrants from Cambodia, the Lao People's Democratic Republic and Myanmar have made use of these ad-hoc amnesties and registration windows to obtain legal status; though many others have continued to work irregularly. The last such registration window was announced in 2017 and concluded in 2018. ⁸

As of December 2019, and after the completion of the latest registration window, there were some 2,788,000 documented migrant workers in Thailand from the three countries, of whom 65 per cent were from Myanmar, 25 per cent from Cambodia and 10 per cent from the Lao People's Democratic Republic. Although the majority of regular migrant workers in Thailand are men (56 per cent), women comprise a large part as well (44 per cent).

The majority of the migrant workers from the three countries had found employment in Thailand through irregular channels: only 36 per cent entered through the MOUs and another 2 per cent worked in Thailand under the border employment scheme. The rest – some 1,717,000 (or 62 per cent) of the migrants holding work permits – were registered during Thailand's nationality verification during 2016–18 (table 1.1.).

While a large number of undocumented migrant workers came forward to register during the 2016–18 regularization process, an unknown number of undocumented migrant workers continue to work in Thailand.

⁷ However, the MOU with Viet Nam specifies that Vietnamese migrant workers may only be contracted in the fishing and construction sectors, and as of September 2019, only 88 Vietnamese migrants have entered Thailand under this MOU. (Source: Interview with Ministry of Labour, Department of Employment, Office of Foreign Workers Administration, September 2019).

⁸ Note that yet another round amnesty registration was announced following a cabinet resolution on 29 December 2020.

► Table 1.1

Number of documented migrant workers in Thailand, 2019

Total	Entry/regularization arrangement		
	MOU	Border employment	Regularized (NV)
2 788 415 M = 56% F = 44%	1 005 848 36%	65 991 2%	1 716 576 62%
Myanmar = 65% Cambodia = 25% Lao PDR = 10%	Myanmar = 518 321 (52%) Cambodia = 303 971 (30%) Lao PDR = 183 460 (18%)	Myanmar = 26 095 (40%) Cambodia = 39 896 (60%)	Myanmar = 1 276 512 (74%) Cambodia = 342 562 (20%) Lao PDR = 97 502 (6%)

NV = nationality verification; Lao PDR = Lao People's Democratic Republic.

Source: DOE 2019.

1.3.1. Migration into agriculture

Migrant workers are employed mainly in elementary occupations in agriculture, construction, domestic work, fishing and manufacturing in Thailand. Analysis of December 2019 data from the Ministry of Labour indicates that a total of 317,996 migrant workers, or 11.4 per cent of all registered migrants, were officially employed in the Thai agricultural sector at the end of 2019. Of these, 63 per cent were from Myanmar, and 57 per cent were male.

► Table 1.2

Number of documented migrant workers in agriculture, December 2019

Total	Entry/regularization arrangement		
	MOU	Border employment	Regularized (NV)
317 996 M = 57% F = 43%	49 374 ¹ M = 28 622 F = 20 752	21 936 M = 12 064 F = 9 872	246 686 M = 139 220 F = 107 466
Myanmar = 63% Cambodia = 26% Lao PDR = 11%	Myanmar = 12 213 Cambodia = 17 064 Lao PDR = 20 097	Myanmar = 877 Cambodia = 21 059	Myanmar = 186 668 Cambodia = 44 590 Lao PDR = 15 428

Lao PDR = Lao People's Democratic Republic. ¹ Note that according to the Ministry of Labour, in 2019, 12,102 employers were registered as hiring foreign workers for agriculture and animal husbandry.

Source: DOE 2019.

► 1.4. International labour standards concerning work in the agriculture sector and labour migration

Addressing decent work deficits confronting agricultural workers, and in particular those who are migrant workers (see section 1.6), requires addressing complex and overlapping rights at work and protection challenges. With the aim to guaranteeing rights for all workers, the ILO works with Member States to ratify and implement international labour standards. Given the complexity of the nexus of securing the rights of workers in the agriculture sector and protecting the specific needs of migrant workers, a relatively large number of standards are relevant (see box 1.1).

Importantly, in 1998, the ILO Declaration on Fundamental Principles and Rights at Work identified eight fundamental Conventions in four key areas:

- the abolition of child labour;
- the elimination of discrimination with respect to employment and occupation;
- freedom of association and the effective recognition of the right to collective bargaining; and
- the elimination of forced or compulsory labour.

The Declaration commits Member States to respect and promote principles and rights in these four categories, whether or not they have ratified the relevant Conventions. Hence, these eight fundamental Conventions (see box 1.1) apply to all workers, including those in agriculture and migrant workers, irrespective of nationality and legal status.

All international labour standards apply to migrant workers, unless otherwise stated. In addition, there are specific instruments on migration, as well as Conventions and Recommendations that are very relevant to the situation of migrant workers. The ILO promotes the rights of migrant workers through the Migration for Employment Convention (Revised), 1948 (No. 97), and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), which are concerned with the protection of migrant workers and the governance of labour migration, as well as through the ILO Multilateral Framework on Labour Migration⁹.

The ILO Private Employment Agencies Convention, 1997 (No. 181), stipulates the important principle that workers shall not, directly or indirectly, be charged any fees related to their recruitment and placement (Art. 7). This is further articulated in the ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs¹⁰.

With a focus on agriculture, the Labour Inspection (Agriculture) Convention, 1969 (No. 129), sets international standards to secure the enforcement of national legal provisions relating to conditions of work and the protection of workers, such as hours, wages, weekly rest and holidays, safety, health and welfare, and the employment of women, children and young persons. The Safety and Health in Agriculture Convention, 2001 (No. 184), aims to prevent occupational accidents and diseases by controlling hazards in the agricultural working environment.

⁹ Available at: https://www.ilo.org/global/topics/labour-migration/publications/WCMS_178672/lang--en/index.htm.

¹⁰ Available at: https://www.ilo.org/global/topics/fair-recruitment/WCMS_536755/lang--en/index.htm.

Box 1.1**Key international labour standards on agriculture and labour migration**

Key international labour standards on agriculture:

- Right of Association (Agriculture) Convention, 1921 (No. 11)
- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99)
- Holidays with Pay (Agriculture) Convention, 1952 (No. 101)
- Plantations Convention, 1958 (No. 110)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Rural Workers' Organizations Convention, 1975 (No. 141)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Health Services Convention, 1985 (No. 161)
- Safety and Health in Agriculture Convention, 2001 (No. 184)
- **Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)**

International labour standards important to labour migration:

- **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**
- Migration for Employment Convention (Revised), 1949 (No. 97)
- Equality of Treatment (Social Security) Convention, 1962 (No. 118)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)
- Private Employment Agencies Convention, 1997 (No. 181)

The eight fundamental Conventions:

- Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- **Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)**
- **Abolition of Forced Labour Convention, 1957 (No. 105)**
- **Minimum Age Convention, 1973 (No. 138)**
- **Worst Forms of Child Labour Convention, 1999 (No. 182)**
- **Equal Remuneration Convention, 1951 (No. 100)**
- **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**

Note: Conventions ratified by Thailand are in bold.

Among the Conventions listed in box 1.1, Thailand has ratified six of the eight ILO fundamental Conventions, excluding those concerned with right to freedom of association (Convention No. 87) and the right to collective bargaining (Convention No. 98). Thailand has also ratified the:

- ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (in 1968);
- Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) (in 2016); and
- Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29) (in 2018).

► 1.5. National legal frameworks related to labour protection in agriculture and labour migration

1.5.1. The Thai labour protection framework related to the agricultural sector

There are two main pieces of legislation regarding labour protection in Thailand:

- the Labour Protection Act B.E. 2541 (1998), as last amended (2019); and
- the Occupational Safety, Health and Environment Act B.E. 2554 (2011).

Specific regulations covering the agricultural sector are specified in the Ministerial Regulation concerning Labour Protection in Agricultural Work B.E. 2557 (2014).

In addition, there are three pieces of law concerning social protection:

- the Social Security Act B.E. 2533 (1990);
- the Workmen's Compensation Act B.E. 2537 (1994); and importantly,
- the Royal Decree on the Establishment of Employees under of the Social Security Act B.E. 2533 (2002).

Finally, the Labour Relations Act B.E. 2518 (1975) governs freedom of association, collective bargaining and industrial relations.

The **Labour Protection Act B.E. 2541 (1998)** ensures that all workers, regardless of their nationality and legal status, are guaranteed equal conditions and protections with regards to minimum wage, working hours and corresponding rest periods, paid leave, discrimination, workplace harassment, etc., unless otherwise specified in its secondary laws. However, some sectors are fully or partially excluded from protection under the Labour Protection Act, including for example sea fishing, loading and unloading of marine cargoes, home-based work, domestic work and transport work. Employees employed in agriculture on a year-round basis are fully covered under the Act; while those working on an occasional or seasonal basis are only granted partial protection as outlined in the Ministerial Regulation concerning Labour Protection in Agricultural Work.

The **Ministerial Regulation Concerning Labour Protection in Agricultural Work B.E. 2557 (2014)** (attached as Appendix VI) was adopted to oversee labour protection for agricultural workers whose employment is not on a year round basis (that is, seasonal workers); while year-round workers (estimated at 7.9 per cent of all agriculture workers covered in this survey) are covered by the entirety of the Labour Protection Act. In light of the Ministerial Regulation, seasonal workers are covered by selected sections of the Labour Protection Act, including equal pay between women and men workers performing the same work (sects. 15 and 53), maternity leave and maternity protection (sects 41 and 43), prohibition of employing persons under 15 years of age (sect. 44), and prohibition of workers less than 18 years of age handling hazardous substances as specified by law (sect. 49). The Ministerial Regulation further stipulates that a worker shall be entitled to three days of paid holiday leave if employed for 180 consecutive work days; overtime pay if required to work on a day off; and paid sick leave. In terms of workplace welfare, an employer is to provide sufficient and hygienic water, and provide safe living conditions if the employee resides with the employer.

However, there are several important provisions not covered by the Ministerial Regulations, and hence not extended to seasonal workers, including:

- minimum wage;
- set normal working hours and the rest time;
- specific overtime wages (when workers are required to work on a day off normally entitling overtime payment);
- compensation from temporary business closures;
- 13 traditional national holidays;
- six days of annual leave and all other types of leave (such as for military service, training and development, etc.);
- social welfare; and
- severance pay.

The primary law regulating workplace safety in Thailand is the **Occupational Safety, Health and Environment Act B.E. 2554 (2011)**, which stipulates employers' responsibility to uphold and provide occupational safety and health (OSH) protections for all their workers regardless of nationality. The act requires employers to arrange and maintain safe and hygienic working conditions and environments in their workplaces. The legislation supports and promotes working conditions that prevent harm to workers' lives, as well as to their physical and mental health. Although none of the provisions specifically mentions the agriculture sector, the Act takes full effect for the prevention of OSH problems in all sectors. In addition, there are Ministerial Regulations adopted to ensure proper and safe use of chemical substances ¹¹, as well as a Guideline on Occupational Safety and Health in Agriculture Work ¹². The 2016 ratification of ILO Convention No. 187 gives rise to Thailand's international obligation to establish and implement coherent national policies on OSH through tripartite dialogue and to promote a national preventive safety and health culture.

Indeed, workplace safety does appear to have improved based on official government figures. Over the period from 2004 to 2014, injuries recorded by the Government of Thailand declined by 53.4 per cent (from 215,530 to 100,392), and the number of recorded deaths declined by 27.4 per cent (from 861 to 625) (DLPW 2015). However, it is hard to say whether these reductions extend to the agricultural sector in general or to migrant agriculture workers in particular, as the Ministry of Labour does not gather statistics for fisheries and agriculture, nor do the statistics distinguish between Thai workers and foreign national workers. Many workplaces ignore safety regulations, especially if they are smaller operations, which is common within agriculture. In addition, the lack of OSH knowledge and compensation in the agricultural sector is further complicated by the sector's large proportion of undocumented workers.

The Social Security Act B.E. 2533 (1990) and its amendments are a set of laws concerning workers' welfare and benefits, based on a contributory social insurance scheme that receives contributions from the employer, the worker, and the State. The law states that all employees, including migrant workers, who are 15 to 55 years of age shall be insured under the Social Security Fund, if they are employed with the same employer for a whole year. Agriculture workers and workers in a few other sectors, including forestry, fishery, and animal husbandry, are excluded unless they work on a full-year basis. Domestic workers and workers hired by street-vending employers are excluded regardless of contract duration.¹³

Given this, and according to the Social Security Act, agricultural workers who are not working for the same employer on a year-round basis receive inferior protection. Such workers are not considered as "insured persons" (as defined in section 33 of the Social Security Act), nor are they entitled to any of the seven social security benefits (sect. 54), that is: injury or sickness benefits, maternity benefits, invalidity benefits, death benefits, child benefits, old-age benefits, and unemployment benefits. Section 40 of

¹¹ The Ministerial Regulations and other secondary laws concerning the safe use of chemical substances are available at: http://122.155.89.37/index.php?option=com_content&view=article&id=2189&Itemid=254

¹² Available at: http://122.155.89.37/index.php?option=com_content&view=article&id=2189&Itemid=254

¹³ The Royal Decree categorizing employees in accordance with section 4 of the Social Security Act (B.E. 2560) (2017) specifically excludes employees in agricultural activities, fisheries, forestry and livestock whose employers do not hire employees for the whole year and whose work is involved in, or related to, other business.

the Social Security Act stipulates that anyone not covered by section 33 may voluntarily apply for social security and be entitled to some protections: injury and sickness, invalidity, death and pension benefits. However, this voluntary social security is inferior to the mandatory social security benefits under section 33, and importantly, is only available to Thai nationals.

In short, this means that documented migrant workers employed in agriculture on contracts longer than one year with the same employer are entitled to enrolment under the Social Security Fund. Migrants employed in agriculture under the border employment scheme are excluded.

For those who are entitled, the employer and migrant worker each pay a monthly contribution equivalent to 5 per cent of the worker's income, and the Government contributes an additional 2.75 per cent. Employers have to register workers with the Social Security Fund within 30 days of hiring, by submitting the name of the migrant worker, their wage or salary, and other details that may be required by the Social Security Office. The Social Security Office will issue a certificate to the company and issue a card to the migrant worker. To be eligible to access the different benefits, migrant workers need to pay a monthly contribution for between one to seven months, depending on the type of benefit.

The **Workmen's Compensation Act B.E. 2537 (1994)** and its amendments are a set of regulatory frameworks that provide workers with benefits should they experience occupational injuries or illness. The act provides four types of benefits in relation to work-related accidents, injuries, and illness, including: (i) cash compensation to workers or their survivors in case of sickness, injury, permanent impairment, permanent disability, death, or disappearance as a result of a work responsibility; (ii) medical expenses; (iii) occupational rehabilitation expenses; and (iv) funeral expenses.

The Act applies equally to all workers, including documented migrant workers. Until recently, migrant workers employed under the border employment scheme and workers in several occupations were excluded from protection under the Act. However, **the Notification of the Ministry of Labour concerning Sectors, Sizes, Location for Contribution to Be Paid and Rate of Contribution, including Assessment of Contribution on 21 February 2019** extended Workmen's Compensation Fund coverage to workers in agriculture, fishery, forestry and animal husbandry, as well as those under the border employment scheme. However, domestic workers and employees of street or mobile vendors are still excluded.¹⁴ In light of the 2019 Ministry of Labour Notification, all agriculture workers, regardless of nationality and type of employment (seasonal or year-round), are accorded equal treatment in access to the Workmen's Compensation Fund.

Under the Workmen's Compensation Act, employers are required to register and submit workers' registration with the Workmen's Compensation Fund within 30 days of hiring, and to pay a unilateral annual contribution to the Fund at the rate prescribed in the Act and whose level depends on their claims experience. The employer must provide the worker with access to medical treatment and cover their medical expenses immediately in the event of work-related injuries or illness (sect. 13). The employer must inform the local authority that the worker has been injured, is sick or is missing within 15 days of the event (sect. 48). An employer who fails to report a work-related injury or sickness to the local authority may face a fine of up to 20,000 baht or imprisonment for up to six months (sect. 62). A worker or their survivor may submit a claim for compensation to the local authority within 180 days of such an event. However, the Workmen's Compensation Act does not limit the time period during which the local authority may consider the compensation claim and deliver the decision (sect. 50). This means that claimants may wait a long time to receive compensation. Further, the Act provides for quite extensive survivors' benefits in the event of death and disappearance as a result of work-related causes. In these cases, the dependents of the worker are eligible to make a compensation claim (sect. 20) (Seyfert, Wannasiri, and Merttens, forthcoming).

As a party to the Equality of Treatment (Accident Convention), 1925 (No. 19), Thailand is obliged to guarantee equal treatment of all workers, regardless of nationality or legal status. However, it is

¹⁴ See the 21 February 2019 Notification by the Ministry of Labour on categories, sizes, and authorized local administration units of employers required to pay financial contributions to the fund, the contribution rate, the deposit rate, the evaluation criteria and the methods of contributing to the fund. The Notification is available (in Thai) at: www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/067/T_0019.PDF.

challenging for migrant workers in agriculture to access the Social Security Fund and the Workmen's Compensation Fund due to language barriers, time constraints and (in some instances) their geographical location. The lack of entitlements to social security protection for all workers, including documented migrant workers, indicates gaps in Thailand's labour rights protection that need to be rectified.

Migrant workers, including those in agriculture, not covered by the health insurance under the Social Security Fund still have access to **Compulsory Migrant Health Insurance** (which will be referred to in this report by its more common name: the **Health Insurance Card Scheme, or HICS**).¹⁵ This is a mandatory health examination and medical care programme for regular migrant workers and their dependents up to the age of 18. It is also compulsory for border pass workers and for those who are eligible for the Social Security Fund but have so far contributed to it for less than three months. The benefits of the HICS include: general medical treatment (including maternity care, dental care, and vaccinations); emergency medical treatment; communicable diseases prevention; and HIV/AIDS medication. All benefits are obtained at public hospitals exclusively. Regarding contributions to the HICS scheme, employers should cover the cost for MOU workers; while all other migrant workers have to cover the cost themselves.¹⁶ Undocumented migrant workers are in theory eligible for HICS, but in practice it is unfortunately rare that hospitals allow undocumented workers or their dependents to buy the health insurance.

The two laws governing workers' rights to form and join a union are the **State Enterprise Labour Relations Act, 2000**, and the **Labour Relations Act, 1975**. Approximately 80 per cent of Thailand's 39 million workers are not guaranteed full rights to organize (Human Rights Watch 2019) (see section 1.7.2.). Thailand has a trade union density of 1.6 per cent, among the lowest of any country in South-East Asia (Human Rights Watch 2019). Government data show that less than 0.5 per cent of private enterprises in Thailand have unions. This low trade union density is a result of a combination of factors, such as restrictive laws, resistance from employers and lack of enforcement of workers' rights, which ultimately also weakens trade unions' capacities to represent workers effectively. Unions exist in about 34 of Thailand's 76 provinces (ILO 2017a). As noted above, Thailand has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

The two laws governing workers' rights to form a union are only applicable to workers in state-owned enterprises and in the formal private sector. Further, only Thai nationals are permitted to form a union or serve on a union's executive council.¹⁷ This means that migrant workers may join existing unions, but cannot form their own or serve as union leaders.

¹⁵ Currently, all registered migrant workers are issued a full-time work permit and insured through the HICS managed by the Ministry of Public Health since 1997 (Mon and Xenos 2015). The current system uses premium-based fees paid by the insured individuals. The three subtypes of HICS are:

- i. the 1,600 baht (US\$50) card, plus 500 baht (US\$16) for a health check, for adult migrant workers;
- ii. the 2,200 baht (US\$69) card, plus 500 baht (US\$16) for a health check, for adult migrant workers; and
- iii. the 365 baht (US\$12) card for migrant children under seven years of age, without the requirement of a health check.

¹⁶ Section 49 of the Royal Ordinance Concerning the Management of Employment of Migrant Workers, which essentially governs the recruitment and employment of MOU workers, specifies that passports, health checks and work permits are costs for which migrant workers are responsible. It also grants the Director-General of the Department of Employment authority to prescribe more items to the list. However, there has yet to be any added items. Therefore, it is reasonable to state that health insurance is not a "personal cost" of migrant workers under the law, and thus not their responsibility to cover.

¹⁷ At the time of writing this report, a revised version of the Labour Relations Act is pending approval by the Office of the Council of State. One of the revised provisions states that "In case of a union with migrant workers as members, 1/5 of executive members can be of non-Thai nationals". The draft revised Act also asks for the development of a Ministerial Regulation to outline qualifications of executive members.

1.5.2. The Thai labour protection framework related to migrant workers

As already noted in section 1.3, labour migration into Thailand is governed through a set of bilateral MOUs on employment cooperation with the governments of Cambodia, the Lao People's Democratic Republic and Myanmar.

During 2016–18, Thailand developed a more comprehensive legal framework, including the adoption of the **Royal Ordinance Concerning the Management of Employment of Migrant Workers, B.E. 2560 (2017)**, to manage labour migration in parallel with the implementation of the MOU processes. The Royal Ordinance was revised in 2018 and took full force in March 2018, and it presents a comprehensive legal framework governing all aspects of labour migration into Thailand.

As noted above, the Royal Ordinance sets out that the MOU process is the only official channel for migrant workers in elementary employment to enter Thailand, but does offer one exception under section 64 of the law: the so-called border employment regulation. Section 64 is designed as a more flexible option to the MOU modality, by allowing employers to recruit migrant workers living in designated areas along Thailand's borders to work in Thailand. Migrant workers recruited through the MOU channel are allowed to work for two years at time, up to a maximum of four years. Border employment, on the other hand, requires different documents and processes and is short-term only. The border employment regulation provides for workers to enter Thailand on a border pass, and it allows the issuance of (renewable) work permits of up to 90-days' duration. It is important to note that the border pass on its own can only be used for visiting purposes only; to be allowed to work, the border pass must be combined with a work permit. Thailand has signed bilateral agreements on border employment with Myanmar and Cambodia (but not with the Lao People's Democratic Republic).

For the purposes of this report, migrant worker respondents who hold both a border pass and a working permit will be referred to as "border pass + work permit" workers, which means they have regular migrant workers status. This is distinct from those migrant worker respondents who only hold a border pass (hereafter "border pass only" workers), and are therefore migrant workers in an irregular situation.

Under the Royal Ordinance, there are two means for recruitment of migrant workers in Thailand: through recruitment agencies and through direct employment. The law regulates the licensing and monitoring of private recruitment agencies. It requires, for example, that all recruitment agencies shall be licensed, monitored and supervised by the Ministry of Labour's Department of Employment (sects 26–45) and that all licensed recruitment agencies shall secure a guarantee to be used as collateral in case of a breach of recruitment contract or in case a migrant worker needs to return to their country of origin due to the fault of the employer (sect. 28).

Importantly, the Royal Ordinance (sect. 42) incorporates the principle of zero recruitment fees for migrant workers¹⁸, which demonstrates an improved adherence with international labour standards aimed at eliminating worker-paid recruitment costs. However, at the time of writing this report, the Ministry of Labour has yet to develop secondary legislation specifying a complete list of "recruitment costs not to be paid by migrant workers" (ILO 2020b). Until this secondary legislation has been developed, the current legal framework stipulates that migrant workers must not be charged a "recruitment service fee", but they are responsible for covering some recruitment-related fees, namely fees for work permits, passports and medical checkups. While section 49 of the Royal Ordinance gives authority to the Director-General of the Department of Employment (DOE) to prescribe more items to this list of costs for which migrant workers are responsible, no other items have been added as of yet. In addition, the law allows employers to provide workers an advance to cover certain specified costs – passport, work permit and

¹⁸ Section 42 states: "In bringing foreign workers to work with the employers in the Kingdom, the licensee who is permitted to bring in foreign workers or the employee who performs duties relating to bringing foreign workers to work are prohibited to demand for or receive money or any other property from the employer or the foreign worker other than service fee or cost from the employer according to the list and rate prescribed by the Director-General."

Section 5 defines "fee" as "money or other benefits given in return for the bringing of foreigners for working", and defines "Licensee who is permitted to bring in foreign workers" as "an operation of business, that brings in foreign workers to work with the employers in the Kingdom, who is granted a license to bring in foreign workers".

medical checkup – which can then be recouped via salary deductions that cannot be greater than 10 per cent of the worker's monthly income (sect. 49).

The Royal Ordinance carries other important provisions regulating the employment practices related to migrant workers. It requires employers to provide migrant workers with written contracts, and stipulates that a copy of the contract must be given to the worker (sect. 46). If a migrant worker stops working for the employer with whom they were contracted due to the fault of the employer, the migrant worker is allowed to stay in Thailand for 30 days to find a new employer, with whom they can work for the duration allowed under their original contract (sect. 50).¹⁹ The Royal Ordinance also prohibits the confiscation of migrant workers' identification documents, although migrant workers can give consent to employers to safeguard their documents.

As noted above, Thailand's **Labour Relations Act (1975)** allows freedom of association and organizing. While migrant workers are allowed to join trade unions, only Thai nationals are permitted to form a union or serve on a union's executive council.²⁰ This means that migrant workers may join existing unions but cannot form their own or serve as union leaders. This makes it very difficult to ensure that migrant workers' concerns are represented.

► 1.6. Compliance with the legal framework in Thailand – Review of selected literature and key issues

Given the informal nature of and the lack of effective labour inspection in Thailand's agriculture sector, there is comparatively little official information about the working and employment conditions in the sector. Previous research, however, does provide some insights.

Occupational safety and health issues – perhaps most importantly exposure to toxic chemicals – have been a major concern in the agricultural sector. Thailand is considered the fourth-highest user of agricultural pesticides (including herbicides, insecticides and fungicides) in the world.²¹ These pesticides ensure maximum yields for farmers (some estimates state four times the return on pesticide investments), but there are serious negative consequences linked to human health and the environment (Pariona 2017). Pesticide use in agriculture has been linked to a number of ailments and medical conditions and to the suppression of immune system responses, thereby worsening the effects of contracted diseases. The main ailments and medical conditions linked to (or exacerbated by) pesticide use in agriculture include malaria, stomach pain, high blood pressure, colds/flu and musculoskeletal disorders (Hansen and Donohoe 2003; Fathallah 2010; Thetkathuek et al. 2017; Thetkathuek, Meepradit, and Sangiamsak 2017; Jain et al. 2018).

Family members are also at risk from pesticide exposure, as workers “bring home” the pesticides. In many cases, whole families live in substandard housing close to plantations where pesticides are used (Kachaiyaphum et al. 2010; Thetkathuek et al. 2017). Over-exposure to pesticides among Thai and migrant agricultural workers has become so commonplace that workers often accept unsafe conditions. Studies that have evaluated the training, hygiene and personal protective equipment (PPE) usage patterns among agricultural workers have found insufficient use of protective equipment (Kaewboonchoo et al. 2015).

¹⁹ It is noted that this provision is enforced only for migrant workers recruited through MOU channels.

²⁰ See footnote 17 which notes that at the time of writing this report, a draft revised version of the Labour Relations Act states that “In case of a union with migrant workers as members, 1/5 of executive members can be of non-Thai nationals”.

²¹ China, the United States and Argentina being the top three.

Studies on migrant health highlight the gaps in Thailand's social security and healthcare systems (IOM 2011; Chamchan and Apipornchaisakul 2012). Major determinants limiting access to healthcare include: language capacity; workplace location; costs, such as transportation; and the loss of income from time off work. Additional obstacles include fear due to legal status and lack of knowledge of servicing facilities. Less expensive self-care options through local pharmacies and traditional medicines provide alternatives for migrant workers (Isarabhakdi 2004). While there may be little or no discrimination in treatment for migrant workers, some hospitals and health facilities lack staff that speak migrant languages (IPSR 2012).

While this is a nationwide mandate, provinces like Tak are able to provide better health services due to migrant worker-oriented clinics and hospitals. According to a 2017 study, almost 90 per cent of Cambodian migrant workers on fruit plantations in eastern Thailand had received healthcare services at a nearby government health promotion hospital and were satisfied with their access, but around 70 per cent had to borrow money from their employer for their medical expenses (Thetkathuek, Jaidee, and Jaidee 2017).

While migrant workers with permits are mandated to be fully covered by the health insurance scheme, undocumented workers can be exempted from full healthcare charges. However, this remains at the discretion of government hospitals using the government subsidy funded by registered citizens in the health insurance scheme. Between April and July 2016, 1,147,889 migrant workers applied for health insurance coverage (under the HICS) and were screened; 8,913 persons were treated for infectious diseases, in most cases for tuberculosis; and 0.1 per cent were not treated and instead repatriated due to severe illness (Tangcharoensathien, Thwin, and Patcharanarumol 2017).

Abuses of migrant workers' rights have been well documented in all employment sectors. Abuses of migrant workers' rights often start before migrant workers arrive at their destination, generally at the hands of unscrupulous brokers, and continue while in country due to limited labour protections and structural inequalities (Hennebry 2014; LeBaron 2014; Hsiao, Kalleberg, and Hewison 2013). At the recruitment stage, migrant workers frequently pay fees to brokers, cross-border transporters and border officials on both sides of the border.

A 2020 ILO study surveying 1,200 migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar working in Thailand found that the mean total cost for a migrant worker to come and work in Thailand was US\$461, with relatively large differences among the countries of origin: workers from Cambodia paid US\$517, followed by Lao workers (US\$503) and Myanmar workers (US\$394). Women paid slightly less than men. The mean recruitment costs in monthly wages were about 1.9 months of earnings, but with big variations depending on country of origin: 1.4 months for Myanmar workers, 2.3 for Lao workers and 2.5 for Cambodian workers. Importantly, the same survey found that 54 per cent of all surveyed migrant workers reported that they had made a payment to a recruitment agency or broker in Thailand despite the Royal Ordinance Concerning the Management of Employment of Migrant Workers prohibiting recruitment agencies in Thailand from charging migrant workers fees for their services (ILO 2020b).

Once inside Thailand, exploitative and abusive employment practices and working conditions also pervade, including in the agriculture sector. A 2006 study found that migrant workers in agriculture often worked over eight hours a day, received no overtime pay, lacked the flexibility to change employment, had documents confiscated and lacked freedom of movement (Pearson et al. 2006). In addition, child migrant workers endured long working hours, low wages and health concerns linked to pesticides in sugarcane, cassava, maize and rice cultivation (ITUC 2010). An interview with 36 Myanmar and 22 Cambodian teenage migrant workers in Thailand found that they often decided to migrate with their parents (85 per cent) due to economic reasons (67 per cent) using brokers and informal agents (Capaldi 2015). Accounts of forced labour and human trafficking were limited, but many agricultural workers (regardless of having national or migrant status) tend to accept unfavourable working conditions given their limited livelihood choices.

A 2020 study on the living and working conditions of migrant workers from Cambodia and Myanmar employed in Thailand's agricultural sector highlighted the challenges migrant agricultural workers face, including the difficulty in getting legal immigration status, and long working hours, especially among migrant workers in rubber plantations, with a significant number of them working over 12 hours. The

survey also found that 64 per cent of migrant workers surveyed receive less than 9,000 baht per month, well below the minimum wage. Some migrants also experienced having their documents confiscated by employers. Additionally, housing conditions and occupational safety and health were found to be substandard (Mekong Migration Network 2020).

The difficulty for migrant workers, regardless of legal status, is indicative of the tension between the Ministry of Interior's priority to eliminate national security threats, the Ministry of Labour's concern to supply a sufficient number of workers for Thailand's industries, and the Ministry of Public Health concerns over the Thai population's health (Suphanchaimat et al. 2017; Suphanchaimat et al. 2019).

► 1.7. Stakeholder analysis

Governments, workers' and employers' organizations, and civil society organizations all have a role to play in promoting decent work in the agricultural sector and in ensuring the protection of migrant workers.

1.7.1. Key government agencies

In Thailand, the Ministry of Agriculture and Cooperatives is the umbrella institution that oversees the economic and research development needs of the agriculture sector.²² Three of the four crops studied in this report have government administrative institutions and crop management policies in place. These institutions include the Rubber Authority of Thailand, the Thai Oil Palm Board and the Cane and Sugar Board. There is no official government body overseeing the management of maize production.

The Ministry of Labour monitors employer compliance with laws and regulations. The DOE is mandated to oversee all aspects of work permit issuance, including permit renewal and permission to change employment. In addition, the DOE takes responsibility to supervise and monitor licensed recruitment agencies, and to prosecute unlicensed/illegal brokers, including investigation and adjudication of recruitment-related complaints.

Situated within the Ministry of Labour, the Social Security Office administers the Social Security Fund and the Workmen's Compensation Fund. The minimum standard for social security, according to the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), includes nine principal branches. These are medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivors' benefits. The Social Security Fund covers the first seven of these, while the Workmen's Compensation Fund covers the last two.

The Department of Labour Protection and Welfare (DLPW) monitors and supports the implementation of the Labour Protection Act and OSH Act. In 2019, Thailand had some 1,200 labour inspectors under the DLPW supervision. Of these, 800 have full authorization, but the remaining 400 inspectors have limited authority. These 400 inspectors can conduct workplace inspections, but they do not have full labour inspection authority, such as ordering actions to the DLPW. It is challenging for Thai labour inspectors to conduct inspections at remote and isolated workplaces, including remote farms and plantations. Further, limited access to interpreters during inspections of workplaces employing migrant workers negatively impacts inspectors' ability to capture rights violations experienced by migrants.

Important structures at the provincial level are the Migrant Workers Assistance Centres (MWACs), which were established in 2016 under the DOE and piloted in ten provinces. The MWACs aims to strengthen

²² There are numerous sub departments and institutions under the ministry, including the Department of Agricultural Extension, the Royal Irrigation Department, the Agricultural Land Reform Office, the Office of Agricultural Economics (producing annual crop statistics) and the Cooperative Promotion Department, as well as public research institutes like the Agricultural Research Development Agency and the Highland Research and Development Agency (Ministry of Agriculture and Cooperatives, n.d.-a).

the Government's complaint mechanism for migrant workers, and provide counselling, advice and case assistance. Even though the MWACs have limitations regarding the handling of complaints that fall beyond the authorizing power of the DOE, they have assisted at least 124,500 migrant workers since starting operation. Despite a lack of information as to how many agriculture workers have been assisted, it is evident that the MWACs are complementing the labour inspectorate to support migrant workers in seeking justice (ILO 2020c).

1.7.2. Employers' and workers' organizations

Trade unions, agricultural workers' organizations and migrant workers' organizations play an important role in improving the bargaining power of agricultural workers with employers. Employers' organizations are important partners in developing effective laws and policies to promote decent work in agriculture and in ensuring the protection of migrant workers.

The Employers' Confederation of Thailand is the principal employers' organization representing Thai employers nationwide. Among others, and in collaboration with the ILO, the Employer's Confederation has been active in raising employers' awareness on OSH in agriculture. The agricultural sector has crop-specific industry associations mandated to lobby the government for its relevant sector, including on labour-related matters. The Thai Rubber Association, the Oil Palm Association of Thailand, the Thai Maize and Produce Traders Association, and the Sugarcane Planters Association are key industry associations for the crops studied in this report. Thai chambers of commerce in each province also work with these institutions. However, this research has found that such industry associations are rarely involved in issues related to the protection of workers' rights.

The Thai Trade Union Congress, the Labour Congress of Thailand, the National Congress of Private Industrial Employees, the State Enterprises Workers' Relations Confederation and their affiliates, as well as other worker networks, are active in promoting labour rights protection for Thai and migrant workers in formal and informal sectors alike. However, and as noted in section 1.5.1, informal, temporary and seasonal agriculture workers are not permitted to form or lead unions, and there is no law that supports workers in the agricultural sector to organize. There are, however, some groups that are organized with trade union-like structures such as the Migrant Workers Rights Network (MWRN) and the Fisher Rights Network (FRN). They have mostly been organized with NGO support, and are not yet recognized by law.

At the global level, there are many good examples of trade unions in countries of origin and destination entering into agreements to collaborate on the protection of migrant workers. In the South-East Asia region, for example, the Confederation of Trade Unions Myanmar has signed an MOU with trade unions in Thailand, and similar discussions have been had with the Lao Federation of Trade Unions.

1.7.3. Civil society organizations

Civil society, community-based and grassroots organizations are a critical source of information and service provision for migrant workers and agricultural workers. They also play an important role in policy advocacy.

Civil society organizations (CSOs) are actively working on issues related to the protection of the rights of migrant workers, and often led by the Migrant Working Group (MWG), have played a very important role in advocating for migrant rights, including in improved law and policy. The MWG has, for example, been invited to advise on the development of migration policy and law, including the Royal Ordinance Concerning the Management of Employment of Migrant Workers and its various secondary laws. The MWG brings together multiple stakeholders to advocate the Royal Thai Government, and has coordinated joint submissions to government, as well as education and advocacy campaigns to highlight the plight of migrant workers in Thailand.²³ Other well established CSOs supporting migrant workers particularly those in agriculture in Thailand through advocacy and delivery of various services, such as legal support,

²³ For more about MWG, see: <https://www.mwgthailand.org/th/about>.

include the Human Rights and Development Foundation²⁴ and the MAP Foundation²⁵. Other NGOs that provide services to address the needs of migrant workers employed in agriculture include the Raks Thai Foundation and the Foundation of Education and Development. The Mekong Migration Network – a subregional network of migrant support NGOs, migrant grassroots groups and research institutes – promotes the welfare, well-being, dignity and human rights of migrants in the Greater Mekong Subregion. In 2017, the Mekong Migration Network launched a project aimed at giving voice to migrant agricultural workers in Thailand and generating a set of recommendations on how to fill existing policy gaps and contribute to better legal and social protection for migrant agricultural workers in Thailand. As part of this process, a research project was completed in 2020.²⁶

In Tak Province, the Mae Tao Clinic (2016) provides full in-patient, outpatient and referral programmes and services in the Myanmar language and some ethnic dialects, offering affordable prices and payment plans. In the southern provinces, World Vision and Raks Thai also provide health services to migrant workers. Other NGOs that provides services to migrant workers and/or advocates for their rights more broadly includes the Labour Protection Network²⁷, Migrant Workers Rights Network²⁸, and the Foundation for AIDS Rights²⁹.



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²⁴ For more about the Human Rights and Development Foundation, see: http://hrdfoundation.org/?page_id=2&lang=en.

²⁵ For more about the MAP Foundation, see <http://www.mapfoundationcm.org/eng/>.

²⁶ For more information, see: http://www.mekongmigration.org/?page_id=13333.

²⁷ For more about the Labour Protection Network, see: <https://www.lpnfoundation.org/>

²⁸ For more about the Migrant Workers Rights Network, see: mwrn.org

²⁹ For more about the Foundation for AIDS Rights, see: <https://www.aidsrightsthailand.com/>



2

2. Objectives of research and methodology

► 2.1. Objectives of the research

To better understand Thailand's labour migration and labour protection governance framework, and to develop measures and mechanism to ensure the framework is implemented and enforced, the Institute for Population and Social Research (IPSR) was contracted to conduct this survey on employment practices and working conditions in the Thai agricultural sector. The study focuses on four key crops strongly linked to global supply chains: maize, natural rubber, oil palm and sugarcane.

The specific objectives of this research were to understand on-the-ground employment practices, including the recruitment and hiring process, and the working conditions of migrant workers, including OSH conditions, housing and social protection. The data were also analysed with a view to understand the prevalence of forced labour and child labour, as defined by ILO Conventions.

By determining the current situation of migrant workers in terms of recruitment, employment and working conditions, the study identifies key gaps in policies and practices to be addressed. In addition, the findings will be used to advocate for tailor-made policy and law addressing sound migration and labour protection measures for the agricultural sector. Finally, this research seeks to strengthen tripartite capacities towards responsive labour migration governance more broadly.

► 2.2. Methodology

At the planning stage of the research, an advisory team was formed with a group of experts to provide guidance on the draft research approach, including crop selection, geographical coverage, etc. The advisory team also assisted by identifying available data/information sources and other knowledge products. The advisory team consisted of members from:

- all departments of the Ministry of Labour, including the:
 - Department of Labour Protection and Welfare (DLPW);
 - Department of Employment (DOE); and
 - Social Security Office;
- International Coordination Bureau of the Permanent Secretary's Office;
- Ministry of Agriculture and Cooperatives;
- Office of National Economic and Social Development Board;
- National Statistics Office (NSO); and
- Migrant Working Group (MWG).

The study employed a mixed-methodology approach, combining quantitative survey and qualitative interview data collection. The key research questions and tools were developed by the IPSR and the ILO team, and were consulted with the research advisory team.

Access to workers in the four study provinces – Surat Thani, Tak, Sa Kaeo and Loei – was arranged by local non-governmental organizations (NGOs). NGO staff received training on data collection and engaged in hours of data collection for the completion of the research, often in remote rural locations. In Surat Thani Province, in addition to NGO staff, the research team was reliant on a cohort of migrant workers who were trained to collect surveys. These migrant workers were then able to survey ethnic minority migrant workers in their native languages and also gain access to remote areas that would otherwise have been unreachable. All data gathering members participated in a one-to-two-day training on issues of survey interpretation and comprehension, translation into migrant ethnic languages (with Myanmar workers), informed consent and confidentiality, sampling, a project introduction script, and interview techniques.

The primary research data gathering consisted of:

- Surveys of 528 migrants to collect standardized information about individual migrant workers' current experiences to help understand trends in working and living conditions in the sector; and
- in-depth individual interviews with 44 key informants, including
 - migrant workers;
 - employers;
 - farmers' cooperatives;
 - government officials at both the national and local level in the Ministry of Labour, Ministry of Public Health, SEZ-Provincial Government, and the National Economic and Social Development Board;
 - corporate plantation supervisors;
 - immigration officers;
 - police officers; and
 - NGOs.

Key informants were interviewed using semi-structured interview guidelines. Table 2.1 provides a breakdown of the key informants.

► Table 2.1

Breakdown of key informants interviewed

Key informants	Male	Female	Total
Staff of provincial labour offices	2	1	3
Centre for Border Employment	2	1	3
Local staff of Ministry of Public Health	2	1	3
NGOs work related to migrant rights (advocates and trade unions)	1	3	4
Owners of plantations/farms/processing plants	3	1	4
Relevant business/industry associations	2	1	3
Individual recruitment agents or brokers	–	1	1
Local police and anti-trafficking unit/immigration police	3	–	3
Area village leaders	1	1	2
Migrant workers, adults and young workers	7	11	18
Total	23	21	44

– = nil.

There was no overlap between survey respondents and the individual migrant workers who provided in-depth interviews.

The IPSR research team subsequently conducted ten trial tests using ten surveys – nine with migrant workers in Surat Thani and one with a migrant worker organizer in Tak – to determine whether there were any questions that needed to be reformulated. The in-depth interview questions were designed for key informants to capture the current situation in areas that required more detailed information. The surveys were conducted by interviewers who either spoke the native language of respondents or through interpreters.³⁰

Interview guidelines were employed as a tool for semi-structured interviews. The survey tools and consent forms were prepared in the English, Thai, Myanmar, Khmer and Lao languages. Data obtained through all collection techniques was triangulated to ensure the validity of the results. Particularly, findings from the analysis of all sources were sorted under each research question before triangulation, and findings that were supported by more than two sources of data were kept for the report, while unsupported data was discarded.

The quantitative data were analysed using SPSS and STATA. Rigorous techniques were applied in the quantitative analysis, including a situation analysis of Thailand's agricultural sector through desk review, and exploration of relationships between variables through cross tabulation of data, with an emphasis on differences correlated to gender, legal status, crop, nationality and location. The qualitative analysis includes personal case studies of noteworthy migrant or stakeholder experiences to assist with humanizing the quantitative findings of the research.

The research was approved by the Mahidol University Institutional Review Board.³¹ All respondents were verbally informed about the purpose of the study in a language the research participant understood. The explanation included how the interview would proceed, the confidentiality of the data and their right to refuse in the interviewing process. Only respondents who self-reported as being 16-years-old or older, who willingly agreed to participate in the study, and who signed a consent form (in a language they understood) were invited to participate.

2.2.1. Geographical coverage

For data collection, four geographical research sites were selected. The field research sites were determined through desk review and consultation with the research advisory team and other stakeholders, based on crop yield data provided by the Office of Agricultural Economics and data from the Department of Employment that indicated the presence of registered migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar.

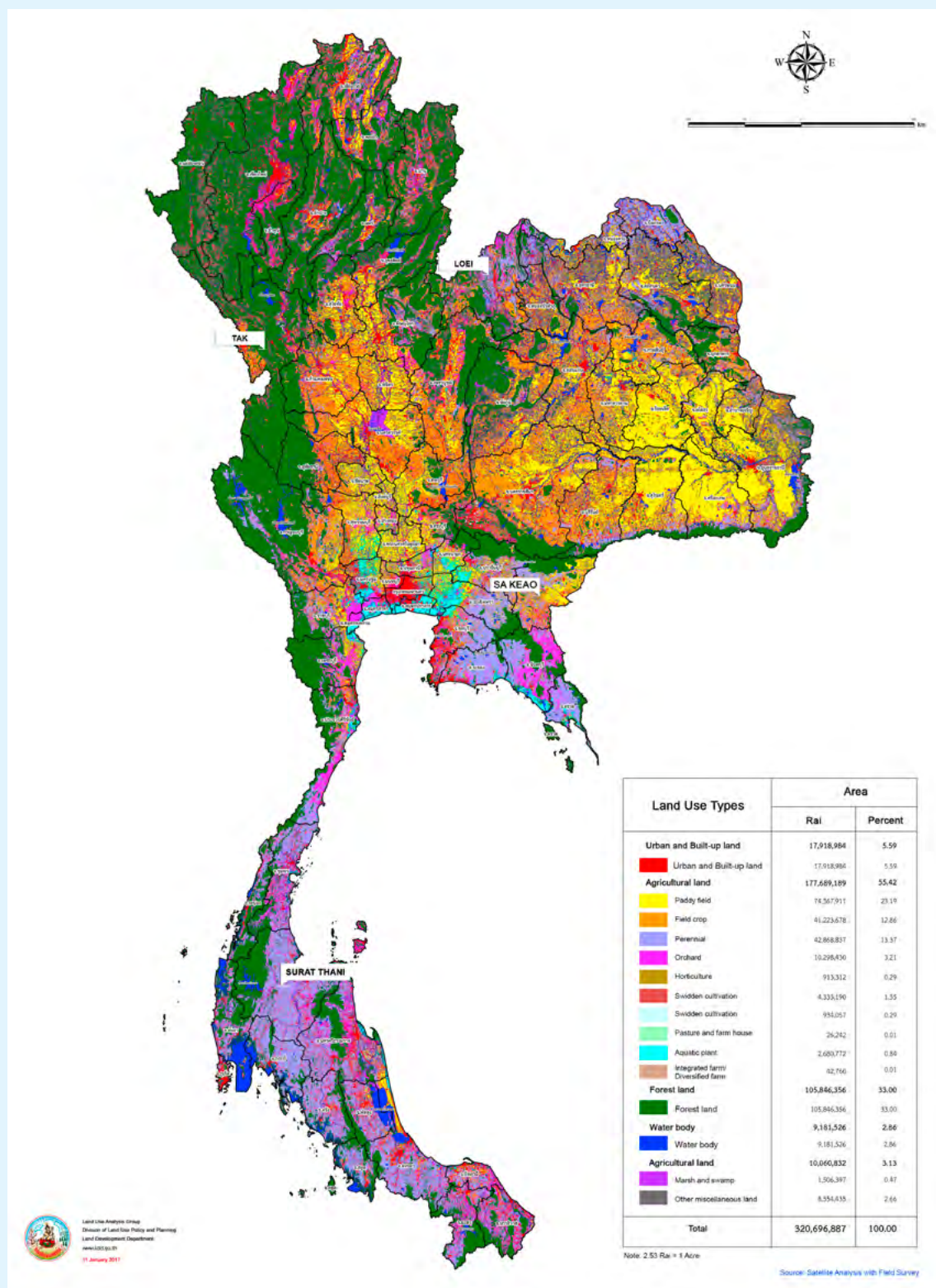
Based on this data, the survey ultimately covered several districts in each of the provinces of Surat Thani, Tak, Sa Kaeo and Loei. These are areas where migrant workers and either rubber, maize, oil palm or sugarcane plantations are highly concentrated (figure 2.1).

³⁰ The research team recruited data collectors who were fluent in both Thai or English and the native languages of migrant workers. In Surat Thani, the team recruited Myanmar staff of local CSOs and migrant workers who had experience working with CSOs who were fluent in both Thai and Myanmar. In Tak, the team hired CSO staff as well as Thai-educated university students who were Karen and ethnic Burmese and who could understand Thai and Myanmar in addition to Karen or other ethnic languages. In Loei, Ratchabhat Roet University faculty members and a local team assisted with data collection among Lao migrant workers, and the Lao language was mainly used for communication. In Sa Kaeo, the research team relied on Cambodian staff of local CSOs, a professional Cambodian researcher, a university faculty member from abroad, and a Cambodian university student studying in Thailand to help with survey data collection in the Khmer language.

³¹ The Mahidol University Institutional Review Board is the agency charged with protecting the rights and welfare of research participants in social science and other human research projects, and is responsible for monitoring compliance with university policies and ethical principles with the Certificate of Approval (COA) number 2017/12-293.

► Figure 2.1

Land use map of Thailand showing crops in target provinces, 2015–16



Source: Ministry of Agriculture and Cooperatives, n.d.-b, translated by the authors.

2.2.2. Sampling process and period of data collection

A snowball sampling method was utilized to identify potential respondents through collaboration with local CSOs, a local researcher, as well as employers who were identified by local village heads and government officials. To this end, the research team collaborated with staff of local CSOs to collect data among migrant workers on rubber plantations in target districts. In Tak, employers with small, medium and large farms and a local CSO helped identify migrant workers mostly working in maize. Small- and medium-sized employers were identified through local agricultural cooperatives. In Sa Kaeo, employers were identified by local agricultural cooperatives with assistance from a local CSO that works with Cambodian migrant children. While in Loei the research team collaborated with a local researcher who helped identify employers of migrant workers.

Data collection was conducted during two time periods: mid-Jan to end of March 2018 and then again in December 2018. These periods were selected to correspond to the harvesting seasons of the four selected crops, when the need for migrant workers would be greatest.

2.2.3. Sample frame

The total population of documented migrant agriculture workers in Thai agriculture at the time of designing the sample frame was 435,271 (Department of Employment 2018). The actual number of migrants working in agriculture is probably higher when including those working without proper documentation, but as it is not possible to properly estimate the total number, the official figure was used as a benchmark.

The sample size is composed of agriculture migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar. The survey sampling strategy carried out on each plantation was to sample approximately 30 per cent of all migrant employees at each specific farm.³²

The required sample size was determined using the formula

$$n = \frac{p(1-p)z^2}{e^2}$$

Where n = sample size

z = z-score

e = margin of error

p = migrant worker population proportion.

In this research, the research team defined a margin of error equal to 5 per cent. The confidence level with an alpha of 5 per cent is 1.96. The population proportion is 50 per cent. The sample In this research, the research team defined a margin of error equal to 5 per cent. The confidence level with an alpha of 5 per cent is 1.96. The population proportion is 50 per cent. The sample size is calculated as follows: size is calculated as follows:

$$n = \frac{(0.5)(1-0.5)(1.96)^2}{(0.05)^2}$$

$$n = 384.16$$

³² Please note: During the surveying process, survey collectors over-collected in the Phunphin District of Surat Thani Province, giving undue weight to the district within the sample. For consistency in sampling, the research team decided to take a 30 per cent random sample of all the surveyed workers in Phunphin (all of whom were rubber workers) in favour of the stricter sampling strategy of 30 per cent of each farm, as used elsewhere. As a result, the total number of migrant rubber workers in the sample for Surat Thani was reduced from 179 to 95 (as seen in table 2.2).

Therefore, the necessary sample size was estimated to be 385 persons. However, to avoid issues of invalid data, 528 migrant worker surveys were used to ensure enough sampling for the quantitative analysis. Initially, 602 surveys were collected, but because several workers were simultaneously working on several crops, 74 surveys were ultimately not used.

As can be seen in table 2.2, most respondents came from Myanmar (311), followed by the Lao People's Democratic Republic (134) and Cambodia (83). The highest proportion of respondents were working in Tak Province (38.5 per cent), followed by Loei (25 per cent), Surat Thani (20.5 per cent) and Sa Kaeo (16 per cent). The respondents in each province all came from a single country of origin, with all Cambodian respondents being in Sa Kaeo, all Lao respondents in Loei, and all Myanmar respondents in Surat Thani and Tak. By crop sector, the highest proportion of respondents worked in sugarcane (47.5 per cent), followed by maize (29 per cent), rubber (19 per cent) and oil palm (5 per cent). The majority of Cambodian migrant workers (93 per cent) and all Lao migrant workers worked in sugarcane. The gender balance among respondents was 55 per cent female (n=292) and 44 per cent male (n=233), with 0.6 per cent (n=3) answering "other". The proportion of women migrant workers was highest in maize (61 per cent), followed by oil palm (56 per cent), sugarcane (53 per cent) and rubber (52 per cent).

► Table 2.2

Breakdown of migrant workers surveyed, by crop, country of origin and sex

Location	Total (women)	Crop				Country of origin		
		Sugarcane (women)	Maize (women)	Rubber (women)	Oil palm (women)	Cambodia (women)	Lao PDR (women)	Myanmar (women)
Tak	203 (126)	40 (27)	150 (92)	2 (2)	11 (5)	– (–)	– (–)	203 (126)
Loei	134 (67)	134 (67)	– (–)	– (–)	– (–)	– (–)	134 (67)	– (–)
Surat Thani	108 (57)	– (–)	– (–)	95 (48)	13 (9)	– (–)	– (–)	108 (57)
Sa Kaeo	83 (42)	77 (38)	3 (2)	1 (1)	2 (1)	83 (42)	– (–)	– (–)
Total	528 (292)	251 (132)	153 (94)	98 (51)	26 (15)	83 (42)	134 (67)	311 (183)
% of total ¹	100% (55.3%)	47.5% (45.2%)	29.0% (32.2%)	18.6% (17.5%)	4.9% (5.1%)	15.7% (14.4%)	25.3% (22.9%)	58.9% (62.7%)

– = nil; Lao PDR = Lao People's Democratic Republic. ¹ Figures in this row represent the following: (i) not in brackets – percentage of all respondents (n=528); and (ii) in brackets – percentage of all women respondents (n=292).

The age of respondents ranged from 16 to 67, with the majority (66 per cent) between the ages 25 and 44. The second-largest age group was between 16 to 24 (19.3 per cent), followed by the ages 45–67 (14 per cent). A detailed breakdown by age can be found in Appendix I. Some data collectors' observations noted that some respondents who self reported as being 16–18 appeared to be 14–15 (that is, below minimum working age – see section 5.3), but there was no way to verify this.

The survey found that a large proportion of migrant workers had low levels of education, with nearly 49 per cent having no formal education or being unable to read or write. Roughly one-third (36.1 per cent) had obtained some years of primary education, and only about 14 per cent had received a higher than primary school education. Migrant workers from Myanmar were, on average, the most educated, while

Cambodian respondents had the lowest level of educational attainment on average, with nearly 87 per cent either unable to read or write or with no formal education. Women and men respondents had similar levels of education, and little difference was found between documented and undocumented workers.

► Table 2.3

Educational attainment of migrant workers surveyed, by country of origin and gender (%)

Educational level	Total (n=528)	Country of origin			Gender		
		Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=311)	Male (n=233)	Female (n=292)	Other (n=3)
Cannot read and write	18.0	45.8	–	18.4	15.9	19.9	–
No formal education	30.7	41.0	38.8	24.5	32.2	29.6	33.3
Some primary school	36.1	10.8	61.2	31.9	36.5	35.4	66.7
Secondary school	12.0	2.4	–	19.7	11.2	12.7	–
University	2.3	–	–	3.9	3.4	1.4	–
Other	1.0	–	–	1.6	0.9	1.0	–

– = nil.

2.2.4. Challenges and limitations of the study

Challenges faced during the design and field work stages includes the following:

- 1) **Access to migrant workers:** Most farms and plantations are privately owned and located in remote areas that are difficult to reach. Access to migrant workers is also limited by trust issues. Most of the field data collectors were not of the same ethnicity as the workers, and it can therefore be difficult to build trust among migrant workers and quite challenging to get them to open up and allow interviews. The research team had to rely on local CSOs and former CSO workers who had experience working with migrant workers. In Sa Kaeo, the research team had to carry out interviews at a border crossing point as well as at a weekend market where migrant workers often come to buy goods.
- 2) **Unaccommodating environment:** Interviews mostly took place at migrant workers' workplaces or residences, which were mostly on the employers' property – sometimes in the presence of the employer or the migrant workers' family members. This may have influenced the responses from the migrant workers. The research team tried to ensure a private environment during the interview by asking to speak with the migrant worker privately, but this was not always possible.
- 3) **Timing:** Time and timing challenged this field work in many aspects. As migrant workers have strict work schedules, the research team had to be flexible and talk to migrant workers whenever there was a window available, such as during lunch time, after work, at markets or immediately after crossing the border (for daily border crossers). Harvest season also presents a challenge in terms of fieldwork planning. As the harvest season for most crops took place at the same time and for a limited time, data collection in Sa Kaeo and Loie needed to take place during the same period of time.

- 4) **Capacity of field data collectors:** Given the time limitations, it was a challenge recruiting qualified field data collectors with field work experience and the necessary language skills. Collaboration with NGOs and researchers working in the target areas helped identify potential field data collectors. The data collectors were also trained intensively on quantitative data collection methods and research ethics.
- 5) **Overlapping crop sectors:** An additional limitation was with regard to palm fruit harvesters, who represent just 26 respondents in the study (4.9 per cent). When data collectors approached workers in oil palm plantations, it was found that most workers worked in several overlapping crop sectors. While data were gathered, these questionnaires were later eliminated due the difficulty in isolating crop-specific information with regard to pay and working hours. Hence, the report does not adequately represent the oil palm sector.

► 2.3. Definitions of key terms

Migrant worker: A person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account.³³

Recruiter: Refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks.³⁴

Broker and brokerage: Brokerage is “a process of connecting actors in systems of social, economic, or political relations in order to facilitate access to valued resources. The crucial characteristics of brokers are that a) they bridge a gap in social structure and b) they help goods, information, opportunities, or knowledge flow across that gap” (Stovel et al. 2011, 141). Migrant workers in Thailand have several actors that they call brokers:

- individuals or companies in both the country of origin and in Thailand that recruit and charge a fee to facilitate border crossing, job placement, and/or documentation. Brokers that facilitate border crossings are generally different persons/agents from those who find jobs.
- document brokers, who are individuals in Thailand that employers often hire (either sharing the cost or passing on the cost to migrant workers) to attain nationality verification and/or work documents while in Thailand.

Regular migrant workers: A migrant worker in Thailand who, at the time of data collection, had at least one of the following combinations of documents:

- passport, visa and work permit (MOU);
- temporary passport or certificate of identity and work permit;
- “pink card”,³⁵ or
- border pass and work permit.

Irregular or undocumented worker: Any worker who lacks relevant documents listed under “regular migrant worker” above. This includes workers who only have a border pass or only have a passport and

³³ *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 12.

³⁴ *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 12.

³⁵ A pink card is a Royal Thai Government-issued identity card for select migrants, and which has a distinctive pink colour. To be issued a pink card, migrants must hold a valid work permit and a so-called Tor Ror 38/1 (a registration document showing their temporary residential status). At that time of conducting the research, it was common to refer to this worker group as “pink card holders”.



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visa (but no work permit), as well as those who only have documentation that is not officially recognized, such as a village identity card or an informal daily border pass.

Forced labour: The ILO Forced Labour Convention, 1930 (No. 29), defines forced labour as “all work or service, which is exacted from any person under the threat of a penalty and for which, the person has not offered himself or herself voluntarily” (Art. 2(1)). This definition consists of three elements (ILO, n.d.-a):

- **Work or service** refers to all types of work occurring in any activity, industry or sector including in the informal economy.
- **Menace of any penalty** refers to a wide range of penalties used to compel someone to work.
- **Involuntariness:** The terms “offered voluntarily” refer to the free and informed consent of a worker to take a job and his or her freedom to leave at any time. This is not the case for example when an employer or recruiter makes false promises so that a worker takes a job he or she would not otherwise have accepted.

Child labour: According to the Minimum Age Convention, 1973 (No. 138), the minimum age for employment or work “shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years” (Art. 2(3)). In addition, the Convention prohibits engaging anyone under the age of 18 in “any type employment of work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons” (Art. 3(1), see definition of “hazardous child labour” below). Notwithstanding the definition above, the Convention does allow for children aged 13–15 to engage in certain forms of light work, but only under specified conditions aimed

at ensuring their welfare and access to education (Art. 7). Under the Thai Labour Protection Act, any person under the age of 15 years is prohibited from being employed (sect. 44).

Worst forms of child labour: Article 3 of the ILO Worst Forms of Child Labour Convention, 1999 (No. 182), defines the worst forms of child labour as comprising:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Hazardous child labour: Hazardous child labour refers to “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children” (ILO Convention No. 182, Art. 3). In the context of agriculture, some of the most common risks for children include handling pesticides and fertilizers, carrying heavy loads, the use of sharp tools, unguarded machinery, and wild animals and snakes. In Thailand, the **Notification of the National Committee to Eliminate the Worst Form of Child Labour Regarding: Types of Hazardous Work which Constitute the Worst Form of Child Labour in Thailand**, dated 9 November 2012³⁶, specifies what constitutes hazardous child labour in Thailand and hence should be prohibited for employees under 18 years of age. The Notification classifies hazardous works for children into two categories: (1) work that has characteristics that can be harmful to children; and (2) work that is done in a working environment considered harmful for children. Of particular relevance for the agricultural sector, this includes work that:

- involves lifting, carrying on his or her shoulders, carrying on his or her head, pulling, or pushing loads with an average weight of exceeding 20 kg for a girl, or 25 kg for a boy;
- work involving hazardous chemicals, as prescribed under the law;
- work using an electric or motor saw;
- cleaning of machinery or engines while in operation; and
- work involving regular working hours during the period from 10 p.m. to 6 a.m.

Benefits: ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), defines a “benefit” as “either direct benefit in the form of care or indirect benefits consisting of a reimbursement of the expenses borne by the person concerned” (Art. 1(2)). The ILO Social Protection Floors Recommendation, 2012 (No. 202), lists a number of benefits that may be used to provide basic social security guarantees, including: “child and family benefits, sickness and health-care benefits, maternity benefits, disability benefits, survivors’ benefits, unemployment benefits, employment guarantees, employment injury benefits, as well as other social benefits in cash or in kind” (Para. 9(2)).

³⁶ At the time of writing, the hazardous worklist is under review.



▶ 3

3. Findings related to the recruitment and migration process

► 3.1. Method of recruitment

The survey found that most migrant worker respondents had been engaged in agricultural activities in their country of origin prior to migrating to Thailand. Many used kinship networks to find jobs in Thailand, with 36.7 per cent having been recruited for work in Thailand by friends or family.³⁷ Almost one-fifth (17.8 per cent) were directly recruited by a Thai employer, and roughly one-fourth (26 per cent) decided to come to Thailand on their own accord (table 3.1).

This pattern of recruitment indicates that recruitment agencies and brokers play less of a role in migration for agricultural work than they do in other sectors of employment. Indeed, fewer than one in five respondents used either a broker (16.1 per cent) or a recruitment agency (3.2 per cent).

► Table 3.1

Distribution of migrant worker respondents by method of recruitment

Method of recruitment	%	No.
Friends or family brought me	36.7	194
Independently/on my own	25.8	136
Direct recruitment by an employer	17.8	94
Individual broker	16.1	85
Recruitment agency	3.2	17
Other ¹	0.4	2 ¹
Total	100.0	528

¹ The two “other” workers were both of Myanmar nationality. One had been born in Thailand, and the other did not specify what their “other” experience of migration was.

Migrant workers from Myanmar and Cambodia were more likely to be recruited by friends or family (44.7 and 43.4 per cent, respectively), while Lao workers were more likely to be hired directly by employers (64.2 per cent) (table 3.2.a).

³⁷ While this survey does not look into recruitment in detail, it is interesting to note that many migrant workers who found work in Thailand through the support of their friends and family had to pay fees to these friends/relatives. In other words, their friends/relatives could also be brokers in disguise. This survey identified a small number of workers who said they had made payments to their friends and/or family members to come to Thailand.

"[T]he family first came to our farm asking if we want to hire them, so we hire them ever since. ... I don't know much about brokers. In this area, migrant workers would come to our house or farm; sometimes their friends or relatives introduce them to us. They come during the harvest season."

– Employer of migrant workers from Myanmar, maize sector, Tak Province

As noted above, the study finds that migrant workers very rarely used the services of a recruitment agency, with just one Cambodian and zero Myanmar respondents saying that they used such services. As the law in Myanmar does not allow workers to migrate through the MOU channel without using the services of a licenced recruitment agency, it is surprising that none of the surveyed workers from Myanmar reported using a recruitment agency. However, this may be explained by the fact that many migrant workers interact directly with individual brokers, and may not be aware that their MOU work permit was attained through a recruitment agency that used their broker. Among Myanmar respondents, 21.9 per cent reported that they had used the services of a broker. As noted in section 3.2.2 below, 25.6 per cent of all workers from Myanmar had come through the MOU mechanism, which roughly corresponds to the percentage of workers that reported using a broker.

The use of recruitment agencies was more common among Lao respondents (11.9 per cent), but this was still more than five times lower than the proportion who were recruited through direct hires. Most women respondents used kinship networks (42.1 per cent) or migrated independently (25.7 per cent), with only 13 per cent using brokers. Fewer men migrant workers used kinship networks (30.5 per cent) and or migrated independently (25.8 per cent), while being slightly more likely to use brokers (19.3 per cent) (table 3.2.b).

The data by crop sector (table 3.2.c) shows that most migrant workers on rubber plantations – the sector with the highest rates of year-round employment and documented workers – found their job through brokers (54.1 per cent), followed by kinship networks (29.6 per cent). Most migrant workers working in oil palm also used brokers or friends/family (34.6 per cent and 50 per cent, respectively). Migrant workers in maize mainly found jobs on their own or through friends/family (40.5 per cent and 52.3 per cent, respectively). Lastly, sugarcane workers relied on direct hiring (35.5 per cent), followed by kinship networks (28.7 per cent). The only sector whose workers reported the use of recruitment agencies was sugarcane (6.8 per cent) – and 94.1 per cent of sugarcane migrant worker respondents were from the Lao People's Democratic Republic.

► Table 3.2

Migrant worker respondents by recruitment method, country of origin, gender, and crop sector (%)

a. By country of origin

Recruitment method	Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=311)	Total (n=528)
Recruitment agency	1.2	11.9	–	3.2
Broker	19.3	0.8	21.9	16.1
Friends or family	43.4	14.2	44.7	36.7
Independently/on own	33.7	9.0	30.9	25.8
Direct recruitment by employer	2.4	64.2	1.9	17.8
Other	–	–	0.6	0.4

– = nil.

b. By gender

Recruitment method	Male (n=233)	Female (n=292)	Other (n=3)	Total (n=528)
Recruitment agency	2.2	4.1	–	3.2
Broker	19.3	13.0	66.7	16.1
Friends or family	30.5	42.1	–	36.7
Independently/on own	25.8	25.7	33.3	25.8
Direct recruitment by employer	21.9	14.7	–	17.8
Other	0.4	0.3	–	0.4

– = nil.

c. By crop sector

Recruitment method	Rubber (n=98)	Palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
Recruitment agency	–	–	–	6.8	3.2
Broker	54.1	34.6	4.6	6.4	16.1
Friends or family	29.6	50.0	52.3	28.7	36.7
Independently/on own	14.3	15.4	40.5	22.3	25.8
Direct recruitment by employer	1.0	–	2.6	35.5	17.8
Other	1.0	–	–	0.4	0.4

– = nil.

► 3.2. Migrant worker status and documentation

For the purposes of this study, we have divided work status into four categories:

- i. documented;
- ii. documented, but not working legally³⁸
- iii. undocumented; and
- iv. those with a stateless card.

As discussed in Chapter 1, there are two channels to enter Thailand legally, the MOU channel and the border scheme. Further, during amnesty periods, undocumented migrant workers were able to come forward to regularize their status. While these three options might sound straightforward, the study shows that a number of migrants have not been able to comply with all of the steps involved in these three options, and hence were unable to receive regular status. These include, for example, migrant workers who have been issued work permits, but later failed to report or to extend their permits, and others who were found to be using expired work permits.

³⁸ Respondents that fall into this category have entered Thailand through regular channels and have the right to be in the country, but they do not have legal permission to engage in work/employment in Thailand.

In addition to these three means for becoming a regular migrant worker, there are also individuals who are considered to be stateless. This group is allowed to live and work in Thailand if they hold a card certifying their stateless status.

3.2.1. Migrant worker status

In this study, migrant worker survey respondents who had the following are categorized as **“documented workers”**:

- i. passport, visa and MOU work permit;
- ii. temporary passport and work permit;
- iii. pink card; or
- iv. border pass and work permit.

Stateless card holders are categorized separately, given that different regulations apply to them.

Workers who are **“documented but have no legal working status”** include those who held:

- border pass only; or
- passport and visa only.

“Undocumented workers” are those who had:

- no documents; or
- unauthorized local documents/other.

If any of the migrant worker respondents held false documents, it was beyond the capacity of the survey collection team to determine this.

Among all respondents, 66.7 per cent had legal permission to work as documented migrant workers; 16.6 per cent had no legal documentation; 13.5 per cent had legal entry status but did not have legal permission to work; and 3.2 per cent had a stateless card (table 3.3). Respondents from Myanmar had the highest proportion of undocumented workers in the sample group (25.4 per cent), but the majority of Myanmar respondents did have legal status and the required work permits (65.7 per cent). Cambodian respondents had the largest proportion of workers with legal entry status but without work permits (43.4 per cent). Lao workers in this study often had MOU work permits, and had the highest proportion of workers who were documented and legally working (81.2 per cent).

The highest percentages of documented workers were found in the rubber and oil palm sectors (86.7 and 100 per cent, respectively); the sector with the fewest documented respondents was maize at 56.3 per cent. A strong majority of migrant worker respondents in Surat Thani (89.8 per cent) and Loei (81.2 per cent) were fully documented, but this was only the case for roughly half of the respondents in Sa Kaeo (47 per cent) and Tak (52.7 per cent).

Focusing on gender, 18.2 per cent of women and 14.8 per cent of men were undocumented. As might be expected, documented migrant workers were especially prevalent in year-round work (83.8 per cent), and were also the majority among seasonal workers (70.9 per cent). By contrast, daily wage workers were more likely to be undocumented (51.9 per cent).

► Table 3.3

Legal working status of migrant worker respondents by crop sector, province, country of origin, gender and type of labour (%)
 (%)country of origin, gender, and crop sector (%)

a. By crop sector (%)

Legal working status	Rubber (n=98)	Palm (n=26)	Maize (n=151)	Sugarcane (n=250)	Total (n=525) ¹
Documented workers	86.7	100.0	56.3	61.6	66.7
Documented, but not working legally	11.2	–	1.3	23.2	13.5
Undocumented	2.0	–	34.4	13.2	16.6
Stateless card	–	–	8.0	2.0	3.2

– = nil. ¹ Three migrant workers declined to respond.

b. By province (%)

Legal working status	Surat Thani (n=108)	Tak (n=201)	Sa Kaeo (n=83)	Loei (n=133)	Total (n=525) ¹
Documented workers	89.8	52.7	47.0	81.2	66.7
Documented, but not working legally	8.3	1.0	43.4	18.1	13.5
Undocumented	1.9	38.3	9.6	–	16.6
Stateless card	–	8.0	–	0.8	3.2

– = nil. ¹ Three migrant workers declined to respond.

c. By country of origin (%)

Legal working status	Cambodia (n=83)	Lao PDR (n=133)	Myanmar (n=309)	Total (n=525) ¹
Documented workers	47.0	81.2	65.7	66.7
Documented, but not working legally	43.4	18.1	3.6	13.5
Undocumented	9.6	–	25.4	16.6
Stateless card	–	0.8	5.2	3.2

– = nil; Lao PDR = Lao People's Democratic Republic. ¹ Three migrant workers declined to respond.

d. By gender (%)

Legal working status	Male (n=230)	Female (n=292)	Other (n=3)	Total (n=525) ¹
Documented workers	68.7	65.4	33.3	66.7
Documented, but not working legally	14.8	12.7	66.7	13.5
Undocumented	13.9	18.2	–	16.6
Stateless card	2.6	3.8	–	3.2

– = nil. ¹ Three migrant workers declined to respond.

d. By type of labour (%)

Legal working status	Daily (n=185)	Seasonal (n=234)	Weekly and bi-weekly (n=1)	Year- round (n=105)	Total (n=525) ¹
Documented workers	51.9	70.9	–	83.8	66.7
Documented, but not working legally	3.8	22.2	–	11.4	13.5
Undocumented	38.9	4.3	100.0	3.8	16.6
Stateless card	5.4	2.6	–	1.0	3.2

– = nil. ¹ Three migrant workers declined to respond.

3.2.2. Documentation held by migrant workers

Migrant workers in a regular situation

In total, 66.7 per cent of respondents were found to be documented migrant workers who had legal permission to be in and work in Thailand. Roughly a third of respondents (34.3 per cent) had completed the nationality verification (NV) process (sometimes referred to as the CI process)³⁹, and therefore possessed identification documents, visas and work permits.⁴⁰ The second-largest share of documented migrant workers in the survey were those who had entered Thailand via the MOU process (14.9 per cent), and an additional 13.1 per cent were working under the border employment scheme (that is, they held a valid border pass and work permit). There were just 17 workers holding stateless cards (3.2 per cent of the sample), with most working in maize cultivation in Tak Province (Appendix II).

Among the “temporary passport/NV/CI + work permit” workers, 72.2 per cent came from Myanmar and 27.8 per cent from the Lao People’s Democratic Republic – no migrant worker respondents from Cambodia had completed the NV process. Workers who completed the NV/CI process were most commonly found in the rubber and oil palm sectors, with roughly two-thirds of respondents in each sector having had their status regularized in these ways. Respondents who migrated via the MOU process were primarily from the Lao People’s Democratic Republic (74.4 per cent of Lao respondents) and Myanmar (25.6 per cent of Myanmar respondents), and most commonly worked to cultivate rubber and sugarcane. Of the “border pass + work permit” holders, roughly half were from Myanmar and half from Cambodia. Thailand has not entered a bilateral agreement with the Lao People’s Democratic Republic allowing border employment. “Border pass + work permit” workers were most commonly found in maize cultivation, accounting for 21.6 per cent of respondents working on that crop (Appendix II).

Migrant workers in an irregular situation

In all, 30 per cent of the surveyed respondents were migrant workers in an irregular situation. These include those respondents who had legal permission to be in Thailand but not permission to work (13.5 per cent), and those respondents who were classified as “undocumented” (16.5 per cent). Undocumented migrant workers were classified as such in this study when they either had no documentation or only had documentation not officially recognized by the Royal Thai Government (see box 3.1 for examples

³⁹ The nationality verification (NV) process is typically a step required after an undocumented worker comes forward to get registered under an amnesty programme. When completing the process, workers from Myanmar receive a Certificate of Identity (CI), which serves as a temporary passport for their temporary stay and work in Thailand. Hence, it is common to use the terms NV process and CI process interchangeably.

⁴⁰ These respondents are referred to in Appendix III and in other select tables in this report as “temporary passport/CI/NV + work permit” workers.

of these “other unofficial documents”). The vast majority of undocumented respondents were from Myanmar, and most were categorized as daily workers. Undocumented workers were most commonly found working on maize farms, with roughly one-third of surveyed maize workers (35.8 per cent) being classified as such.

Among the 13.5 per cent of respondents who were “documented but not working legally”, roughly two-thirds had a border pass but no work permit, and the remainder had a passport and visa but no work permit. Cambodian migrant worker respondents in Sa Keao were by far the most likely to have utilized the border pass system, with 83.4 per cent of Cambodian respondents having entered Thailand via this means, but only about half of these respondents were also legally allowed to work in Thailand. As such, Cambodian workers in Sa Keao accounted for 76.5 per cent of respondents with a border pass but no work permit. Lao migrant workers in Loei were the most likely to have a passport and visa but no work permit, accounting for two-thirds of such respondents, with the remainder being Myanmar migrant workers. There were no Cambodian respondents who had entered Thailand via a passport and visa, regardless of their legal working status (see Appendix II).

For a more detailed breakdown of the documentation held by respondents, see Appendix II.

Box 3.1

Local border management of migrant workers

This study identified local forms of documentation held by irregular migrant workers, including “village cards” or “headman’s cards” in Tak, and “military patrol cards” in Sa Keao. The cards in Tak Province included the employer’s name, the worker’s name with a photo, and other details; while the one-day military patrol cards in Sa Keao Province were laminated name cards with photo identification. The Tak village cards are based on the regional traditions of cross-border life, and villages charge between 300 and 450 baht for a three-month card. It cannot be confirmed how much was collected at the Sa Keao crossings, but it was confirmed that there are collections on both sides of these minor border crossings.

However, the village cards are not legally binding and remain outside the scope of Thailand’s current legal framework for hiring migrant workers. There was a consensus among employers and community officials, however, that this form of documentation was more appropriate, as it offers flexibility in hiring migrant workers who had no means of registration and/or as it is cheaper and more flexible. The emergence of a community management system for migrant workers highlights the limitations of the existing legal mechanisms for the management of migrant workers in border areas. Among local government staff there was an agreement that something similar to the current unofficial local employment system should be developed, due to the importance of the locally-based system for local community economies.

3.2.3. Factors influencing migrant workers status

The data collected from the four provinces demonstrate that the migrant workers employed in non border provinces or in crop production requiring continuous employment (rubber or oil palm) tended to have legal status. Movement between other regions and crop sectors for this group of workers was low. This was because of the numerous provincial border checkpoints and a greater tendency to form communities and integrate into the local community. The border provinces had a larger number of migrant workers with temporary legal status (border pass + work permit holders). Workers would remain in the province for the duration of the season or cross the border on a daily basis. It was common to find continual renewals of border passes to enable longer durations of stay.

The number of undocumented migrant workers was also higher in border provinces, particularly in Tak (about one-fourth of migrant workers surveyed there). The undocumented migrant worker respondents in provinces along the Myanmar border were employed in the interior of the province, far from

permanent border crossings. Under section 64 of the 2017 Royal Ordinance, those with border passes + work permits have required visa checks each month. Interviews with employers and workers showed that the restrictions imposed by section 64, particularly the 30-day reporting requirement, discourage employers from following formal migration procedures.

► 3.3. Employment contract prior to migration

Migrant worker survey respondents were asked about the type of contract they formed with their employer prior to migrating to Thailand for employment. In all, 56.8 per cent of respondents reported that they had secured employment in Thailand prior to migration, but had crossed the border with no contract whatsoever⁴¹; while 33.5 per cent only had a verbal agreement (table 3.4). Only 31 workers (5.9 per cent) had a written contract, almost all of whom were seasonal workers. This is notable as MOU workers – who make up 14.8 per cent of the respondents – are all supposed to sign a written contract before leaving their home country.

Formalized contracts – whether written or verbal – were most commonly found in the sugarcane sector. Of the 31 workers with written contracts, 28 were in sugarcane. Similarly, of the 177 workers with verbal agreements, 160 were in sugarcane. A major reason for this is because sugarcane workers were mostly Lao, who in this study primarily migrated through the more stringent MOU process. Yet even while constituting the majority of contract holders, only 20.9 per cent of Lao workers had a written contract. Most Lao workers (73.1 per cent) relied on verbal agreements with their employers prior to arriving to Thailand. This is also true for workers from Cambodia, 74.7 per cent of whom had a verbal contract with their employer prior to arrival. Migrant workers from Myanmar, however, were much less likely to have a contract, with 93.6 per cent having either migrated for a job without a contract or having crossed the border without first arranging any employment.

► Table 3.4

Types of contracts entered into by migrant workers prior to migration, by crop sector, province, country of origin, gender and type of labour (%)

a. By crop sector (%)

Type of contract	Rubber (n=98)	Palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
Written contract	1.0	–	1.3	11.2	5.9
Verbal contract	1.0	7.7	9.2	63.8	33.5
No contract	96.9	88.5	81.7	22.7	56.8
Border crossing only; no job	1.0	3.9	7.8	2.4	3.8

– = nil

⁴¹ An additional 3.8 per cent of respondents (n=20) crossed the border without having first secured a job, so they too did not have a contract at the time of migration, but under very different circumstances.

b. By province (%)

Type of contract	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Written contract	0.9	1.0	–	20.9	5.9
Verbal contract	–	8.4	74.7	73.1	33.5
No contract	99.1	81.8	22.9	6.0	56.8
Border crossing only; no job	–	8.9	2.4	–	3.8

– = nil.

c. By country of origin (%)

Type of contract	Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=311)	Total (n=528)
Written contract	–	20.9	1.0	5.9
Verbal contract	74.7	73.1	5.5	33.5
No contract	22.9	6.0	87.8	56.8
Border crossing only; no job	2.4	–	5.8	3.8

– = nil; Lao PDR = Lao People's Democratic Republic.

d. By type of labour (%)

Type of contract	Daily (n=183)	Seasonal (n=235)	Weekly and bi-weekly (n=5)	Year- round (n=105)	Total (n=528)
Written contract	1.1	12.4	–	–	5.9
Verbal contract	10.9	63.3	100.0	5.7	33.5
No contract	80.5	22.4	–	93.3	56.8
Border crossing only; no job	7.6	2.1	–	1.0	3.8

– = nil.

► 3.4. Costs related to migration

The survey showed that respondents paid an average of 6,448 baht to migrate to work in the Thai agricultural sector.⁴² This includes costs and fees paid by migrant workers related to travel, temporary lodging, broker and agency fees, and documentation such as passports, visas, border passes, work permits, health exams, and various formal and informal registration fees. Men generally paid more than women, with the average cost among women respondents being 6,141 baht, versus 6,863 for men. Very large variations in costs were found depending on the country of origin, the respondent's location within Thailand, and whether a formal or informal migration channel was used. According to the survey,

⁴² Respondents paid costs in their home country's currency and/or Thai baht upon arrival. The cost in Thai baht is based on currency conversion rates at 1 October 2018. A total of 515 migrant workers answered the question about total migration costs; 13 workers did not know their costs.

9.1 per cent of respondents reported paying no costs to migrate, with most of these respondents having migrated to a border province. An additional 46.8 per cent paid less than 5,000 baht (US\$160), but 26.7 per cent paid at least 10,000 baht (US\$320) or more to migrate to Thailand (see table 3.5.a). Among the 141 workers (27 per cent) who paid the most – 10,000 to 75,000 baht – the mean was 16,674 baht (US\$521).

Among those who paid 10,000 baht or more, 43.9 per cent were “temporary passport/NV/CI + work permit” workers, and an additional 46.2 per cent were regular migrant workers who migrated under the MOU process (table 3.5.b). On the other end of the cost spectrum, respondents with no documentation were the most likely to pay less than 1,000 baht, or even no costs at all (see table 3.5.c). This finding confirms other studies that have noted that the use of regular migration channels and regularization processes in Thailand are more costly than migration through irregular channels (Huguet 2014; Bylander 2019; ILO 2020b). Workers bear the cost burden of being documented and not having to work in fear.

"I paid for registration 6,500 baht [US\$218]. I used this money from my savings. I think it is better to be a legal migrant worker because we need not be afraid and we need not escape. We can go anywhere we want."

– Female Myanmar migrant worker, rubber sector, Surat Thani, on going through the NV process

Lao respondents were particularly likely to pay more than 10,000 baht to migrate, with this being the case for 63.4 per cent of Lao migrant workers. By contrast, 68.7 per cent of Cambodian respondents paid less than 5,000 baht, and 9.6 per cent paid nothing. This falls in line with the correlation noted above between documented migrant worker status and higher migration costs, as Lao respondents were the most likely to be documented migrant workers and Cambodian respondents were the least likely (table 3.3).

Rubber workers (40.8 per cent) were the most likely to pay 10,000 baht or more in migration costs. While maize workers (77.2 per cent) were the most likely to pay less than 5,000 baht and 13.1 per cent had no cost. The migration costs paid by sugarcane workers appear to be dependent on the location in which the respondent was working. Overall, sugarcane workers were the second-most likely to pay more than 10,000 baht to migrate (35.5 per cent), particularly if they were Lao workers in Loei Province, but sugarcane workers in Sa Kaeo generally paid much less. Among the sugarcane workers in Sa Kaeo (all of whom were Cambodian), 70.2 per cent had migrated for less than 5,000 baht and 10.4 per cent had no migration costs. This feature of the sugarcane sector is also linked to the aforementioned correlation between documented migrant worker status and higher migration costs. Lao sugarcane workers were more likely to pay more than 10,000 baht to migrate, and Lao workers were also the most likely to be documented. Conversely, Cambodian sugarcane workers in Sa Kaeo tended to pay much less to migrate, and Cambodian workers were the least likely to be documented.

► Table 3.5.a

Cost of migration paid by migrant workers, by country of origin and crop (%)

Cost of migration (baht) ¹	Total (n=528)	Country of origin			Crop			
		Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=311)	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=251)
No cost	9.1	9.6	3.7	11.3	0.00	3.9	13.1	10.8
<1 000	18.0	24.1	1.5	23.5	3.1	–	38.6	13.2
1 000–4 999	28.8	44.6	2.2	36.0	28.6	61.5	38.6	19.5
5 000–9 999	15.0	10.8	29.1	10.0	23.5	7.7	2.6	19.9
10 000–75 000	26.7	7.3	63.4	16.1	40.8	26.9	3.3	35.5
Do not know	2.5	3.6	–	3.2	4.1	–	3.9	1.2

– = nil; Lao PDR = Lao People's Democratic Republic. ¹ Figures in this row represent the following: (i) not in brackets – percentage of all respondents (n=528); and (ii) in brackets – percentage of all women respondents (n=292).

► Table 3.5.b

Cost of migration paid by migrant worker respondents in a regular situation, by type of documentation held

Cost of migration (baht) ¹	Documented			Stateless	
	Passport, visa + work permit (MOU) (n=78)	Temporary passport/CI/NV + work permit (n=180)	Border pass + work permit (n=69)	Registration card (n=23)	Stateless card (n=17)
No cost	5.1	1.1	13.0	17.4	35.3
<1,000	2.6	13.9	17.4	17.4	29.4
1 000–4 999	16.7	26.1	53.6	17.4	23.5
5 000–9 999	29.5	12.8	7.3	26.1	11.8
10 000–75 000	46.2	43.9	4.4	13.0	–
Do not know	–	2.2	4.4	8.7	–

– = nil. ¹ Cost of migration includes all in-transit and transportation costs, broker and agency fees, travel and work documentation, health examination, and required healthcare coverage.

► Table 3.5.c

Cost of migration paid by migrant worker respondents in an irregular situation, by type of documentation held

Cost of migration (baht) ¹	Documented, but not working legally		Undocumented	
	Border pass only (n=47)	Passport + visa only (n=24)	No documents (n=57)	Unofficial documents ² (n=30)
No cost	2.1	4.2	31.6	10.0
<1 000	21.3	8.3	28.1	63.3
1 000–4 999	42.6	8.3	29.8	20.0
5 000–9 999	10.6	54.2	3.5	–
10 000–75 000	21.3	25.0	5.3	–
Do not know	2.1	–	1.8	6.7

– = nil. ¹ Cost of migration includes all in-transit and transportation costs, broker and agency fees, travel and work documentation, health examination, and required healthcare coverage. ² “Unofficial documents” refers to documentation not officially recognized by the Royal Thai Government; this includes locally issued documents such as village cards or unofficial border passes.

Box 3.2

Employer voices on migration costs and registration processes

Interviews with employers revealed that they often considered documentation to be too complicated and costly. Several employers also noted that they had invested in worker documentation only to have workers quickly leave.

I would bring them to Tha Lee to be processed at the provincial office so that their status becomes legitimate. To be able to hire them for two years legitimately, I would have to go through a number of steps. ... For each worker, I'd need to pay 10,000 baht [US\$320]. The employer has the sole responsibility to cover this, and half of the payments would be deducted from the workers working to pay off half of this fee. ... This is a very complex procedure with many steps, but I want everything to be done legitimately. – **Thai employer of Lao workers going through the MOU system, sugarcane, Loei**

Migration costs under the border pass + work permit system are cheaper and simpler than the MOU channel. Despite this, employers in Tak, Sa Kaeo and Surat Thani who hire workers under this modality indicate dissatisfaction with both the cumulative costs and the inconvenient requirement for multiple visits to the district offices for discrete processes.

The Government should lower the amount. It costs 300 baht [US\$10], and if you fill out the form and you do not understand it, maybe it is 100 baht more, plus photographs another 100 baht [US\$3], a health checkup at 3,000 baht [US\$100], the CI [certificate of identification] process and at least three, four trips just to complete the government documents with the government on the Burmese side. So, we find our own workers at the border. It is really hard for workers to come and stay; most just stay with us for two months and leave. We have a lot of runaway workers and we do not get the investment costs back. Then you even have the police charging stickers for workers on motorbikes. Sometimes we pay 500 baht [US\$16] per month for our workers. Our workers may be threatened with drug charges

if they do not pay up. I feel that government officers always take the workers' side; they should see things from local employers too. – **Thai employer, maize, Tak**

Even for educated employers, the process of official forms is complicated. From the employers' perspective, the need to lower migration processing costs is universal across sectors and provinces.

I went to the labour office and submitted the application for how many migrant workers our farm wants to hire. And then I took them [the migrant workers] to that office for registration and for a medical check-up. While I don't think this process is complicated, it took me some time to understand the official language. The main problem is that the fees for registration and health insurance are so expensive for us. – **Thai employer of Myanmar workers, maize, Tak**

From employers' perspectives, work in the agricultural sector depends on migrant workers, as many Thai workers do not want to perform farm labour. The fact that many employers are unable (or unwilling) to pay the minimum wage further disincentivizes Thai workers from entering agriculture. Employers thus hire migrant workers as a way of lowering the cost of farming.

I hired migrant workers as there are not enough Thai workers, and I would rather choose the migrant workers as they work much harder than the Thai workers, in my opinion. In the future, the Government should assist us in trying to find the workers for us. If the economy in Lao improves, then a large flow of migrant workers will head back to Lao. – **Thai employer of Lao workers, sugarcane, Loei**

Of course, I prefer to hire migrant workers because they accept what I can pay. ... We here just depend on each other. We give them a job, and they work for us. They need a job, and we pay them. Many of them have been crossing the border for over decade. They are just workers looking for a job. And we need them. I think the Government should understand the need of workers in the area. – **Thai employer of Myanmar workers, maize, Tak**

► 3.5. Borrowing to fund migration, debt and debt bondage

In order to cover the costs of migrating to Thailand, migrant workers are likely to take on debt. Table 3.6 shows that 40.7 per cent of surveyed workers have borrowed money to migrate to Thailand. The proportion of migrant workers who borrowed money was relatively high among Cambodian respondents (69.9 per cent) and Lao respondents (56 per cent), while the figure was lower – but still unacceptable – among workers from Myanmar at 26.4 per cent.

► Table 3.6

Proportion of migrant workers who have borrowed money to fund their migration, by country of origin

Borrowed money to fund migration?	Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=311)	Total (n=528)
Yes	69.9	56.0	26.4	40.7
No	30.1	44.0	73.6	59.3

Among the migrant worker respondents who owed money, the largest proportion were in debt to their current registered employer (53.1 per cent). This debt stemmed from migration costs or the costs of basic survival in Thailand (for example, food, clothes, healthcare and mobile phone use – see Appendix III). Other migrant workers who owed money had borrowed from family members (20.4 per cent), other villagers (11.2 per cent) or friends (10.7 per cent) to pay for migration costs.

"[W]hen I came to Thailand the first time, I came here with the help of a broker. I spent approximately 10,000 baht for the broker fee. The brokers were both Thai and Burmese: a Burmese broker in Myanmar and once I arrived in Thailand I was then taken by a Thai broker. My parents paid the broker fees for me by borrowing from relatives here in Thailand so that the sum could be given to the brokers "

– Myanmar worker, Surat Thani

While employers in Loei were found to often share the migration costs with Lao migrant workers; this is generally not the case for workers from Myanmar and Cambodia, where the burden of migration costs was typically transferred in full from employers to migrant workers, though some exceptions were found:

"I have the CI card, and I also have the social security card. My husband and my son also have this card. My boss helps us and pays 50 per cent of the costs. I think the total cost is 8,000 [baht]."

– Myanmar worker, maize, Tak

In this study, there were no clear cases of debt-bondage due to fees for work placement. However, as previously mentioned, migrant workers' come into debt through migration costs or by borrowing for daily living expenses (often from Thai employers), and some (particularly among Cambodians) had previously accumulated debt in their country of origin. As noted above, 53.1 per cent of respondents who borrowed money did so from their employer (104 out of 196 respondents⁴³), with debt to employers being particularly common in the sugarcane sector. Many Cambodian sugarcane workers, in particular,

⁴³ As per the percentages in table 3.6, the total number of respondents who borrowed money was actually 215 (40.7 per cent of 528), but only 196 respondents were willing to say whom they borrowed money from (see Appendix IV).

had borrowed money from employers to cover both their migration and living expenses. In all, the sugarcane sector accounted for 69.9 per cent of Cambodian respondents with debts owed to their employer. This is partly because the majority of Cambodian respondents were sugarcane workers, but also because sugarcane workers generally do not get paid until the end of the season.

Money borrowed from employers is often in the form of no-interest loans, and the amount is deducted from the workers' salaries at the end of the crop harvest sale period. These are common terms that workers verbally agree to at the beginning of employment. Borrowing helps workers accept work in Thailand and alleviates their inability to pay for daily needs during the work period. Most workers are able to pay off debt over time, but a few of those interviewed reported still having debts related to their own household agricultural expenses or to medical expenses back home in their country of origin.

"After the food deduction, and paying the interest rate [back home], we have 2,000 baht (US\$66) left each month. I send that to my children at home. If my children are sick, I won't save anything. ... Sometimes when my payment is delayed, I borrow money to send to my children. "

– Cambodian worker, sugarcane, Sa Kaeo

"AI borrowed for my husband's treatment and to invest in our farm. ... I want to repay back the previous loan, and I am also borrowing to buy land. I am in debt about 60,000 baht [US\$2,000]. It is a two-year loan; after one year, I must repay half. ... I thought that I could repay half of the debt, but I could not; so I sold a piece of land to repay half of the debt and I borrowed another half from my relatives. Then I borrowed from LOLC [micro-finance institution in Cambodia] to repay my relatives. So, it is circling like that. "

– Cambodian worker, sugarcane, Sa Kaeo



▶ 4

4. Findings related to wages, working hours and rest days

► 4.1. Wages

Migrant worker income varied significantly depending on gender, crop, nationality, type of labour, and province of employment. A number of these variables are, of course, closely linked, in that there is a close correlation between the province and the crop type and to some extent the country of origin of the workers.

4.1.1. Average income and the gender wage gap

Across the entire sample, the median monthly income was 6,000 baht (US\$282) (table 4.1). However, all crop sectors demonstrate a gender wage gap. Men migrant workers earned a median of 7,000 baht (US\$212) per month; while women workers earned 6,000 baht (US\$282) per month. Men were much more likely to be in the highest earning bracket defined for this study, with 42.2 per cent receiving more than 9,000 baht (US\$280) per month, while only 27.7 per cent of women workers fall within this group. At the same time, close to 15 per cent of women workers were in the lowest income group, earning less than 3,000 baht (US\$94) per month – less than half the average wage. By contrast, approximately 5 per cent of men earned so little.

To assess the extent of a gender pay gap, workers' income is viewed here in relation to the number of hours worked. The study did not survey on roles within the work, and thus cannot make a conclusion on equal pay for equal work. The study does, however, show that women and men work more or less the same number of hours per day (Table 4.10) and days per week (Table 4.11) in maize, sugarcane and oil palm. Though time worked is similar, women receive about 1,000 baht (US\$31) less pay than men per month (see Table 4.1).

► Table 4.1

Monthly income of migrant worker respondents, by gender (%)

Monthly income (baht)	Male (n=221)	Female (n=274)	Other (n=3)	Total (n=498) ¹
<3 000	5.4	14.6	–	10.4
3 000–5 999	32.7	32.5	33.3	32.6
6 000–8 999	19.0	25.2	33.3	22.4
>9 000	42.2	27.7	33.3	34.2
Mean monthly income	8 301	7 305	7 867	7 750
Median monthly income	7 000	6 000	8 000	6 000

– = nil. ¹ Thirty migrant worker respondents could not be classified in an income group due to irregularity of pay. Among these 30, most were paid at the end of the season based on the sale of the harvested crop and therefore were not sure how much they would be paid.

4.1.2. Wages by crop sector

The maize sector (which mostly employ workers on a daily basis) yields particularly low incomes, with migrant workers reporting an average monthly wage that was less than half the average of the entire sample group (3,598 versus 7,750 baht). Women migrant workers in maize were the lowest earning group in the study, with 90 per cent earning less than 4,500 baht per month (this was also true of 78.6 per cent of men working in maize). Most rubber workers fall into the middle-income bracket (4,500–9,000 baht), with a mean monthly wage of 8,499 baht (although men earned on average 13.9 per cent more per month than women). Sugarcane workers reported the highest average monthly income (10,817 baht), though women still earned on average 5.8 per cent less than men (table 4.2).

► **Table 4.2**

Mean, maximum and minimum monthly incomes reported by migrant workers, by crop sector and gender (n=498) ¹

a. Rubber

Monthly income	Male (n=46)	Female (n=51)	Other (n=1)	Total (n=98)
Mean income	9 087	7 978	8 000	8 499
Minimum income	3 500	2 500	8 000	2 500
Maximum income	20 000	15 000	8 000	20 000

b. Oil palm

Monthly income	Male (n=11)	Female (n=15)	Other (n=0)	Total (n=26)
Mean income	5 782	5 507	n/a	5 623
Minimum income	3 000	1 000	n/a	1 000
Maximum income	10 000	10 000	n/a	10 000

c. Maize

Monthly income	Male (n=59)	Female (n=92)	Other (n=0)	Total (n=151)
Mean income	3 679	3 545	n/a	3 598
Minimum income	1 500	1 800	n/a	1 500
Maximum income	9 000	12 000	n/a	12 000

d. Sugarcane

Monthly income	Male (n=105)	Female (n=116)	Other (n=2)	Total (n=223)
Mean income	10 817	10 224	7 800	10 481
Minimum income	1 200	640	5 600	640
Maximum income	40 000	59 600	10 000	59 600

n/a = not applicable. ¹ As with table 4.3 below, 28 respondents could not be counted in these tables due to the unpredictability of their wages.

Nationality also appeared to affect the monthly wages in the sugarcane sector (table 4.3). Lao migrant workers employed on sugarcane plantations in Loei had the highest monthly income – with 94.6 per cent earning more than 9,000 baht per month. This can be explained by the close kinship and long-term generational relations between Lao workers and their employers in Loei, and possibly also linked to the fact that Lao workers were more likely to be documented workers compared to workers from the other two countries. On the opposite end of the pay scale, 79.5 per cent of sugarcane workers from Myanmar earned less than 6,000 baht (US\$190) per month, and Cambodian sugarcane workers were roughly in the middle. Both Myanmar and Cambodian sugarcane workers were generally employed on a temporary basis with limited relations with their employer. Long term relations are thus implied to be an important factor that can push wages up. A similar comparison is not possible for the three other crops covered in the study because the sample groups for each crop were heavily dominated by workers from a single country of origin.

► Table 4.3

Monthly income in the sugarcane sector, proportion of workers by nationality (%) (n=223) ¹

Monthly income (baht)	Cambodia (n=73)	Lao PDR (n=111)	Myanmar (n=39)
<3 000	–	–	10.3
3 000–5 999	24.7	–	69.2
6 000–8 999	46.6	5.4	18.0
>9 000	28.8	94.6	2.6
Mean income	7 688.4	14 461.8	4 378.5
Median income	6 000	10 000	4 410

– = nil. ¹ Among the 251 sugarcane worker respondents, 28 sugarcane workers could not be included in this table because of the unpredictability of their wages.

4.1.3. Actual wages versus the statutory minimum wage

A considerable portion of migrant worker respondents made less than their respective provincial minimum wages, which at the time of the survey were 308 baht per day in Surat Thani and 305 baht per day in Loei, Sa Kaeo and Tak. At least some of the responsibility for wages falling below the statutory minimum is a result of the way in which agricultural workers are classified by the Royal Thai Government.

As discussed in section 1.5, according to the Ministerial Regulation No. 14, the many agricultural workers who are not employed full-time for the duration of one year are not granted the minimum wage protection extended to other workers under the Labour Protection Act. It should also be noted that many full-time agricultural workers do in fact work year-round within Thailand, but with multiple employers or across different crop sectors. This group of workers are also excluded from minimum wage protection.

Among the respondents whose daily wage could be calculated (n=498), 89.8 per cent reported that they worked full time or more (that is, at least eight hours per day). Of those, 58.7 per cent were paid less than the statutory minimum wage. While 50 per cent of men were paid less than minimum wage, 65.7 per cent of women were paid less, representing a 15.7 per cent gender wage gap differential among respondents who work eight hours or more per day. There were large differences between provinces. In Tak Province, 95.4 per cent of migrant worker respondents were paid less than the minimum wage, as were about 74.4 per cent of workers in Sa Kaeo (table 4.4). By comparison, almost 35 per cent of workers in Surat Thani

and nearly 3.7 per cent of workers in Loei earned below the minimum wage. However, wages in Surat Thani exhibited a wide range, with some workers earning as much as 1,942 baht above the minimum daily wage and some workers earning 272 baht below, with the latter representing some of the lowest wage earners in the study (table 4.4).

There was also a large variance by crop sector with regard to earning more or less than the statutory minimum wage (table 4.5). While 68.9 per cent of rubber workers earned above the minimum wage; 94.6 per cent of maize workers earned less. As noted above, however, wages in the sugarcane sector appear to be affected by national and ethnic factors – the 57.7 per cent of sugarcane workers who earned above the minimum wage were mostly Lao workers in Loei. While the median wage differential is the worst for maize (138.3 baht below the minimum wage); rubber (33.7 baht above) and sugarcane (45 baht above, skewed by Lao workers in Loei province) fare better.

To illustrate what this means in terms of monthly take-home pay, we can perform a simple calculation: Assuming a worker works 24 days per month, with a regular eight-hour workday, the monthly salary, based on the minimum wage in Loei, Sa Kaeo and Tak, would be 7,320 baht (305 baht x 24). However, following table 4.4, 95.4 per cent of all migrant workers working full time or more in Tak reported that they earned less than that, with a striking 39.4 per cent earning less than 3,600 baht per month (150 baht x 24) – that is, less than half the minimum wage for that province.

► **Table 4.4**

Difference in pay from provincial daily minimum wage, proportion of full-time workers ¹ by province (%), n=474

Difference from daily minimum wage (baht) ¹	Surat Thani (n=100)	Tak (n=193)	Sa Kaeo (n=74)	Loei (n=107)	Total (n=474) ²
>150 below	2.0	39.4	5.4	–	17.3
101–150 below	2.0	42.0	23	–	21.1
51–100 below	11.0	11.4	36.5	–	12.7
1–50 below	20.0	2.6	9.5	3.7	7.6
Minimum wage	–	–	–	–	–
1–49 above	22.0	1.0	11.8	7.5	8.4
50–99 above	12.0	1.6	8.1	41.1	13.7
100–149 above	9.0	0.5	5.4	20.6	7.6
150–199 above	6.0	0.5	–	4.7	2.5
200–799 above	15.0	1.0	1.4	15.9	7.4
>800 above	1.0	–	–	6.5	1.7
Median	25.3	-138.3	-55	52.1	-55
Mean difference from daily minimum wage (in baht)	+90.1	-118.1	-48.9	+227	+14.5
Standard deviation (in baht)	235.7	74.7	94.8	414.6	270.2
Lowest wage reported (in baht below daily minimum wage)	-272.3	-251.4	-171.7	-19.3	-272.3
Highest wage reported (in baht above daily minimum wage)	+1 942.0	+445.0	+445.0	+1 823.6	+1 942.0

– = nil. ¹ “Full-time workers” refers to respondents who reported working at least eight hours per day. ² Thirty respondents reported irregular pay that could not be used to calculate their daily wage, and 24 respondents reported working less than eight hours per day.

► **Table 4.5**

**Difference in pay from provincial daily minimum wage,
proportion of full-time workers 1 by crop sector (%), n=474**

Difference from daily minimum wage (baht) ²	Rubber (n=90)	Oil palm (n=26)	Maize (n=146)	Sugarcane (n=212)	Total (n=474) ³
>150 below	1.1	38.5	39.7	6.1	17.3
101–150 below	2.2	19.2	42.5	14.6	21.1
51–100 below	10.0	7.7	10.3	16.0	12.7
1–50 below	17.8	19.2	2.1	5.7	7.6
Minimum age	–	–	–	–	–
1–49 above	21.1	11.5	1.4	7.6	8.4
50–99 above	14.4	–	1.4	23.6	13.7
100–149 above	8.9	3.9	0.7	12.3	7.6
150–199 above	6.7	–	0.7	2.4	2.5
200–799 above	16.7	–	1.4	8.5	7.4
>800 above	1.1	–	–	3.3	1.7
Median	33.7	-124.6	-138.3	45	-55
Mean difference from daily minimum wage (in baht)	103.5	-90.4	-116.8	80.1	14.5
Standard deviation (in baht)	242.7	91.9	81.7	335.1	270.2
Lowest wage reported (in baht below daily minimum wage)	-203.8	-272.3	-251.4	-176.4	-272.3
Highest wage reported (in baht above daily minimum wage)	1942	108.7	445	1823.6	1942

– = nil. ¹ “Full-time workers” refers to respondents who reported working at least 8 hours per day. ² At the time of the survey the statutory minimum wage was 308 baht per day in Surat Thani, and 305 baht per day in Tak, Sa Kaeo and Loei. ³ Thirty respondents reported irregular pay that could not be used to calculate their daily wage, and 24 respondents reported working less than eight hours per day.

► 4.2. Wage payment systems

The survey found that wage payment systems varied by area and crop sector (table 4.6). The payment systems for rubber, palm, maize and sugarcane varied greatly due to long-established payment methods specific to the region and crop type, the relations between workers and employers, and the extent of labour demand by crop sector. For example, the majority of rubber workers, characterized by year-round labour demand, were paid a percentage of monthly sales. By comparison, migrant workers employed on maize plantations, which features seasonal and part-time demand, were predominately paid daily.

► Table 4.6

Means by which migrant workers' wages are determined, by crop sector (%)

Wage determination	Rubber (n=98)	Oil palm (n=26)	Maize (n=151)	Sugarcane (n=250)	Total (n=525) ¹
Daily flat rate	2.0	50.0	81.1	13.9	33.0
Monthly flat rate	7.1	3.9	5.9	0.8	3.6
Piece rate (flat rate by amount)	4.1	–	0.7	74.5	36.4
Mix of daily/monthly rate and piece rate	1.0	–	4.6	8.0	5.3
Percentage share of crop	84.7	38.5	3.9	2.4	19.9
Weekly/bi-weekly	1.0	7.7	2.6	–	1.3

– = nil. ¹ Three workers' data was missing, hence n=525.

Rubber

The majority (84.7 per cent) of workers employed on rubber plantations in Surat Thani were paid by a percentage share of crop sales, typically earning 40 per cent of monthly sales (table 4.6). On average, rubber workers earned 663 baht above the minimum wage when they were paid a share of crop sales. Interviews with government officials and CSOs also revealed that when the price of rubber decreases the agreement may be shifted so that workers earn 50 per cent of crop sales in order to motivate them to continue working for the employer. A recent study indicated that lower rubber prices (which fell by 50 per cent from 2012 to 2015) motivated Thai agricultural workers to change employment sectors, with migrant workers filling the void (Tongkaemkaew and Chambon 2018). In some cases, migrant workers employed in the rubber sector seemed to have more negotiating power with employers, and this power may increase if the migrant worker has a long working relationship with their employer.

Oil palm

It should be noted that the small sample size of oil palm workers makes it difficult to ensure reliable information about migrant workers in the Thai oil palm industry. This study found two primary wage systems for migrant workers on palm plantations: a daily flat rate (50 per cent of workers), and a percentage of crop sales (38.5 per cent). Both groups made less than minimum wage, but respondents who were paid a percentage of sales made an average of 2,577 baht (US\$78) more per month than those paid a daily flat rate.

Migrant workers who receive a daily flat rate are usually those who harvest and take the fruit to harvesting facilities; some who work at the palm fruit receiving and buying facilities; and those who are in charge of maintaining the oil palm plantation (cutting grass, watering and fertilizing). This was true for both seasonal and full-time employees. Freelance workers received their wages immediately after working at the end of the work day; while those working in receiving and buying facilities usually received payments every 7–15 days. In the southern provinces, freelance year-round workers received a percentage share of crop sales. These workers were solely involved in harvesting, with workers receiving 40 per cent of sales.

Maize

Approximately 81.1 per cent of migrant workers on maize plantations received a daily flat rate, typically earning at least 190 baht less than the daily minimum wage. Other maize workers who were paid monthly or through mixed daily/monthly payments earned an equivalent amount. For piecework payment, pay

was based on a number of factors: area, weight of maize harvested, number of sacks of maize harvested, and grade of crop. The daily flat rate was usually paid to workers at the end of the work day; while a piecework rate was paid when the amount of work agreed upon had been completed.

Sugarcane

Sugarcane workers are paid by piece rate or by daily rate. Wages on sugarcane plantations were paid mostly by piece rate (74.5 per cent), which earned workers an average 93 baht (US\$2.83) more than the daily minimum wage. This average is not representative, however, because as noted above, Lao workers in Loei were often paid better and earned more than Cambodian workers in Sa Kaeo Province. According to interviews with employers, individual workers who were then paid by the bushel made a range of 5–8 baht (US\$0.16–US\$0.25) per 10–15-cane bushel in Sa Kaeo and Loei, but in Tak workers made significantly less at 2 baht (US\$0.06) per 12-cane bushel. It is possible that the rate in Sa Kaeo might actually have been lower, given that the workers in Sa Kaeo and Loei worked similar hours, but the former's monthly earnings were lower.

The other main system of payment was a daily flat rate (nearly 14 per cent of sugarcane workers). Despite working in the same crop sector, it is clear that provincial pay scales vary considerably, as a result of location demand for workers and nationality norms. According to field observations and interviews, Lao sugarcane workers in Loei receive a one-time payment, usually at the end of the harvesting season. During the season, workers may withdraw some money to cover migration costs and daily expenses. In Sa Kaeo Province, the payment system for Cambodian workers is more varied, with workers being paid both monthly and at the end of the season. Seven migrant sugarcane workers reported having experienced non-payment of wages, which accounted for half the respondents who reported non-payment for work performed.

► 4.3. Wage deductions

As noted in section 1.5.2, Thai regulations allow employers to deduct costs for documentation and migration from migrant worker's monthly wages, but the amount may not exceed 10 per cent of the wage. As noted in section 3.4, migrant workers also often borrow money from their employers in order to cover living expenses, which are then deducted from the workers' salaries at the end of the crop harvest. These are terms and conditions that workers commonly accept. On occasion, migrant workers may also borrow from third-party recruiters that serve as document brokers.

Approximately 50.6 per cent of migrant worker respondents reported experiencing wage deductions in Thailand (table 4.7). According to the survey responses, 35.4 per cent of workers had experienced wage deductions for as long as they have been employed. The top two deductions were for electricity/water and for required documents (table 4.8). A significant outlier within the data was that 66.2 per cent of sugarcane workers in Sa Kaeo Province had money deducted for tools and equipment, a practice that otherwise did not appear to be particularly common. It should be noted that the data in tables 4.7 and 4.8 should be viewed with caution, in part because they are based on what workers remembered in the moment. In addition, in-depth interviews conducted with employers and workers in Surat Thani, Tak, and Sa Kaeo provinces revealed that deducting migration costs and/or documentation costs from workers' wages is typical practice, making it perhaps unlikely that nearly half the respondents did not experience any deductions. There was, however, a consensus among in-depth interviewees that most Lao workers hired to work in sugarcane in Loei Province generally do not face wage deductions because of the high level of demand for workers and long-established relationships, and this was borne out in the survey responses.

⁴⁴ Per table 2.2 above, all migrant workers surveyed in Sa Kaeo Province were from Cambodia.

► Table 4.7

Duration of wage deductions by employers, by crop sector (%)

Wage determination	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
No deduction	22.5	11.5	78.4	46.2	49.4
1 month	4.1	–	0.7	14.7	8.0
2 months or more	12.2	30.8	1.3	4.8	6.4
As long as employed	60.2	57.7	19.6	33.1	35.4
Do not know how long ¹	1.0	--	-	1.2	0.8

– = nil. ¹ Four workers responded that they did not know the duration of deductions from their wages.

► Table 4.8

What wage deductions were for, by sector (%) ¹

Wages deducted for	Rubber (n=76)	Oil palm (n=23)	Maize (n=33)	Sugarcane (n=135)	Total (n=267) ²
Uniforms/clothing	–	–	–	–	–
Tools/equipment	1.3	4.4	3.0	38.5	20.6
Food/drinking water	6.6	–	21.2	28.2	18.7
Housing	9.2	4.4	9.1	1.5	4.9
Electricity/water	73.7	95.7	72.7	6.7	41.6
Health services	2.6	21.7	12.1	19.3	13.9
Social security contribution	–	–	–	0.7	0.4
Recruitment fees	1.3	–	–	4.4	2.6
Document costs	6.6	43.5	12.1	31.1	22.9
Informal payments to police	11.8	–	3.0	1.5	4.5
Loans	2.6	13.0	3.0	20.0	12.4
Fertilizer fee	13.2	–	–	–	3.8
Transportation fee	4.0	–	–	–	1.1
Border pass	–	4.4	–	5.2	3.0
Other ³	1.3	4.4	–	5.2	3.4

– = nil. ¹ More than one answer possible. ² Table only accounts for those workers who experienced wage deductions. ³ Five workers borrowed money to pay for food and daily expenses; two workers asked for advanced pay.

Among all the migrant workers surveyed (n=528), nearly one-tenth (9.5 per cent) had their food and drinking water requirements deducted from their wages; while 21.2 per cent had electricity and water costs deducted. About 2.7 per cent of migrant workers were charged rent for housing.

Among the workers who experienced deductions (n=267), those in Sa Kaeo (all of whom were Cambodian) were the most likely to have their wages deducted for food and drinking water (53 per cent). Additionally, Surat Thani had the largest proportion of migrant workers who reported wage deductions for electricity and water (80.2 per cent, all of whom were from Myanmar) (table 4.9).

"This house belongs to the employer. There are two rooms, and we have a washroom too. We don't need to pay anything to him [for rent], but we pay 500 baht a month for electricity and water. I think it is good that we stay on the farm. We can grow vegetables and raise chickens. There are also fruit trees like bananas, mango and jackfruit here."

– Myanmar migrant worker, maize/sugarcane, Tak

As Surat Thani was the only non-border province in the study, and the majority of workers were employed on a yearly basis, it is not unexpected that their electricity and water costs were greater than those reported by migrant workers in other provinces. In Surat Thani, Tak and Sa Kaeo provinces, migrant workers with independent housing often used pond water as their water source. Many said that they were able to access electricity through relatively unsafe cable routings syphoned from nearby power sources.

► Table 4.9

Deductions for food/drinking water and electricity/water, by province (%)

Wages deducted for	Surat Thani (n=86)	Tak (n=52)	Sa Kaeo (n=66)	Loei (n=63)	Total (n=267)
Food/drinking water	3.5	15.4	53.0	6.4	18.7
Electricity/water	80.2	71.2	9.1	–	42.0

– = nil.

► 4.4. Working hours

According to the Labour Protection Act, the maximum number of working hours for employees in Thailand is eight hours per day and not more than 48 hours a week. The employer and the employee may agree to arrange the period of working hours, but the total number of working hours in any case must not exceed 48 hours per week. If employees work in excess of the maximum number of hours fixed either by regulation or by specific agreement, the employees are entitled to overtime compensation. The rates of overtime vary from 1.5 times to 3 times the normal average hourly wage rate for the actual overtime worked. As noted in section 1.5.1 above, agricultural workers whose employment is not on a year round basis are excluded from certain protections under the Labour Protection Act, as outlined in the Ministerial Regulation concerning Labour Protection in Agricultural Work. These exclusions include, for example, set normal working hours and rest time, and specific overtime wages.

Among respondents, 45.3 per cent reported that they worked eight hours per day, and 41.3 per cent reported working >8–12 hours per day ⁴⁵ (table 4.10). An additional 8.8 per cent reported working in excess of 12 hours per day. Rubber plantations featured the longest work hours in the study at a mean

⁴⁵ In this report the term ">8–12 hours" refers to a working time in excess of eight hours but no greater than 12 hours.

of 13.6 hours a day. Almost half of rubber workers (46.4 per cent) worked >8–12 hours per day, and roughly four-in-ten (41.2 per cent) worked more than 12 hours per day, as they often camp out at the worksite, working long pre-dawn and morning hours before returning to their residences⁴⁶. On oil palm plantations, most migrant workers (69.2 per cent) worked for >8–12 hours. On maize plantations, 47.7 per cent of migrant workers worked >8–12-hour days, with the remainder working eight hours or less. Migrant workers on sugarcane plantations work for the lowest number of hours, with 61.5 per cent working exactly eight hours.

While working hours for men and women were generally similar across the sample, women were paid less. There were only ten rubber workers who worked more than 18 hours per day, but of this group nine were women, perhaps a suggestion that some women work longer hours in order to receive wages closer to those received by men (tables 4.1, 4.2, and 4.10).

► 4.5. Days off and paid rest days

According to the Labour Protection Act, employers in Thailand must provide employees with a weekly holiday of at least one day per week at intervals of no greater than six days. However, the Ministerial Regulation concerning Labour Protection in Agricultural Work excludes agricultural workers whose employment is not on a year round basis from this protection (unless they have worked for at least 180 consecutive days)⁴⁷. One justification for this is that working days in the agricultural sector are not always fixed (like for example in the manufacturing sector), as they are affected by the lifecycle of the crop and by weather conditions.

The survey found that in general, across the sample, the number of working days for men and women were generally similar, but varied across the different crop sectors. More than half of all workers surveyed (53.3 per cent) worked seven days a week with no rest days, including 55.6 per cent of men and 51.4 per cent of women (table 4.11). Working without rest days is particularly common among workers in the sugarcane sector (84.7 per cent) and the palm sector (65.4 per cent).

With regard to the sugarcane sector, location appears to be correlated to whether you have rest days or not. Typically staying only for five months in Loei, Lao migrant workers in the province's sugarcane sector work seven days a week in order to finish harvesting before the sugarcane factories close for the season. Cambodian migrant workers in Sa Kaeo's sugarcane sector stay longer with their employer and have more days off, which they spend working outside of sugarcane to earn extra income (see also box 4.1 on employers sharing migrant workers). The survey for this study was conducted at the end of the harvest for sugarcane. While 51.8 per cent of Cambodian respondents had been with their employer for more than six months, only 6.7 per cent of Lao workers had stayed with their employer that long.

Whether or not migrant workers were allowed unpaid rest days differed depending on the type of crop, type of employment, and whether or not it is the harvest season. Workers on rubber plantations were the only group where nearly everyone had unpaid rest days each week, with the majority (57.3 per cent) working six days per week (table 4.11). This was due to the nature of the rubber harvesting process, as rubber trees are usually tapped for two days and then given a day to recover, which becomes a rest day for workers. Rest days for migrant workers employed on oil palm plantations operated differently. Palm fruit are usually harvested every two weeks and workers will arrange their own rest days with their employer. Migrant workers employed at palm fruit receiving and buying facilities as well as day workers usually do not have rest days, with the latter moving between different palm plantations depending on demand. Workers on maize plantations and sugarcane plantations do not receive rest days during the harvest season, as they must harvest everything before the crops become too ripe, or in the case of sugarcane workers in Loei, before the sugar-processing factories close their purchasing windows.

⁴⁶ Interview with rubber workers in Surat Thani.

⁴⁷ According to clause 5 of the Ministerial Regulation, an employee who has worked for a period of 180 consecutive days is entitled to holidays as equivalent to three or more workdays. In this regard, an employer shall determine the date of such holidays in advance or in according to mutual agreement between an employer and an employee.

► Table 4.10

Hours of work per day, by crop sector and gender (%)

No. of work hours/day	Rubber			Oil palm			Maize			Sugarcane			All crops		
	Male (n=46)	Female (n=51)	Total (n=97)	Male (n=11)	Female (n=15)	Total (n=26)	Male (n=59)	Female (n=94)	Total (n=153)	Male (n=117)	Female (n=132)	Total (n=249)	Male (n=233)	Female (n=292)	Total (n=525) ¹
<8	6.5	7.8	7.2	-	-	-	8.5	-	3.3	5.1	4.6	4.8	6.0	3.4	4.6
8	-	9.8	5.2	18.2	20.0	19.2	39.0	55.3	49.0	63.3	59.9	61.5	42.5	47.6	45.3
>8-12	50.0	43.1	46.4	63.6	73.3	69.2	52.5	44.7	47.7	29.1	35.6	32.5	40.8	41.8	41.3
>12-24	43.5	39.2	41.2	18.2	6.7	11.5	-	-	-	2.6	-	1.2	10.7	7.2	8.8

- = nil. ¹ The three respondents who answered "other" for gender are not included in this table. n=525

► Table 4.11

Work days per week, by crop sector and gender (%)

No. of work days per week	Rubber			Oil palm			Maize			Sugarcane			All crops		
	Male (n=46)	Female (n=51)	Total (n=97)	Male (n=11)	Female (n=15)	Total (n=26)	Male (n=59)	Female (n=93)	Total (n=152)	Male (n=116)	Female (n=132)	Total (n=248)	Male (n=232)	Female (n=290)	Total (n=522) ¹
1	2.2	-	1.0	-	-	-	-	2.2	1.3	-	0.8	0.4	0.4	1.0	0.8
2	-	-	-	-	-	-	8.5	7.5	7.9	1.7	0.8	1.2	3.0	2.8	2.9
3	-	-	-	-	-	-	10.2	18.3	15.1	1.7	-	0.8	3.5	5.9	4.8
4	4.4	2.0	3.1	-	-	-	8.5	9.7	9.2	1.7	-	0.8	3.9	3.5	3.6
5	41.3	30.0	35.4	9.1	6.7	7.7	23.7	22.6	23.0	0.9	6.1	3.6	15.1	15.5	15.3
6	52.2	62.0	57.3	27.3	26.7	26.9	11.9	11.8	11.8	7.8	9.1	8.5	18.5	20.0	19.4
7	-	6.0	3.1	63.6	66.7	65.4	37.3	28.0	31.6	86.2	83.3	84.7	55.6	51.4	53.3

- = nil. ¹ Six respondents have been excluded from this table. These include the three respondents who answered "other" for gender; one respondent who answered that their rest days depend on the job assigned; and two workers who did not answer the question.

Box 4.1 **Employers sharing workers**

The sharing of migrant workers among multiple employers is not permitted under the Royal Ordinance Concerning the Management of Employment of Migrant Workers, but according to in depth interviews with employers and migrant workers in Tak and Sa Kaeo, employers lend workers to each other in the same crop sector, as well as across different crop sectors, in order to avoid complicated migration procedures. For example, a sugarcane plantation owner may hire migrant workers to work on their plantation while allowing surplus workers to work for other sugarcane plantation owners. The owners who “borrow” workers from the first owner do not then have to complete all of the paperwork typically involved.

Under these arrangements, one employer would apply for a quota of migrant workers based on the number of workers in demand. Once the migrant workers arrived in Thailand, the employer would distribute the workers to other employers. Important to note, there was no evidence of the lending employers collecting migrant workers’ wages from the other employers, nor was there evidence of worker subcontracting. The employers who “borrow” workers are predominately small-scale plantation owners who did not have the capacity to recruit their own migrant workers.

This form of employment across multiple employers was common on Sa Kaeo and Tak maize and sugarcane plantations. Migrant workers from Myanmar employed on maize plantations in Tak and Cambodian migrant workers on sugarcane plantations in Sa Kaeo would also seek additional employment with different employers when the crops were out of season. Hence workers were in residence in the provinces for most of the year working in multiple crop sectors, and occasionally in non-agricultural work as well.

Although some crop sectors may require workers to work every day, 72.4 per cent of workers can take a rest day when necessary. Some workers said they were free to request a rest day for specific situations. However, if workers are paid by a daily flat rate or piecework rate, they generally try to take as few rest days as possible, as it negatively affects their income. Whether it is holiday leave, sick leave, maternity leave or for any other reason, rest days are almost universally unpaid, with fewer than a dozen respondents (out of 528) reporting being able to receive paid days off for any reason.

According to table 4.11, rubber plantation workers typically work five or six days out of the week (92.7 per cent); in addition, workers generally receive a one-month break in the summer, when the rubber trees lose their leaves.



5

5. Findings related to occupational safety and health, housing conditions, and indications of child labour and forced labour

► 5.1. Occupational safety and health training and personal protective equipment

Working under difficult conditions with dangerous tools, injuries often occur in the agricultural sector. All four crop sectors studied require the use of sharp tools – knives on rubber, sugar and maize plantations, and planting spades on palm plantations. While the Occupational Safety, Health and Environment Act B.E. 2554 (2011) stipulates that employers should provide training to their workers (sect. 16), the majority of workers (85 per cent) had not received any training on how to safely operate their equipment (table 5.1). Sugarcane workers were the most likely to receive safety and health training, yet this still only amounted to 10 per cent of respondents who received training only and an additional 0.8 per cent who received both training and personal protective equipment (PPE). Most migrant workers reported learning how to operate agricultural tools from family members or colleagues or through learning by doing the job.

In addition to a lack of OSH training, workers generally were not provided with PPE. Only 7.6 per cent of respondents were given PPE to perform their work; though it was more common among oil palm workers, with 42.3 per cent of respondents reporting having PPE. But as noted above, the sample of oil palm workers was very small and therefore definite conclusions cannot be drawn. Section 22 in the Occupational Safety, Health and Environment Act stipulates that employers should provide, and make sure that workers use, appropriate PPE.

► Table 5.1

Safety and skills training and distribution of personal protective equipment, by crop sector (%)

Training or PPE provided?	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
Training only	2.0	7.7	7.2	10.0	7.6
PPE only	1.0	26.9	10.5	2.8	5.9
Training and PPE	1.0	15.4	1.3	0.8	1.7
Neither	95.9	50.0	81.1	86.5	84.9

► 5.2. Occupational safety and health hazards

Agricultural workers face many hazards including pesticide overexposure, difficult climatic conditions, injuries from falling objects or machinery, and dangerous animals (table 5.2). The most common OSH hazards migrant workers reported being exposed to were direct sunlight (61.8 per cent), dust (34.1 per cent), high temperatures (31.2 per cent) and pesticides (29.9 per cent).

► Table 5.2

Occupational safety and health hazards to which migrant workers were exposed, by crop sector (%) ¹

Concern	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=249) ²	Total (n=526)
Prolonged direct sunlight	5.1	61.5	71.2	78.3	61.8
Dust particles	3.1	38.5	9.2	61.0	34.1
Prolonged high temperatures	5.1	23.1	32.7	41.4	31.2
Pesticides	4.1	19.2	54.3	26.1	29.9
Smoke from burning fields	3.1	–	11.1	39.0	22.2
Dangerous animals	53.1	34.6	9.2	15.9	21.8
Lifting heavy weights	12.2	50.0	26.8	10.8	17.6
Unsanitary conditions	6.1	15.4	4.6	19.1	12.3
Hazardous equipment and machinery	6.1	30.8	2.0	4.0	5.1
Risk of falling from height	1.0	–	–	6.0	3.0
Other	3.1	–	0.7	–	0.8
None	34.7	11.5	15.0	18.3	20.1

– = nil. ¹ More than one answer possible. ² Data for two sugarcane workers was missing.

As can be seen in table 5.2, each sector has a unique blend of occupational hazards. Prolonged exposure to direct sunlight was the number one hazard that oil palm, maize and sugarcane workers reported being subject to, but it was a relatively minor issue among rubber workers, who typically work under the shade of rubber trees. Instead, the number one hazard to which rubber plantation workers were exposed was dangerous animals (53.1 per cent, much higher than for other crops), with exposure to all other OSH hazards generally being less prominent than what was reported in other crop sectors. Oil palm plantations workers were more likely than other workers to be exposed to the lifting of heavy weights (50 per cent) and to dangerous equipment/machinery (30.8 per cent), with substantial numbers also noting exposure to dust and dangerous animals. Maize workers were the most likely to cite exposure to pesticides (54.3 per cent), with sizeable proportions of workers also noting exposure to high temperatures and the lifting of heavy weights. Sugarcane workers were arguably exposed to the greatest number of OSH hazards among the four crop sectors, with the highest proportions of workers reporting being subject to sun exposure (78.3 per cent), dust (61 per cent), high temperatures (41.4 per cent), smoke from burning fields (39 per cent) and unsanitary conditions (19.1 per cent).

► 5.3. Health problems experienced

Among all the migrant workers surveyed, 13.8 per cent had experienced a workplace injury that required medical attention (table 5.3). The dominant health problems experienced across the entire respondent group were severe joint and muscle pain (54.6 per cent), headaches (52.5 per cent), dizziness (45.3 per cent) and abdominal pain (34.7 per cent). Rubber and oil palm workers' reports of exposure to dangerous animals (section 5.2 above) are clearly justified, as they were the most likely to have suffered from snake and insect bites/stings. In general, palm plantation workers were the most likely to report a variety of health problems, with more than half of workers surveyed having suffered headaches, dizziness, abdominal pain, vomiting or diarrhoea, and joint pain – suggesting that Roundtable on Sustainable Palm Oil standards need to be established and OSH regulations better integrated. While not as bad as among oil palm workers, sugarcane workers reported experiencing skin and eye problems and serious workplace injuries at rates substantially above the average across the entire sample.

In addition, a few migrant workers on rubber, maize and sugarcane plantations had experienced problems related to pregnancy and some gave birth to children with birth defects. These issues appear to have been exacerbated by lack of access to prenatal and delivery care, as well as infant healthcare. A migrant worker from Myanmar employed in Tak stated that she was required to deliver her child in their temporary bamboo accommodation. Her infant child was bathed with water from a nearby pond and was never vaccinated. Her story highlights how migrant workers and their children often live in unsafe conditions, with exposure to pesticide being a particularly significant risk.

► **Table 5.3****Health problems experienced, by crop sector (%)**

Health problem ¹	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
Severe joint and muscular pain	43.9	69.2	60.8	53.4	54.6
Headaches	61.2	69.2	56.9	44.6	52.5
Dizziness	45.9	61.5	49.7	40.6	45.3
Abdominal pain	54.1	53.9	32.0	26.7	34.7
Regular nausea or vomiting or diarrhoea	15.3	50.0	19.0	17.9	19.3
Skin or eye problems	10.2	42.3	9.2	25.9	18.9
Bad workplace injury that required stopping work	8.2	30.8	3.9	20.3	13.8
Severe bug/snake bite allergy	28.6	30.8	3.9	7.2	11.4
Foot abnormalities from lack of proper boots	4.1	26.9	3.3	7.6	6.6
Fetal death or reduced fertility	2.0	–	0.7	–	0.6
Birth defect	–	–	0.7	0.4	0.4
Cancer	–	–	–	0.4	0.2
Other ²	1.0	–	3.3	0.8	1.5
None of the above	10.2	11.5	17.7	37.9	25.6

– = nil. ¹ More than one answer possible. ² Eight workers noted the following “other” ailments: HIV positive (1); asthma (1); “minor illnesses” (3); cuts and bruises (2).

► 5.4. Housing conditions

Housing rights for agricultural migrant workers is a challenging issue because of the often temporary nature of migration and the lack of regulatory measures, other than the provision of clean drinking water for workers, as well as hygienic and safe lodging for workers who live with employers. When workers are dependent on their employer for housing, variations in sector, location, duration of employment, and proximity to employers’ own residences become key factors. Agricultural employers usually provide residential areas for migrant workers near the harvest location, where workers build their own temporary work camps. Less frequently, employers may clear areas near their own residential property, away from the harvest area, for workers to set up their lodgings. Often, regardless of province, workers build temporary lodging from bamboo (commonly a roof covering without enclosures). What is often intended to be temporary lodging for harvest season sometimes extends to become substandard long-term housing when workers stay for the entire year to work on other crops or for other employers in the area.

Across the four sectors, 86.4 per cent of housing was rent-free and provided by the employer (table 5.4). This was especially true for migrant workers working in the longer-term palm and rubber sectors (93.9 per cent). Based on field observations, the housing stock for the rubber and palm sectors in Surat Thani is more permanent, with stronger building materials (often concrete and cinder blocks), better access to clean water and electricity, and has more adequate sanitation facilities with toilets.

By contrast, according to interviews with employers and migrant workers linked to seasonal crop sectors, the norm in migratory agriculture was to provide materials (bamboo, roof thatching, metal scraps) for migrant workers to construct their own housing on the farms and plantations. There are no toilets, and workers are required to dig and bury. Water sources are either natural ponds or employer-dug ponds with no filtration. Drinking water must be purchased and brought into to the encampment.

"I do not pay any rent. I get electricity from my boss's house and pay 250 baht per month. I bathe in this stream and buy drinking water. We do not have toilets. We cook with pond water. I made this house in just one day two years ago, it cost 200 baht, and got some bamboo from people around here. It will probably last a year. The plastic will be damaged."

– Cambodian worker, sugarcane, Sa Kaeo

Regardless of whether the housing is provided by the employer or self-built, housing quality for seasonal workers tends to be similar, especially in maize and sugarcane. The housing materials and open-air structures located in close proximity to crop fields are sometimes sensitive to heavy chemical spraying, as well as heavy rains and storms:

"I feel dizzy depending on the kind of pesticide. Some kinds can cause harm. I have seen some people feel dizzy, and sometimes I also feel dizzy, but it also depends on the direction of the wind. ... I just harvest the corn [maize], so I avoid dealing directly with pesticides myself"

– Myanmar worker describing their exposure to pesticide during work, maize/sugarcane, Tak

► Table 5.4

Housing situation of migrant workers, by crop sector (%)

Housing situation	Rubber (n=98)	Oil palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
Provided by employer	93.9	96.2	82.4	84.9	86.4
Rented room in community	6.1	–	6.5	3.6	4.7
Build own shelter	–	–	9.8	6.0	5.7
Stay with own family	–	–	1.3	2.4	1.5
Stay in home country	–	–	–	2.8	1.3
Other	–	3.9	–	0.4	0.4

– = nil.

The majority of migrant workers surveyed (62 per cent ⁴⁸) live as couples, and as noted in section 5.6 below, 31 per cent live with children. Each settlement may contain two to six families, with each family having two to five family members, often in a one-room bamboo hut. This situation suggests that any reforms to the sector with regard to housing or working conditions should be mindful that labour migration is often family-centred.

5.4.1. Sanitation and health in migrant worker housing

"Our employer allows us to stay in this hut. We pay 160–200 baht a month for electricity. We use water from the pond. But for drinking, we get the water at the neighbour's house. We boil before drinking. For cleaning and bathing, we use the pond water. When I bathe my daughter, I ask my eldest son [7 years old] to carry water from the pond and leave it under the sun. When it is warm, I use this to give my daughter a bath."

– Myanmar worker, maize, Tak

Contaminated and unclean water is a major cause of both communicable and non-communicable diseases. When asked about their sanitation facilities, 13.3 per cent of the migrant workers reported having inadequate toilet facilities and 9.1 per cent indicated they did not have a clean water supply (table 5.5). Migrant workers in Sa Kaeo reported the worst housing conditions among respondents in the study, with roughly a third reporting unsanitary conditions, a lack of clean water and inadequate toilet facilities.

► Table 5.5

Inadequate housing issues in migrant worker housing, by province (%)

Housing issue	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Not enough living space	7.4	3.5	16.9	2.2	6.1
No clean water supply	5.6	7.4	30.1	1.5	9.1
Inadequate toilet facility	13.0	9.4	36.1	5.2	13.3
Only communal bathing facility ¹	13.9	3.5	25.3	0.8	8.3
Unsanitary condition	3.7	3.0	32.5	0.8	7.2

– = nil. ¹ Communal bathing facilities refer to open spaces where workers bathe.

Almost one in five migrant workers reported experiencing nausea, vomiting or diarrhoea (table 5.6), with the problem being particularly acute in Sa Kaeo, where nearly half of respondents (47 per cent) reported experiencing these symptoms. The extent of the problem in Sa Kaeo can be seen by how vastly different it is from Loei, where just 1.5 per cent of migrant workers reported having such symptoms.

⁴⁸ With relatively large differences between the four crops: 59.2 per cent in rubber, 38.5 in oil palm, 43.1 per cent in Maize and 77.3 per cent in sugarcane responded that they lived as a couple in Thailand.

► **Table 5.6****Experiencing symptoms of water-borne illnesses, by province (%)**

Have you experienced nausea, vomiting or diarrhoea?	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Yes, I have had these symptoms.	21.3	18.7	47.0	1.5	19.3

5.4.2. Housing safety concerns: Crime, gender and workplace violence

While there are serious concerns about sexual and physical violence against women and children working in the agricultural sector, the survey data collected were limited due to the sensitive nature of the topic. Overall, respondents did not express much concern over violence and abuse in their housing, with just 4.7 per cent of migrant workers – 8 men and 17 women – stating that they had any such concerns. That said, the majority of this concern was found among respondents from Surat Thani – 5 men and 13 women, or 72 per cent of the respondents who expressed concerns about violence (Appendix V).

During in-depth interviews, several rubber workers reported that, while they had not experienced sexual harassment or rape themselves, they personally knew a few women in their subdistricts who had been victims of sexual assault and who had subsequently decided to move to other subdistricts and provinces. However, since there was no way to confirm these cases and no direct experiences of sexual harassment or rape were reported by any rubber worker respondents, it was not possible to develop a sense of how common sexual harassment or sexual abuse may be in the crop sector through this survey.

Workplace violence or crime by co-workers or employers appears to be rare. In in-depth interviews, one migrant worker in Tak reported being the victim of theft and two women in Surat Thani reported being victims of sexual harassment or abuse. In surveys, just two women migrant workers in Tak expressed concern about the risk of sexual harassment in their housing facilities (Appendix V).

► 5.5. Indications of forced labour

Forced labour can be understood as work that is performed involuntary and under the threat of any penalty. It refers to situations in which persons are made to work against their will through the use of deception, violence, or intimidation, or by more subtle means such as manipulated debt, retention of identity papers or threats of deportation.

The ILO Forced Labour Convention, 1930 (No. 29), defines forced or compulsory labour as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily”. The supplementary Convention on Abolition of Forced Labour, 1957 (No. 105), and the Protocol of 2014 to the Forced Labour Convention, 1930, explicitly reaffirm this definition.

Convention No. 29, which calls on Member States to undertake measures to suppress the use of forced or compulsory labour in all its forms within the shortest possible time, has been ratified by 178 Member States, making it the second-most ratified of all ILO Conventions.

Very positively, Thailand has ratified all three of the aforementioned instruments – the two Conventions in 1969 and the Protocol in 2018 – and has made continuous improvements to its laws and practices to comply with the three instruments. Despite this, forced labour is stubbornly hard to eliminate,

and the practice remains in various economic sectors in Thailand. Factors such as limited capacity for government enforcement and protection as well as discriminatory practices towards men and women migrant workers increase the risk of forced labour.

Recognizing the need to collect statistics on forced labour, in 2018, the 20th International Conference of Labour Statisticians (ICLS) adopted a set of Guidelines Concerning the Measurement of Forced Labour.⁴⁹ These guidelines were developed to provide recommendations for the collection and analysis of forced labour statistics, and to facilitate the international comparability of forced labour statistics by minimizing definitional and methodological differences across countries.

According to the ICLS guidelines, for statistical purposes, a person is classified as being in forced labour if he or she participates, during a specific reference period, in work that he or she performs involuntarily⁵⁰ and under threat of penalty⁵¹. Both conditions must exist for any work to be statistically regarded as forced labour. The guidelines also specify that forced labour data should shed light on the elements of deception and coercion exercised at three different stages of the employment cycle: during recruitment, during work, and as a deterrent to leave the job or the employer.

In this survey, and when observing forced labour in its crudest form – that is, when asking workers if they felt that they were being forced to work – only four migrant workers (all women) reported that they were forced to accept either their current or a previous job in the Thai agricultural sector⁵². However, when examining the presence of forced labour in the sector using the comprehensive lens prescribed by the ICLS guidelines, forced labour appears to be more widely present.

While the survey was not designed to provide numerical estimates of the presence of forced labour, the analysis of the structural conditions confirms that the Thai agricultural sector is not free from it. When analysing migrant workers' vulnerability at the three aforementioned stages of the employment cycle – during recruitment, during employment, and ability to leave their job – forced labour appears to be most common during the employment stage. Short-term workers also appear to be at a higher risk of forced labour than year-round workers, most probably linked to the fact that short-term workers are excluded from many important protections of the Labour Protection Act (including minimum wage, regulated working hours, annual leave, etc.; see section 1.5.1).

The analysis of the working conditions reported by respondents during their employment identified that a large number of migrant workers had experienced some form of involuntariness as well as some elements of coercion. These were mostly linked to payment of low wages, abusive overtime requirements, restrictions on mobility, living in degrading conditions, debt, and work in hazardous conditions. As noted above, both involuntariness and coercion need to be present for the condition to be defined as forced labour.

⁴⁹ The guidelines are available at: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648619.pdf

⁵⁰ "Involuntary work" refers to any work taking place without the free and informed consent of the worker. Circumstances that may give rise to involuntary work include, but are not limited to, slavery or bonded labour; situations in which the worker must perform a job of different nature from that specified during recruitment without a person's consent; abusive requirements for overtime or on-call work that were not previously agreed with the employer; work in hazardous conditions to which the worker has not consented; work with very low or no wages; in degrading living conditions; work for other employers than agreed; work for longer period of time than agreed; work with no or limited freedom to terminate work contract.

⁵¹ Threat and menace of any penalty is the means of coercion used to impose work on a worker against his or her will. Workers may be coerced or verbally threatened by elements of coercion. The elements of coercion include threats or violence against workers or their relatives or close associates; restrictions on the freedom of movement of workers; debt bondage or debt manipulation, withholding of wages or other promised benefits; retention of valuable documents (such as identity card or residence permit); and abuse of the vulnerability of workers through the denial of rights or privileges, threats of dismissal or deportation.

⁵² A broker decided for two women in Tak and one in Sa Kaeo, and one worker in Tak responded that her family decided for her. One of them reported that she had been physically abducted to work in Thailand when she was 14 (she was 36 at the time of the interview); while the other three stated that they had no choice but to accept the job in order to repay recruitment-related debts to brokers, or had been deceived about the nature of the work they were to perform.

Involuntariness and coercion were also found among the surveyed migrants during the recruitment stage, as well as impacting workers' ability to leave employment, albeit to a lesser degree than during employment. During recruitment, the most common coercion elements cited by migrant agricultural workers were not knowing the nature of the work for which they were being recruited, indebtedness to employer or broker/recruiter, and manipulation of debt. The most commonly found forced labour elements linked to the ability to leave a job were loss of assets, withholding of identification documents, debts to repay, fear of being excluded from other job opportunities and/or risk of arrest or deportation.

► 5.6. Presence of children in the sector and indications of child labour

Thailand has ratified the two ILO fundamental Conventions on child labour: the Minimum Age Convention, 1973 (No 138), and the Worst Forms of Child Labour Convention, 1999 (No 182). In line with these ratifications, and as stipulated by the Labour Protection Act B.E. 2541 (1998), a person must be at least 15 years of age to be employed in Thailand's agricultural sector. The exception being children working on family or small-scale holdings producing for local consumption and not regularly employing hired workers. In addition, children under 18 years are prohibited from working in conditions considered hazardous.

Regular tasks in farming include preparation of land, transport and planting of seedlings, weeding, applying fertilizers and spraying pesticides, harvesting, and processing of collected crops. Some of these tasks are considered non-hazardous and therefore allowable for children aged 15–17. Other tasks can present hazards and are prohibited for children below the age of 18. It is up to each country to define what is considered hazardous and hence prohibited for children below 18, however, Recommendation No. 190, which accompanies Convention No. 182, recommends that any definition of hazardous work should include: work which exposes children to physical, psychological or sexual abuse; work underground, underwater, at dangerous heights or in confined spaces; work with dangerous machinery, equipment and tools or carrying heavy loads; exposure to hazardous substances, agents or processes, or to temperatures, noise levels or vibrations damaging to health; work for long hours, night work, and unreasonable confinement to the premises of the employer.

As noted in section 2.3, in Thailand, and relevant for the agricultural sector, the following are considered hazardous work: work that involves heavy lifting, carrying or pushing; work involving certain hazardous chemicals; the use of electric or motor saw; cleaning of machinery or engines while in operation, or work that takes place during night (between 10 p.m. and 6 a.m.). While agriculture work is normally not conducted during night-time hours, rubber tapping is an exception. Rubber tapping typically starts at 2–3 a.m. and finishes in the early morning before the day gets too hot.

While the survey included questions related to children's presence in the sector and the extent to which they were working, it did not go into sufficient level of detail to be able to determine whether or not agricultural work performed by a child above 15 but below 18 constitutes child labour and is consequently not able to make any definitive conclusions on the subject. What can be said with certainty is that migrant children were present and doing work in these farming environments. This is no surprise, as 30.9 per cent of migrant worker respondents reported that they had their children living with them on the farm⁵³, and 18.5 per cent reported that children under the age of 18 worked with them on the farm.

Among the migrant workers who responded to the survey, ten were aged 16–17: one from Cambodia with "other unofficial documentation" (that is, a day pass, village card, etc. – see box 3.1 above); two from the Lao People's Democratic Republic who held temporary passports; and seven from Myanmar (with

⁵³ Please note: Migrant worker respondents were asked whether they live with their children, but the question did not specify an upper age limit, opening the possibility that some respondents were referring to adult children.

either temporary passports, “other unofficial documents” or no documentation at all). Thailand does not allow individuals below the age of 18 to register as migrant workers (regardless of whether they come through the MOU system, migrate under the border employment scheme, or are registered under the NV process). However, the minimum agricultural working age in Thailand is 15; so it is possible that the ten under-18 workers surveyed entered Thailand as accompanying minors and later became workers. As such, all ten must have been working in an irregular situation.

It should be noted that children do not have to work to be exposed to workplace hazards. Children living on farms can be exposed to chemicals used in agriculture simply by being close to areas where these are applied, through drinking water, by coming in contact with these chemicals when they are in storage, or even by being in their housing. Insects and wild animals can also be present in and around the living quarters and therefore be a hazard to non-working children.

Migrant worker respondents living with their children were most commonly found in Sa Kaeo and least commonly found in Loei (table 5.7). When asked why they had their children work with them, migrant workers cited insufficient wages, that the children were learning the skills required for future employment in the agricultural sector, lack of available childcare, and difficulties accessing the Thai schooling system. Migrant workers with small children noted that the agricultural sector was much more open to allowing children to accompany workers than other sectors. Several interviewees noted that some employers allow them to bring small children with them to work, while others require the children to stay at the residence with an adult.

"I think it is good if we can live with family, but it depends on the job. In some places, they don't allow babies to be with the mother or father. In many cases, when women get pregnant, the husband has to work harder. I think they cannot save as much money. I prefer if my children grow up in Thailand. They can have food and go to the schools here."

– Myanmar worker, maize/sugarcane, Tak

Working in locations far from roads, schools, healthcare facilities and markets decreases access to daily needs and schooling for children. While migrant children can legally attend Thai public schools (regardless of documentation), the remote locations of farms and plantations makes the situation challenging. The exception in this study was the establishment of faith-based Catholic schools that provide transportation for the children of migrant workers in Tak Province.

► Table 5.7

Migrant workers living with their own child(ren) ¹, by province

Respondents living with their child(ren)	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Percentage	30.6	39.9	54.2	3.0	30.9
Number	33	81	45	4	163

¹ Migrant worker respondents were asked whether they live with their children, but the question did not specify an upper age limit, opening the possibility that some respondents were referring to adult children (that is, ages 18+).

Among the migrant workers surveyed, 18.5 per cent reported that children below the age of 18 were working with them on the farm (table 5.8). In certain border provinces like Tak and Sa Kaeo, where it is more common to have family migration with small children due to relaxed or porous borders, it was common to see accompanying children working in the fields during harvest season at the field sites where data collection took place, although details about what tasks they were performing and the conditions they were working under, are not available. However, not a single worker in Loei Province (all of whom were Lao) reported the presence of child workers on their farms (table 5.8.b). However, this result should not be taken to mean that migrant workers under the age of 18 are not employed in Loei, as two of the Lao migrant worker survey respondents in this study were aged 16–17.

By crop sector, rubber workers (27.6 per cent) and maize workers (24.3 per cent) were the most likely to report that they were working alongside children below the age of 18 (table 5.8.a).⁵⁴ Sugarcane was the crop with the lowest proportion of respondents who reported working with children (9.4 per cent).⁵⁵

► Table 5.8

Migrant worker respondents who worked with children under the age of 18, by crop sector and province

a. By crop

Respondents who worked with children under age 18 ¹	Rubber (n=98)	Oil Palm (n=25)	Maize (n=152)	Sugarcane (n=245)	Total (n=520) ²
Percentage	27.6	36.0	24.3	9.4	18.5
Number	27	9	37	23	96

¹ The children in question were not necessarily those of the respondent. ² Eight respondents declined to answer the question.

b. By province

Respondents who worked with children under age 18 ¹	Surat Thani (n=108)	Tak (n=202)	Sa Kaeo (n=79)	Loei (n=131)	Total (n=520) ²
Percentage	29.6	23.3	21.5	–	18.5
Number	32	47	17	–	96

¹ The children in question were not necessarily those of the respondent. ² Eight respondents declined to answer the question.

⁵⁴ As can be seen in table 5.8.a, the highest proportion was actually to be found in the oil palm sector, but the very small number of respondents (n=25) makes it difficult to make any definitive claims about the sector.

⁵⁵ However, more than half of all sugarcane workers surveyed were the aforementioned Lao respondents in Loei Province, and not a single one reported working with children (table 5.3.b). If Loei respondents are excluded from the figures, the percentage of sugarcane workers reporting working with children jumps to 19.6 per cent – still the lowest of any crop sector, but much closer to what is seen elsewhere.



6

6. Findings related to complaints, access to support services and organizing of agricultural workers

► 6.1. Labour complaints

This section addresses complaints made by migrant worker respondents and their access to complaints mechanisms. When discussing this topic it is important to recognize that migrant workers' ability to complain can be constrained by the unequal power relationship that exists between workers and their employers, which will be developed further below.

Migrant workers were asked in the survey about problems they might have experienced at work, and whether they made complaints in an attempt to rectify these problems. Across the entire sample, 29.2 per cent of migrant workers – or 154 respondents – stated that they had experienced problems at work (table 6.1). However, this overall percentage is likely not fully representative of the real situation on the ground, as, for example, none of the Lao migrant workers in Loei Province reported experiencing problems at work. Conversely, nearly half (45.8 per cent) of Cambodian workers in Sa Kaeo reported experiencing problems; as did roughly a third of Myanmar migrant workers (36.1 per cent in Surat Thani and 37.9 per cent in Tak).

► Table 6.1

Proportion of workers who experienced problems at work, by province (%)

Have you experienced problems at work?	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Yes	36.1	37.9	45.8	–	29.2
No	63.9	62.1	54.2	100.0	70.8

– = nil.

The types of problems experienced by migrant workers were further expanded upon during qualitative interviews with 16 migrant workers – four from each study province.⁵⁶ The interviewed migrant workers noted that some of the workplace problems specific to agriculture included:

- excessive work hours;
- hazardous working conditions;
- children’s safety, education, and childcare;
- housing safety;
- restricted mobility from work and/or housing;
- holding of passports by employers;⁵⁷
- receiving advance pay or borrowing from employer to pay for food and water;
- wait periods for receiving pay at end of harvest;
- wrongful termination;
- lack of use of health facilities and insurance due to costs, location, other restrictions;
- police harassment when traveling between districts;
- fear of armed border patrols; and
- two interviewees reported cases of sexual harassment or abuse toward other workers that they knew, and who had moved away shortly after the abuse occurred.

Yet despite 154 respondents reporting problems in their workplaces, just 10 reported that they had made complaints⁵⁸ related to their working conditions. The breakdown of these complaints is as follows:

- two complaints of wages being withheld or underpaid;
- one complaint of theft;
- three OSH complaints;
- one complaint of being unable to leave the farm;
- two complaints of sexual harassment or abuse; and
- one “other” complaint (unspecified).

As can be seen from this brief list, the complaints are not weighted towards any particular type of problem, and they are too small in number to draw any definite conclusions. It is notable, however, that not a single interviewee lodged a complaint with the Thai labour authorities.

In addition, none of the Cambodian workers in Sa Kaeo or Lao migrant workers in Loei Province made any complaints. The latter is not surprising, given that not a single Lao migrant worker reported having any problems, but as noted above, Cambodian migrants were the most likely to report problems at work (45.8 per cent). This demonstrates how Cambodian workers, who were often in the most vulnerable position among respondents based (in part) on their migration status, were not willing to complain officially or unofficially. By contrast, Loei has a high demand for agricultural workers and a larger degree of regular migration. In addition, the Lao workers reported in interviews that they have long-term relationships with their employers, working for them a few months each year before voluntarily returning home. Ironically, these apparently opposing situations – one quite positive and the other rather negative – both appear to lead to scenarios in which migrant workers do not submit any official or unofficial complaints about their work.

Of the 144 surveyed migrant workers who experienced problems but did not make a complaint, they were asked to provide the reason (or reasons) why they declined to complain (table 6.2). The most commonly provided reasons for not lodging a complaint were the language barrier (61.8 per cent), the migrant’s

⁵⁶ As a reminder, the in-depth interview participants are entirely separate individuals from those who participated in the survey, and their responses listed here are therefore not reflected in the list of complaints below or among the problems reported in table 6.1.

⁵⁷ It should be noted that migrant workers who reported their passport being held by their employer all stated that they had voluntarily given their passport to their employer for safekeeping because their housing was not secure and they feared it would be damaged or lost.

⁵⁸ When surveying the migrant workers, it was explained to respondents that a “complaint” included official and unofficial complaints made to an employer, embassy, recruitment agency, NGO, worker leader, Thai labour authorities, police, trade union or family/friends.

lack of legal status in Thailand (40 per cent), and lack of knowledge about how to make a complaint (35.4 per cent).

Among these 144 respondents, those in Sa Kaeo Province were the most likely to cite a wide variety of reasons for not lodging a complaint. More than half of the Sa Kaeo respondents cited the three reasons already mentioned, and in addition, 65.8 per cent cited mistrust of the complaint system and 65.8 per cent cited mistrust of government authorities. In Tak Province this lack of knowledge about how to make a complaint was compounded by the fact that more than 42.5 per cent of respondents were not even aware that they could make a complaint.

► **Table 6.2**

Reasons for not lodging complaint, by province (%) ¹

Reason for not lodging a complaint	Surat Thani (n=33)	Tak (n=73)	Sa Kaeo (n=38)	Total (n=144) ²
Language barrier	63.6	56.2	71.1	61.8
Lack of legal status in Thailand	6.1	32.9	81.6	40.0
Do not know where to make complaint	21.2	32.9	52.6	35.4
Do not believe complaint will help	27.3	17.8	65.8	32.6
Unaware of right to make complaint	9.1	42.5	23.7	29.9
Do not trust government authorities	30.3	–	65.8	24.3
Fear employer will punish	3.0	38.4	–	20.1
Other	9.1	1.4	–	2.8

– = nil. ¹ More than one response possible. ² This table is limited to those workers who reported experiencing problems at work, but who did not make a complaint. As such, the table excludes Loei Province, as none of the respondents from Loei reported experiencing problems at work (see table 6.1).

As previously noted, workers can feel constrained in their ability to make complaints because of the unequal power dynamic between them and their employers. In addition to the reasons cited in table 6.2 for not lodging a complaint, many workers are dependent on their employers for work permit documentation and housing. Worker mobility is often restricted by employers, potentially hindering workers' ability to make complaints to the authorities or other parties. More than half (53.1 per cent) of migrant workers surveyed owed money to their employer (see Appendix III), which again may deter them from making complaints. It is also known from other studies that migrant workers are often unlikely to report abuse, as they fear retaliation from employers, including wrongful termination, wages being withheld, refusals to renew work permits or threatened deportation.

6.1.1. Labour complaint mechanisms and access to legal support services

Labour-related complaints are mostly under the mandate of the DLPW. However, strictly speaking, migrant workers' labour-related complaints can include complaints about: (i) entitlements under the Labour Protection Act; (ii) social security rights; and (iii) document-related issues. For the first type of complaint, workers have to go to DLPW; for the second, to the Social Security Office; and for the third, to the DOE. Sometimes, these offices are not situated in the same area. For complaints concerning entitlements under the Labour Protection Act, according to chapter 12 of the law, once a complaint is

lodged, the Labour Inspector has to issue an order within 60 days (sect. 124). If the employer, employee, or heir of the employee is not satisfied with the order, they can bring the case to the Labour Court (sect. 125).

Migrant Workers Assistance Centres (MWACs, see section 1.7.1.) are present in two of the four sampling provinces, namely Tak and Surat Thani, and are able to receive complaints from migrant workers. However, it is hard to establish the degree to which they are accessible by agricultural workers, as the MWACs do not have records of service beneficiaries disaggregated by sector of employment (except from the fishing and seafood processing sectors).

As noted in the section above, among the survey respondents who experienced problems at work the most commonly cited impediment to lodging a complaint was the language barrier. This barrier is partly the result of inadequate translation services offered at a number of venues where migrants might file complaints, including the Ministry of Labour, provincial DLPW offices and MWACs. These facilities often do not have enough interpreters available, or are frequently only employed on a part-time basis. Documents are often available in migrant workers' languages at provincial DLPW offices, and these are provided to migrant workers who come in for services. However, there is typically only one such office in each province, which creates a barrier for agricultural migrant workers to access information, given that they are typically employed in remote areas away from the provincial capital.

An interview with the DLPW in Surat Thani indicated that, from their experience, most migrant workers in the agriculture sector do not have a written employment contract with their employers.

"After the complaint is received by labour inspector with the Department of Labour Protection and Welfare officials, the employee will be contacted for dispute inspection. Given that the workers do not have any written contract with the employers, what follows are problems such as the lack of information regarding the employers – only nicknames can be identified with no information on first names nor last names; workers do not have the employers' contact number nor address. These problems result in delays in providing assistance to workers."

– Labour official, DLPW, Surat Thani

When migrant workers have complaints against employers, especially regarding wages, many choose to rely on Thai migrant advocates connected to labour law clinics and labour attorneys. Most NGOs file these complaints with the DLPW. If the case is not settled by the DLPW, it is also possible to file it with the National Human Rights Commission of Thailand (although this was more common in the past). Lodging labour disputes directly with the Royal Thai government channels is possible, but quite difficult given the aforementioned language barriers and proximity issues. In addition, migrant workers are often unaware of or lack important knowledge about the complaints process, and the cultural and status differences between migrant workers and government officials can create a daunting hurdle. It is perhaps not surprising, therefore, the migrant workers surveyed in the study simply did not lodge an official complaint despite experiencing problems in the workplace, and prefer instead to resolve their dispute directly with their employer/manager or ask friends/family to intervene. An NGO in Tak shared that rather than lodge a complaint, workers tend to change employers when they feel their work conditions will not improve. However, according to the NGO, many migrant workers perceive Thailand's working conditions and wages to be acceptable, as they are better than what they experienced in their home country.

► 6.2. Access to social security and medical services

As discussed in section 1.5.1 above, migrant workers in agriculture, depending on their migration/contract status, are supposed to be enrolled in various social benefit schemes, including the Social Security Fund, the Workmen's Compensation Fund and the Health Insurance Card Scheme (HICS). However, these schemes are only accessible to documented migrants, and many documented migrant workers in the agriculture sector are excluded from the Social Security Fund on the basis of their employment contract not being for a long enough duration, while the Workmen's Compensation Fund allows inclusion of seasonal migrant workers. As noted earlier, undocumented migrant workers are in theory eligible to enrol in HICS, but in practice it is unfortunately rare that hospitals allow undocumented workers or their dependents to buy the health insurance.

The figures in table 6.3 demonstrate that the migrant worker survey respondents were not enrolled in these benefit schemes anywhere near to the extent that they should have been under legal requirements. By law, all documented migrant workers are supposed to be enrolled in some combination of the Social Security Fund, Workmen's Compensation Fund and/or HICS. As noted earlier, migrant workers who have a one-year, full-time contract with an employer (primarily MOU and NV workers) should be enrolled in the Social Security Fund and the Workmen Compensation Fund. Seasonal workers should be enrolled in the Workmen Compensation Fund and HICS. In this study, documented migrant workers accounted for 66.7 per cent of the sample group (table 3.3), yet only 33.6 per cent of respondents were enrolled in at least one of the three social benefit programmes. In addition, migrant workers who are eligible to be enrolled in the Social Security Fund must by law also be enrolled in the Workmen's Compensation Fund. But as can be seen in table 6.3, only one respondent was enrolled in the Workmen's Compensation Fund even though 24 were enrolled in the Social Security Fund.

A solid majority (59.7 per cent) were not enrolled in anything at all, leaving them uncovered in the event they required medical treatment or could not work as a result of injury. And such incidents were not uncommon, with 13.8 per cent of respondents (n=73) reporting that they sustained workplace injuries serious enough to prevent them from working (section 5.3). None of these workers who were injured received any form of compensation, and only one was in a position to even make a claim seeking such compensation.

► Table 6.3

Enrollment in social security, workers' compensation, and health insurance, by province ¹

Social benefit scheme	Surat Thani (n=108)	Tak (n=203)	Sa Kaeo (n=83)	Loei (n=134)	Total (n=528)
Social Security Fund	0	8	0	16	24 (4.6%)
Workmen's Compensation Fund	1	0	0	0	1 (0.2%)
HICS	68	28	47	9	152 (28.8%)
Private health insurance	1	3	0	0	4 (0.8%)
Do not know	1	6	0	26	33 (6.3%)
Not enrolled in anything	37	158	36	84	315 (59.7%)

– = nil. ¹ More than one answer possible, but ultimately only one worker in Loei was enrolled in two schemes (Social Security Fund and HICS).

Ensuring that migrant workers in the agricultural sector have health insurance is particularly challenging given the high proportion who are in an irregular situation, as well as the predominance of short-term employment contracts, which can mean that workers are highly mobile and likely to change employers with some frequency (and which also makes them ineligible for the Social Security Fund and, in some cases, the Workmen's Compensation Fund).

"[I]n agriculture there are about 50 per cent undocumented workers and 50 per cent documented workers, consequently ... many workers in Surat Thani were injured and the hospitals have to cover for these costs as the workers do not have medical insurance. And in big cases, the hospitals don't have the budget to cover for the expenses of the migrant workers, as there is not enough budget from the worker's insurance to cover this."

– Rubber trade association

Based on the survey, public hospitals were the health service providers most commonly used by migrant workers (39.3 per cent), followed by private clinics (33.3 per cent) and pharmacies (24 per cent) (table 6.4). Interviews revealed that some migrant workers prefer going to a private clinic for health services because it is quicker than a public hospital. Migrant workers who do not have health insurance cards also prefer going to private clinics when they experience minor illnesses.⁵⁹

When looking at health service provider use by crop sector and province, the use of private clinics was particularly prevalent among migrant workers from the Lao People's Democratic Republic (60.3 per cent) in Loei Province. The migrant worker respondents from Myanmar (that is, the Surat Thani and Tak respondents) were roughly three times more likely to make use of pharmacies than Cambodian (Sa Kaeo) and Lao (Loei) workers, which may indicate a stronger degree of preference for engaging in self-treatment among Myanmar workers. Use of hospitals was highest among the Cambodian respondents in Sa Kaeo, with the majority of Cambodian workers reporting going to government hospitals located on both the Thai and Cambodian sides of the border.⁶⁰

Lack of documentation creates a barrier to healthcare access by migrant workers. Even where hospital/clinic services are not denied to undocumented workers, many prefer pharmacy and self-treatment methods, both out of fear of detention/deportation and due to the lower costs involved. This may explain why migrant workers in Tak, where wages are lowest, are the most likely to use pharmacies (34.2 per cent), NGO clinics like the Mae Tao Clinic (23.3 per cent), and self-treatment (22.8 per cent).

⁵⁹ Per in-depth interviews with migrant workers and health officers in Tak Province.

⁶⁰ Per in-depth interviews with Cambodian workers in Sa Kaeo Province, some workers who work near a border crossing will return to Cambodia and seek medical treatment at Cambodian government hospitals, due to issues related to language and cultural trust.

► Table 6.4

Health service units used by migrant workers (%) ¹

a. By crop

Health service unit	Rubber (n=98)	Oil Palm (n=26)	Maize (n=152)	Sugarcane (n=241)	Total (n=517) ²
Government hospital	35.7	76.9	32.9	40.7	39.3
Private hospital	1.0	19.2	2.6	4.6	4.1
Private clinic	29.6	30.8	35.5	33.6	33.3
NGO clinic	3.1	11.5	18.4	7.1	9.9
Pharmacy	28.6	15.4	33.6	17.0	24.0
Self-treatment	6.1	15.4	19.7	11.6	13.2
Friends or family	1.0	11.5	10.5	3.7	5.6
Employer determines/ provides medicine	–	–	1.3	–	0.4
Other	4.1	–	0.7	0.4	1.2

– = nil. ¹ Multiple answers possible. ² Eleven workers did not require any treatments, and one sugarcane worker in Loei declined to answer.

b. By province

Health service unit	Surat Thani (n=108)	Tak (n=202)	Sa Kaeo (n=81)	Loei (n=126)	Total (n=517) ²
Government hospital	40.7	33.7	71.6	26.2	39.3
Private hospital	4.6	1.5	12.4	2.4	4.1
Private clinic	32.4	28.7	3.7	60.3	33.3
NGO clinic	3.7	23.3	–	–	9.9
Pharmacy	29.6	34.2	11.1	11.1	24.0
Self-treatment	8.3	22.8	12.4	2.4	13.2
Friends or family	3.7	11.9	1.2	–	5.6
Other	3.7	1.0	–	–	1.2

– = nil. ¹ Multiple answers possible. ² Eleven workers did not require any treatments, and one sugarcane worker in Loei declined to answer.

6.2.1. Limitations concerning the use of medical services

Two of three of the public healthcare providers interviewed claimed that regular migrant workers have the same rights to services as Thai people at healthcare facilities. However, in practice there are barriers that hinder migrant workers' access to healthcare, even when they have health insurance coverage.

One of the most prominent of these barriers is likely the language barrier between hospital staff and migrant workers. While many of the migrant workers surveyed said they were able to communicate in Thai, some need to find assistance in order to get their healthcare needs met. According to interviews with migrant workers and an NGO in Surat Thani, many migrant workers who cannot communicate in Thai will bring a migrant friend to interpret for them; while others pay individuals found through their social networks to act as an interpreter. As noted above, some Cambodian workers even head back across the border to receive treatment in Cambodia, in part to get around the language barrier. In all of

these examples, the onus has been placed on the migrant worker to either address or work around the language barrier, but there is some evidence of hospitals taking proactive steps to address the issue. According to a key informant interview with a healthcare provider in Tak Province, some government hospitals in the province provide translation services and intermittent health check-ups during periods of high migrant worker registration.

Migrant workers who are not entitled to social security and who will be employed for at least three months are required to buy their own health insurance through the HICS. MOU workers and workers employed under section 64 of the Royal Ordinance are not allowed to bring their dependents into Thailand. However, HICS can be purchased for dependents below the age of 18 who have permission to temporarily stay in Thailand. The price of HICS coverage varies depending on the age of the insured person and the period of coverage. For example, coverage for one year costs 2,200 baht for a migrant worker, 1,600 baht for a dependent aged more than 7 and less than 18, and 365 baht for a dependent below the age of 7.

Migrant health insurance through HICS is restricted for use at the hospital from which the insurance card was purchased; hence migrant workers cannot use the card to access all the hospitals in the province or indeed other provinces, which restricts both physical and employment mobility, or restricts access to healthcare if they move far away from the hospital. On the positive side, the health insurance plans are designed to match the duration of employment and are available to purchase for periods of three months, six months, one year or two years.

► 6.3. Membership in trade unions and other organizations

Trade unions and other membership-based organizations can be powerful allies in resolving members' work-related problems and employment disputes.

Organizing, collective bargaining for better pay and conditions, and the protection and promotion of rights are three key activities undertaken by trade unions that are relevant for all workers, including migrant workers. Of particular relevance within the context of migrant workers is that trade unions can provide assistance and services – including legal support – to their members in order to resolve grievances and protect members' rights at work. Global experience shows that lodging an official workplace complaint can be very difficult for migrant workers, particularly those in elementary occupations such as agriculture. This being the case, trade unions and migrant organizations can serve as essential support to migrant workers in need of assistance.

Despite this, none of the migrant workers interviewed in this study reported that they were members of a registered Thai trade union, and only a handful had joined other types of organizations that provide trade union-like services. Out of the 528 survey respondents, just 24 reported that they had joined informal migrant worker organizations in Thailand (23 from Myanmar and 1 from the Lao People's Democratic Republic).⁶¹ Indeed, most of the migrant workers in the study (87.1 per cent) had not joined any kind of organization while in Thailand. Among the few who did, most were members of community-based or religious organizations. Membership in religious organizations was the most common, with 6 per cent of Cambodian workers and 12.9 per cent Myanmar workers in such groups. The small number of migrants who joined a trade union is unsurprising, given that there are very few possibilities for migrant workers in the agriculture sector to join trade unions in Thailand, as noted in section 1.5.2 above.

⁶¹ It is known that there are a number of Myanmar-led organized groups, including Myanmar-based trade unions that operate within Thailand but are not official registered with the Thai authorities.



7



7. Conclusions and recommendations

Globally, labour migration provides millions of jobs and generates billions of dollars in remittances for migrant workers and their families each year – and also generates benefits for destination country economies. However, decent work deficits and abuses are still evident in a number of migration corridors and throughout the migration cycle, and this is decidedly the case for migrants engaged in agricultural work. Safe, orderly and fair migration has the potential to provide a triple win – for migrant workers, their communities, and countries of origin and destination.

This report presented the results of a survey designed to better understand the employment practices and working conditions for migrant workers in the Thai agricultural sector. The survey interviewed 528 documented and undocumented migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar working in four agricultural crops in Thailand. Some key conclusions of the survey are:

- **A significant majority of migrant workers entered Thailand irregularly:** The survey found that a large number of migrant workers in the agriculture sector were undocumented. Among the respondents, only 28 percent had entered Thailand under the official channels, that is, the MOU channel or the border employment scheme (14.9 and 13.1 per cent, respectively). This is partly explained by the fact that the MOU mechanism is perceived as being complicated, lengthy and expensive compared to the option of entering Thailand irregularly.
- **And a significant portion of migrant workers remain in an irregular situation:** To manage the large number of undocumented migrant workers in Thailand, on an ad hoc basis the Government has declared amnesties allowing migrant workers to come forward and regularize their status. Of the total sample, 66.7 per cent were documented workers, with more than half of these (34.3 per cent) having regularized their status during the 2017–19 nationality verification process. However, 30.1 per cent of the surveyed respondents were found to be working in an irregular situation.
- **The MOU channel is not flexible enough to cater to the needs of the agriculture sector:** To enter Thailand under the MOU channel, a full-time, two-year contract has to be signed with a single employer. However, the nature of agriculture work does not always allow employers to hire workers on a continuous basis, as labour needs fluctuate over the year with the crop cycle, and in practice, many migrant workers have multiple employers in one village year-round. The only other current option is the border employment scheme, but that is only available for employers that operates in certain border provinces.
- **The border employment regulation is not properly used:** The border employment regulation is designed as a more flexible option to the MOU modality, by allowing employers to recruit migrant workers living along Thailand's borders in Cambodia and Myanmar on three-month, renewable contracts. As such, the border employment scheme is a very useful mechanism to respond to short-term labour market gaps, including, for example, filling temporary spikes in labour demand during harvest or planting seasons. However, this survey finds that many migrant agricultural workers are working in Thailand on a continuous basis, and in many cases year after year, under the border employment scheme. This creates a series of protection gaps for migrant workers, as those working on contracts that are shorter than one year with the same employer are excluded from a number of important labour protections under the Labour Protection Act, and are also not included under the Social Security Act. Further, the border employment scheme is not available for workers from the Lao People's Democratic Republic. Farmers who operate in the interior of Thailand or on in close proximity of the Lao People's Democratic Republic do not have any other option than to hire workers under the MOU mechanism or, as we see in practice, to hire them in an irregular status.

- Recruitment fees and related costs are largely paid by migrant workers:** The survey found that migrant workers paid an average of 6,448 baht to migrate to work in the Thai agricultural sector, with 26.7 per cent having paid at least 10,000 baht in recruitment-related costs. This includes costs and fees paid by migrant workers related to travel, temporary lodging, broker and agency fees, and documentation such as passports, visas, border passes, work permits, health exams, and various formal and informal registration fees. While this is perhaps not very steep, equaling on average just above one month of wages (the median monthly income across the sample is 6,000 baht), the survey found large variations in costs depending on the country of origin, the respondent's location within Thailand, and whether a formal or informal migration channel was used. On the other end, only 9.1 per cent of respondents reported paying no costs to migrate (most of them having migrated to a border province, and all of them were undocumented). The global consensus is that costs and fees related to the recruitment of migrant workers should not be paid by the worker. This important principle is a core provision in the ILO's General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs, which stipulate that workers shall not be charged directly or indirectly, in whole or in part, any fees or related costs for their recruitment, and provides a definition of recruitment-related costs and fees not to be paid by workers. This principle is backed by the ILO Private Employment Agencies Convention, 1997 (No. 181), which carries the same core principle.
- Migrant workers are often in debt to their employers, and their wages are regularly being deducted:** While the survey did not find any clear cases of debt-bondage, roughly half of the sample (50.6 per cent) reported that they had their salaries deducted for recruitment-related costs and fees, electricity/water, tools/equipment, food/drinking water, health services, etc. While some of these deductions are allowed under Thai law (the Royal Ordinance, for example, allows employers to deduct recruitment-related costs and fees from migrant workers' monthly wages (sect. 49)); others are not allowed, such as costs related to tools and equipment used at work. Money borrowed from employers is often in the form of no-interest loans re-paid through deductions from the workers' salaries. Most workers reported that they are able to pay off debt over time, but it is concerning that several respondents noted that they did not know how much they owed, or for how long they would have to continue to pay back their debt.
- Underpayment of wages constitutes one of the main challenges in agriculture:** The Labour Protection Act stipulates that workers under its purview are entitled to minimum wages. While a significant number of workers in agriculture are not covered by the Labour Protection Act, and hence excluded from minimum wage protection (as per the Ministerial Regulation Concerning Labour Protection in Agricultural Work), the minimum wage still serves as a good indication of whether workers are being properly remunerated or not. The survey found that 41.4 per cent of all migrant workers who worked full time or more (eight hours or more per day) were paid less than the minimum wage. Of particular note is that in Tak Province (where all respondents were from Myanmar), 95.4 per cent of migrant worker respondents were paid less than the minimum wage. As noted in the body of this report, assuming a regular work month, the monthly minimum wage in Tak would equal 7,320 baht. However, a striking 39.4 per cent of all migrant workers in Tak reported that they earn less than 3,600 baht per month, or less than half the minimum wage. This does not take into consideration that a majority of migrant workers regularly work overtime but are not paid for the extra hours. At the same time, only 3.7 per cent of workers in Loei (all from the Lao People's Democratic Republic) reported that they earned below the minimum wage.
- Low wages in the agriculture sector are aggravated by a significant gender wage pay gap:** Across the entire sample, the median monthly income was 6,000 baht. The survey found that the majority of women and men work more or less the same number of hours per day and days per week. Despite this, men migrant workers earned a median of 7,000 baht per month; while women workers earned approximately 6,000 baht per month. Men were much more likely to be in the highest earning bracket defined for this study, with 42.2 per cent receiving more than 9,000 baht per month; while only 27.7 per cent women workers fall within this group. At the same time, close to 15 per cent of women workers were in the lowest income group, earning less than 3,000 baht per month. By contrast, only about 5 per cent of men earned so little.

- **Generally, regulated working hours and rest days are not respected:** According to the Labour Protection Act, the maximum number of working hours for employees in Thailand is eight hours a day and not more than 48 hours a week. Work above 48 hours must be compensated by overtime compensation. Further, employers should provide a weekly holiday of at least one day a week. Across the sample, 50.1 per cent of respondents reported working more than eight hours, with 41.3 per cent reporting that they worked more than eight hours and up to 12 hours per day, and 8.6 per cent reporting working more than 12 hours. The survey also found that more than half of all workers surveyed (53.3 per cent) worked seven days a week with no rest days, including 55.6 per cent of men and 51.4 per cent of women.
- **Very few workers are provided with personal protective equipment (PPE) or with training on how to use equipment, resulting in workplace accidents and overall OSH concerns:** Among all the migrant workers surveyed, 13.8 per cent had experienced a workplace injury that required medical attention. This is probably exacerbated by the fact that only 15 per cent per cent of all workers had received training on how to safely operate their equipment. Further, the dominant health problems experienced across the entire respondent group were severe joint and muscle pain, headaches, dizziness and abdominal pain. Workers were also asked what OSH hazards they were exposed to as part of their work. The most common were direct sunlight, dust, high temperatures and pesticides. Many of these health problems and hazards could probably be reduced through training and the proper use and fitting of PPE. However, only 7.6 per cent of respondents were given training to perform their work and only 5.9 per cent were given PPE.
- **Housing was generally provided free of cost and is relatively safe, but conditions varied significantly between the crops:** Housing rights for agricultural migrant workers is a challenging issue because of the lack of regulatory measures, other than provisions for clean drinking water for workers and for hygienic and safe lodging for workers who live with employers. Despite this, and across the four crop sectors, 86.4 per cent of respondents' housing was rent-free and provided by the employer. Conditions of housing were found to be best in the palm and rubber sectors, where workers live and work throughout the year. In maize and sugarcane, which are more seasonal in nature, housing facilities were scantier. Access to clean water, electricity and inadequate toilet facilities were concerns across all four crops, but bigger issues in maize and sugarcane sectors. On the positive side, workers reported that they felt safe in their accommodation, with less than 5.1 per cent reporting concerns over violence and abuse.
- **While conclusions about the extent of child labour cannot be drawn, children's presence in the sector is a concern:** In line with the two ILO child labour Conventions (Nos 138 and 182), the Labour Protection Act and the Ministerial Regulation Concerning Labour Protection in Agricultural, sets the minimum age for employment in the agricultural sector at 15 years of age, and at 18 years of age for tasks that are considered hazardous. Due to data limitations (related to the extent of hazardous work), the study is not able to quantify the presence of child labour. However, it clearly shows that children are present in the sector; older children are engaged as workers (most likely working side-by-side with their parents), while younger children, who might not be working, are living with their parents. Given the remote location of many farms, their access to schools and healthcare facilities and other services is an issue. Further, children living on farms can be exposed to chemicals used in agriculture simply by being close to areas where these chemicals are applied and stored.
- **Similarly, while the survey cannot provide numerical estimates of the presence of forced labour, the analysis finds that the Thai agricultural sector is not free from it:** The Royal Thai Government has ratified all ILO instruments related to forced labour and has made efforts to align its legal framework with the provisions of these instruments. Despite this, reports indicate that forced labour stubbornly remains in some sectors. While there have not been any earlier comprehensive surveys on forced labour in Thailand, and this survey not being designed to quantify the presence of forced labour, the analysis confirms that the Thai agricultural sector is not free from it. Further efforts are needed to quantify the problem and address its root causes.

- **Workers frequently experienced problems at work, but rarely reported them:** A total of 154 migrant workers (29.2 per cent) reported that they had experienced problems at work. Based on the in-depth interviews with migrant workers, common problems include: withheld or underpaid wages, excessive work hours, restricted mobility from work and/or housing, confiscation of documents by employers, OSH complaints and wrongful termination. While the Government offers several channels where workers can lodge work related complaints, none of the 154 migrant workers who experienced problems reported having used such a channel. Several reasons were noted for this, including language barriers, the migrant's lack of legal status in Thailand, lack of knowledge about how to make a complaint, mistrust of the complaint system or mistrust of government authorities, fear of retaliation from employers, etc.
- **While migrant agricultural worker membership in formal Thai trade unions is essentially nonexistent, some workers are members in migrant workers' organizations:** The survey found that none of the 528 migrant worker survey respondents had joined a formal trade union in Thailand. This is no surprise, as Thailand has a trade union density of 1.6 per cent, among the lowest of any country in South East Asia, and the legal framework in Thailand excludes approximately 80 per cent of Thailand's 39 million workers from full rights to organize (Human Rights Watch 2019). Only Thai nationals are currently permitted to form a union or serve on a union's executive council (although a draft version of the Labour Relations Act might make it possible for 20 per cent of executive members to be non-Thai nationals in cases of unions with migrant workers as members (see footnote 17). This means that migrant workers may join existing unions, but cannot form their own or serve as union leaders. This makes it very difficult to ensure that migrant worker concerns are represented. Thailand has not ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), or the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).
- **Migrant agricultural workers are not enrolled in social security and health schemes anywhere near to the extent that they should be under legal requirements:** Documented migrant workers in agriculture who are employed with the same employer for a whole year should be insured under the Social Security Fund. The Workmen's Compensation Fund also allows the inclusion of migrant workers with shorter employment contracts, including those under the border employment scheme. If workers are not allowed to enrol in the Social Security Fund, it is mandatory for them to enrol in the Health Insurance Card Scheme (HICS). In line with these legal provisions, all of the documented migrant workers in this survey (66.7 per cent of respondents) should have been enrolled in at least one of these schemes. However, only 33.6 per cent of respondents reported being enrolled in at least one of the three social benefit programmes. A solid majority were not enrolled in anything at all, leaving them uncovered in the event they required medical treatment or could not work as a result of injury.
- **Access to health services is limited by several factors:** Lack of health insurance, rural locations, healthcare costs, loss of pay for time off, lack of transportation, migration status and language barriers were all shown to negatively impact agricultural migrant workers' access to health services.

► Recommendations

Given the wide scope of this study, a large number of recommendations can be derived. However, this section does not aim to be exhaustive, but focuses on a set of key recommendations that the authors believe are key to improving the working and employment conditions of the many migrant workers currently employed in Thailand's agricultural sector. A fundamental point that cuts across all recommendations is that information must be available in migrant workers' languages throughout all stages of migration. The recommendations are broadly structured into six thematic areas:

1. Increase access to safe, fair and regular migration

Develop regular migration channels that are less costly, time consuming and complex: Although regular migration can reduce the likelihood of problems during the migration process, the protection benefits are often over-matched by high costs, slow processes and confusing requirements. Thailand should work collaboratively with neighbouring countries to simplify processes for labour migration so they are more efficient and affordable for migrant workers and employers, thereby providing clear incentives for migrant workers and employers to make use of regular channels.

Review the use of the border employment scheme: The often seasonal nature of work in agriculture makes the use of the border employment scheme relevant, allowing employers to hire workers on a short-term basis during harvest and other labour-intensive periods. When well managed, border employment can be a good option as a more flexible and less costly migration channel. However, the research has shown that migrants are often working for extended periods (sometimes several years) on these border employment visas (sometimes with the same employer, but in other cases changing employer regularly in response to seasonal needs), and therefore lack the protection and benefits that the MOU process offers. Thailand should review how the border employment scheme is being utilized, and take into consideration international practices on border schemes and seasonal work, (including for example the 2016 European Union Seasonal Workers Directive ⁶²) with a view to avoid situations where workers are employed continuously for extended periods on border employment visas without access to the Social Security Fund and other benefits and labour protections. Further, the border employment scheme is not necessarily available where it is most needed. Given that, the Government should make the scheme available in other border areas where the local administration has sufficient capacity to handle the necessary logistics and management, so as to make the scheme more convenient for workers and employers alike. As a first, the Government should consider negotiating the establishment of the border employment scheme with the Lao People's Democratic Republic.

Allow migrant workers to be employed by multiple employers within the MOU arrangement: The MOU mechanism – which requires the signing of a contract with one employer for a two-year period – is often impractical for the agriculture sector, given the seasonality of the sector and non-standard work arrangements depending on the type of crop. Thailand should consider allowing migrant workers to be employed by multiple employers, particularly when it comes to employment by individual farmers, who often rely on migrant labour but do not have enough work on their individual farms to justify the long-term contracts required by the MOU process.

2. Ensure safe and fair recruitment

Strengthen law and policy governing recruitment of migrant workers: Steps must continue to be taken both in Thailand and in neighbouring countries to reduce recruitment fees and related costs, in

⁶² The duration of the seasonal work permit in the EU is flexible depending on the type of work to be performed but cannot be issued for longer than nine months within a period of 12 months. A worker can apply for an extension or renewal of the seasonal work permit while being in the EU but cannot surpass nine months out of a year. The Directive also states that Member States shall facilitate the re-entry of seasonal workers who were already admitted within the previous five years. While the measures to facilitate re-entry vary across the Member States, some apply an accelerated visa and/or permit application procedure, while others are giving priority as part of the application process to those that have been admitted within the last five years.

particular those associated with getting required documentation. In line with the Private Employment Agencies Convention, 1997 (No. 181) and the ILO General Principles and Operational Guidelines for fair recruitment, Thailand and its neighbouring countries should move towards eliminating worker-paid recruitment fees. One important step towards this goal is for Thailand to urgently develop secondary legislation under the Royal Ordinance Concerning the Management of Employment of Migrant Workers to define what constitute the “recruitment costs” not to be charged to migrant workers under the MOU and border employment schemes. Some of these fees and costs should be paid by employers, while others can be eliminated or significantly reduced by governments (such as costs for visas, passports and other administrative requirements).

Ensure effective regulation of recruitment, including better monitoring, enforcement and information dissemination: While effective legislation is a fundamental building block to ensuring fair recruitment, it is only as effective as its implementation. Political will, institutional mechanisms, and capacity in terms of resources and manpower all need to be in place to ensure effective monitoring and enforcement of recruitment-related regulations. Stronger monitoring could include increased capacity to conduct on-site visits and inspections of recruitment agencies, financial audits, and visits to employers, as well as the conducting of confidential interviews with service users. One way to reduce document brokerage costs is to provide forms and offer instruction on relevant procedures in multiple languages.

3. Increase labour protection

Amend the Ministerial Regulation concerning Labour Protection in Agricultural Work so that the key Labour Protection Act protections cover all workers in agriculture: The research has showed that underpayment of wages and a lack of respect for normal working hours and rest days are among the main challenges in agriculture, and extend to a vast majority of the workers interviewed. The Ministerial Regulation excludes agricultural workers employed for less than one year with the same employer from a number of very important labour protections. With a view to ensuring decent work for migrant workers in agriculture, the following exclusions, at a minimum, should be removed from the Ministerial Regulation: minimum wage; eight hours work day and rest time; specific overtime wages; compensation from temporary business closures; 13 traditional national holidays; six days of annual leave; and severance pay.

Address the significant gender wage gap in agriculture: The research finds that men and women workers in agriculture receive distinctly different wages, with women typically receiving significantly lower wages. Currently, no legal requirement exists for employers in Thailand to collect, record, analyse or publish gender pay gap data and make it available to the public. However, and in-line with the ILO Equal Remuneration Convention, 1951 (No. 100), ratified by Thailand in 1999, the Labour Protection Act (sect. 15 and 53) and the Ministerial Regulation concerning Labour Protection in Agricultural Work (clause 3 and 4) contain provisions by which employers are legally required to treat male and female employees equally in their employment – including with regards to wages, overtime pay, holiday pay and holiday overtime pay – unless the description or nature of work prevents such treatment. Compliance with these provisions should be monitored, and violations addressed.

Improve employment and working conditions by expanding labour inspections in the agriculture sector: It is clear that the monetary gains to migrant workers are eroded by decent work deficits. Existing laws related to working and employment conditions need to be enforced with a view to eliminating exploitative practices. While labour inspection does cover agriculture, agricultural workplaces are lumped together with many other workplaces under the broader heading of “inspection of informal sectors”. Further, when planning inspection visits, a ratio of one inspector per a set number of workers is used. If workers in agriculture are underreported (as will happen when migrants are undocumented), it will affect how many labour inspectors are responsible for inspecting informal enterprises. Additionally, inspection plans tend to be quite broad, and inspectors can randomly inspect any workplaces falling under the “informal sectors” banner. This being the case, inspectors may select more readily accessible workplaces, and might not inspect remote farms at all due to budgetary and manpower constraints. The following two recommendations seek to address these issues: first, inspection in agriculture (farm

operation) should be mandatory, rather than being lumped into the broader informal sector; and second, (gender-sensitive) guidelines on labour inspection in agriculture should be developed.

Apply stricter sanctions for labour rights violations committed against migrant workers: Labour rights abuses by employers and recruitment agencies are commonplace partly because of the lack of credible enforcement, wage devaluation, and discrimination that typically exist in relation to migrant employment. Greater accountability through imposition of stringent yet proportionate penalties, increasing for repeat offenders, and the publicizing of such enforcement would act as deterrents against offenses.

Undertake further research to verify the existence of forced labour and child labour: Given the complexities involved in researching these issues, this report has not been able to draw definitive conclusions on the existence of these fundamental labour rights violations in the agriculture sector. Further research is needed on the prevalence of forced labour and child labour in the sector in general, and among specific crops in particular.

4. Ensure effective collective bargaining and access to justice

Ensure migrant workers' rights to freedom of association and inclusion in collective bargaining: Migrant workers' rights to freedom of association and inclusion in collective bargaining are vital for avoiding inequalities. Thailand should take steps to ratify ILO Conventions Nos 87 and 98 and amend its legal framework accordingly, with the aim of respecting all workers' fundamental rights to freedom of association and collective bargaining.

Increase migrant workers options for redress and make existing complaints mechanisms more accessible: Improving multi-lingual and outreach complaint mechanisms for migrant workers requires holistic interventions, including: establishing clear legal and institutional frameworks; providing capacity-building training to service providers; collaboration among government, trade unions, employers, crop sector associations, farmers cooperatives, corporate social responsibility advocates, and NGOs; conducting effective outreach to migrants; and providing fair and responsive remedies. Given that language and lack of legal status are among the most commonly cited barriers to lodging complaints, government complaints mechanisms, including the MWACs, need to be available in migrant workers' native languages and be open to all migrant workers, regardless of their migration status. In addition, effectiveness and trust need to be built up in the complaints system.

5. Increase access to social protection and health services

Ensure that migrant workers are effectively enrolled in the existing social security, workmen's compensation, and health insurance schemes that they are entitled to in line with their type of work permit, and ensure that they can avail themselves of compensation accordingly: It is clear from the research that efforts need to be undertaken to promote enrolment in existing social protection and health schemes. Such efforts can include, for example, campaigns targeting employers informing them of their responsibility to enrol their workers in these schemes, and campaigns aimed at workers to inform them of their legal entitlements. The Government should also consider simplifying mechanisms for workers to check whether they are entitled to membership in benefit schemes and to check whether they are properly enrolled. Government must also ensure that noncompliant employers are effectively sanctioned, without penalizing workers. Any barriers – perceived or real – that prevent migrant workers from effectively availing themselves of social security benefits and compensation for workplace accidents that they are entitled to, need to be removed. Further, and as indicated in some of the recommendations above, the Government should consider expanding the coverage of the Social Security Fund beyond what is currently prescribed by law.

Ensure that all migrant workers have access to health insurance: As the large majority of migrants working in agriculture are currently not entitled to enrolment in the Social Security Fund, the migrant Health Insurance Card Scheme (HICS) is the prevailing option for health insurance. Loopholes and gaps in HICS availability and application need to be filled. The HICS cards should be centralized so that workers

can access a wider range of participating providers and be made purchasable by all migrants, regardless of their legal status. Because agricultural workplaces are far from hospitals and clinics, budgetary allocations for innovative delivery systems (such as, mobile clinic units) could be further explored through pilot programmes. Further, while issues related to language barriers still need to be addressed, there is evidence of hospitals taking proactive steps to address the issue. These efforts can be further replicated and scaled up.

Work towards portability of social protection benefits for migrant workers: Thailand should continue to dialogue with its neighbouring countries to develop and implement bilateral social security agreements that will enable migrant workers to maintain their entitlements to benefits and ensure they are transferrable across borders. This would serve as an incentive for migrant workers to proactively ensure that they are insured under the Social Security Fund (if they are eligible). Immediate steps are needed to ensure that equal compensation for workplace accidents is awarded and transferred to migrant workers after return to their countries of origin.

6. Occupational safety and health, housing standards, and children's welfare

Ensure effective implementation of the legal framework related to workplace safety in Thailand, and improve administrative records on workplace accidents and injuries: The findings indicate that, while a relatively large number of workers had experienced workplace injuries, very few had received PPE or training on how to safely operate equipment used to perform their work. To address these concerns, the existing legal framework needs to be better enforced, including ensuring that workers are provided proper PPE free of charge. Further, in order to properly monitor the extent of workplace accidents and injuries in the agricultural sector, the Ministry of Labour should make workplace and injury statistics available disaggregated by occupational sector (separating agricultural crops from livestock and fisheries) and by nationality of the worker. This may assist provincial labour offices to target their migrant worker protection programmes and workplace inspections. Further, with a view to ensuring that all MOU and seasonal workers are enrolled in the Workmen's Compensation Fund as stipulated by law, the Government should sensitize employers to the benefits of enrolling their workers under the fund, given the common incidence of accidents in the agricultural sector, as found by this research.

Housing standards needs to be developed and enforced: Housing rights for agricultural migrant workers in Thailand is a challenging issue because of the current lack of regulatory measures. The survey found that, while housing is generally provided for free, housing conditions varied significantly depending on the crop. In order to ensure structural safety and reasonable levels of decency, hygiene, personal safety and comfort, Thailand should establish minimum housing standards in light of local conditions, and take appropriate measures to enforce these standards. The ILO Workers' Housing Recommendation, 1961 (No. 115), provides guidance on workers' housing. For the agricultural sector, workplace inspection should include housing facilities.

Ensure that existing laws related to child labour, children's welfare and access to services are implemented and enforced: Survey results indicate that children's presence in the agriculture sector is a concern from a number of perspectives. It is clear that children on farms can be exposed to hazards, particularly chemicals, whether they are working or not. Further, given the often isolated and remote location of farms, children's access to education and health services is limited. The issue of children in the workplace can be attenuated through birth registration and school registration programmes including the subsidizing of local schools to provide regular school bussing.

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► Appendices

Appendix I

► Distribution of migrant workers by age group, gender and country of origin

Age group	Cambodia		Lao PDR		Myamar		All		Overall Total
	M	F	M	F	M	F	M	F	
15 to 18	5.0	2.4	3.0	1.5	7.9	3.3	4.2	6.0	4.4
19 to 24	5.0	9.5	10.4	23.9	15.1	15.8	14.7	12.0	15.0
25 to 34	47.5	21.4	56.7	52.2	28.6	37.7	39.2	39.9	39.0
35 to 44	25.0	35.7	19.4	20.9	27.8	31.1	27.4	24.9	27.3
45 to 54	12.5	21.4	10.4	1.5	12.7	9.3	10.5	12.0	10.4
55 to 59	2.5	7.1	–	–	5.6	2.7	3.0	3.4	3.0
60 to 70	2.5	2.4	–	–	2.4	–	1.0	1.7	1.0
N	40	67	126	42	67	183	233	292	528¹
Mean age	33.9	38.5	32.2	29.3	34.7	33.6	33.8	33.3	33.5
SD	10.4	11.9	7.7	6.8	11.8	9.7	10.5	9.8	10.2

– = nil; Lao PDR = Lao People's Democratic Republic; M = male; F = female; SD = standard deviation; ¹ The three respondents who answered "other" for gender excluded from breakdown by gender, but included in the overall total.

Appendix II

► Breakdown of documentation held by migrant worker respondents

Table III.a. Documentation held by migrant workers, by country of origin (%)

Type of document	Cambodia (n=83)	Lao PDR (n=133)	Myanmar (n=309)	Total (n=525) ¹
Documented				
Passport, visa + work permit (MOU arrangement)	–	43.6	6.5	14.9
Temporary passport/CI/ NV + work permit	–	37.6	42.1	34.3
Border pass + work permit	41.0	–	11.3	13.1
Registration card	6.0	–	5.8	4.4
Documented, but not working legally				
Border pass only	43.4	6.0	1.0	9.0
Passport + visa only	–	12.0	2.6	4.6
Undocumented				
No documents	3.6	–	17.5	10.9
Other unofficial documents (village card or unofficial border-crossing card)	6.0	–	8.1	5.7
Stateless card holders				
Stateless card	–	0.8	5.2	3.2

– = nil; CI = certificate of identity. ¹ Three migrant workers declined to respond.

Table II.b. Documentation held by migrant workers, by type of work (%)

Type of document	Daily (n=185)	Seasonal (n=234)	Other ¹ (n=1)	Year-Round (n=105)	Total (n=525) ²
Documented					
Passport, visa + work permit (MOU arrangement)	2.2	25.2	0.00	14.3	14.9
Temporary passport/CI/ NV + work permit	23.8	29.9	0.00	62.9	34.3
Border pass + work permit	17.8	14.1	0.00	2.9	13.1
Registration card	8.1	1.7	0.00	3.8	4.4
Documented, but not working legally					
Border pass only	3.2	15.4	0.00	4.8	9.0
Passport + visa only	0.5	6.8	0.00	6.7	4.6
Undocumented					
No documents	24.3	3.4	100.00	2.9	10.9
Other unofficial documents (village card or unofficial border-crossing card)	14.6	0.9	0.00	1.0	5.7
Stateless card holders					
Stateless card	–	0.8	5.2	3.2	3.2

– = nil; CI = certificate of identity. ¹ “Other” refers to workers who may be employed through a combination of daily and seasonal work during the course of the year. ² Three migrant workers declined to respond.

Table II.c. Documentation held by migrant workers, by crop sector (%)

Type of document	Rubber (n=98)	Oil palm (n=26)	Maize (n=151)	Sugarcane (n=250)	Total (n=525) ¹
Documented					
Passport, visa + work permit (MOU arrangement)	17.4	3.9	1.3	23.2	14.9
Temporary passport/CI/ NV + work permit	66.3	88.5	26.5	20.8	34.3
Border pass + work permit	0.0	7.7	21.9	13.6	13.1
Registration card	3.1	0.0	6.6	4.0	4.4
Documented, but not working legally					
Border pass only	4.1	0.0	0.7	16.8	9.0
Passport + visa only	7.1	0.00	0.7	6.4	4.6
Undocumented					
No documents	2.0	–	23.2	8.0	10.9
Other unofficial documents (village card or unofficial border-crossing card)	–	–	11.3	5.2	5.7
Stateless card holders					
Stateless card	–	–	8.0	2.0	3.2

– = nil; CI = certificate of identity. ¹ Three migrant workers declined to respond

Table II.d. Documentation held by migrant workers, by province (%)

Type of document	Surat Thani (n=108)	Tak (n=201)	Sa Kaeo (n=83)	Loei (n=133)	Total (n=525) ¹
Documented					
Passport, visa + work permit (MOU arrangement)	15.7	1.5	–	43.6	14.9
Temporary passport/CI/ NV + work permit	71.3	26.4	–	37.6	34.3
Border pass + work permit	–	17.4	41.0	–	13.1
Registration card	2.8	7.5	6.0	–	4.4
Documented, but not working legally					
Border pass only	2.8	–	43.4	6.0	9.0
Passport + visa only	5.6	1.0	–	12.0	4.6
Undocumented					
No documents	1.9	25.9	3.6	–	10.9
Other unofficial documents (village card or unofficial border-crossing card)	–	12.4	6.0	–	5.7
Stateless card holders					
Stateless card	–	8.0	–	0.8	3.2

– = nil; CI = certificate of identity. ¹ Three migrant workers declined to respond.

Appendix III

► Sources of money borrowed by migrant workers in order to pay migration costs ¹

Source	No. (n=196) ²	Per cent
Employer	104	53.1
Family	40	20.4
Other villagers	22	11.2
Friends	21	10.7
Broker	18	9.2
Informal lender	16	8.2
Micro-finance	6	3.1
Banks in home country	1	0.5

¹ Multiple answers possible. ² Among 215 respondents who reported having borrowed money, 19 declined to say whom they had borrowed from. Therefore, this table includes only the 196 migrant workers who borrowed money and were willing to report whom they owed money to.

Appendix IV

► Difference between wages earned by migrant workers and the statutory daily minimum wage, by type of payment and crop sector, n=496

How are your wages usually determined?	No. of workers ¹	Mean difference	Standard deviation	Difference for lowest earner	Difference for highest earner
All crop sectors	496	16.8	269.4	-272.3	1 942.0
1. Daily flat rate	172.0	-105.3	96.6	-219.3	445.0
2. Monthly flat rate	18.0	-4.4	148.7	-185.0	292.0
3. Piece rate (flat rate by amount)	167.0	128.6	365.5	-176.4	1 823.6
4. Mix of daily/monthly rate and piece rate	27.0	-54.4	100.8	-155.0	195.0
5. Percentage share of crop sales	103.0	70.8	245.1	-272.3	1 942.0
6. Other (weekly, bi-weekly)	7	-70.5	171.3	-192.5	295
7. Do not know	1.0	-147.5	n/a	-147.5	-147.5
8. Declined to answer	1.0	-155	n/a	-155.0	-155.0
Rubber					
1. Daily flat rate	2.0	192.0	353.6	-58.0	442.0
2. Monthly flat rate	7.0	130.1	128.3	-8.0	292.0
3. Piece rate (flat rate by amount)	4.0	62.4	134.4	-126.4	192.0
4. Mix of daily/monthly rate and piece rate	1.0	-8.0	n/a	-8.0	-8.0
5. Percentage share of crop sales	82.0	94.6	250.2	-203.8	1 942.0
6. Other (weekly, bi-weekly)	1.0	-8.0	n/a	-8.0	-8.0
Palm					
1. Daily flat rate	13.0	-137.8	41.1	-165.0	-16.3
2. Monthly flat rate	1.0	108.7	.	108. 67	108. 67
3. Piece rate (flat rate by amount)	-	n/a	n/a	n/a	n/a
4. Mix of daily/monthly rate and piece rate	-	n/a	n/a	n/a	n/a
5. Percentage share of crop sales	10.0	-36.9	97.9	-272.3	49.1
6. Other (weekly, bi-weekly)	2.0	-149.6	7.6	-155.0	-144.3

How are your wages usually determined?	No. of workers ¹	Mean difference	Standard deviation	Difference for lowest earner	Difference for highest earner
Maize					
1. Daily flat rate	124.0	-118.7	77.3	-219.3	445.0
2. Monthly flat rate	8.0	-128.1	32.6	-185.0	-95.0
3. Piece rate (flat rate by amount)	1.0	16.4	n/a	16.4	16.4
4. Mix of daily/monthly rate and piece rate	7.0	-99.4	43.6	-144.3	-23.8
5. Percentage share of crop sales	5.0	-94.3	116.0	-251.4	52.1
6. Other (weekly, bi-weekly)	4.0	-46.5	229.0	-192.5	295
7. Do not know	1.0	-147.5	.	-147.5	-147.5
8. Declined to answer	1.0	-155	.	-155	-155
Sugarcane					
1. Daily flat rate	33.0	-60.2	116.5	-155.0	445.0
2. Monthly flat rate	2.0	-37.1	75.8	-90.7	16.4
3. Piece rate (flat rate by amount)	162.0	130.9	370.4	-176.4	1823.6
4. Mix of daily/monthly rate and piece rate	19.0	-40.3	113.4	-155.0	195.0
5. Percentage share of crop sales	6.0	62.4	351.4	-145.0	766.4

- = nil; n/a = not applicable. ¹ Thirty-two respondents were excluded from this table: 30 whose wages were irregular and could not be calculated, and two who did not provide wage information.

Appendix V

► Concerns over risk of violence, abuse or sexual harassment in migrant worker housing

Table VI.a. Migrant workers who are concerned about the risk of violence or abuse in their housing arrangement, by province and gender

Concerned about violence or abuse in housing?	Surat Thani		Tak		Sa Kaeo		Loei		Total	
	Male (n=50)	Female (n=57)	Male (n=76)	Female (n=126)	Male (n=40)	Female (n=42)	Male (n=67)	Female (n=67)	Male (n=236)	Female (n=292)
% who responded, "Yes"	10.0%	22.8%	1.3%	0.8%	5.0%	–	–	4.5%	3.4%	5.8%
No. who responded, "Yes"	5	13	1	1	2	–	–	3	8	17

– = nil. ¹ One sugarcane worker did not provide an answer and has been excluded.

Table VI.b. Migrant workers who are concerned about the risk of violence or abuse in their housing arrangement, by crop sector

Concerned about violence or abuse in housing?	Rubber (n=98)	Oil Palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
% who responded, "Yes"	16.3%	7.7%	1.3%	2%	4.7
No. who responded, "Yes"	16	2	2	5	25

Table VI.c: Migrant workers who are concerned about the risk of sexual harassment in their housing arrangement, by crop sector

Concerned about violence or abuse in housing?	Rubber (n=98)	Oil Palm (n=26)	Maize (n=153)	Sugarcane (n=251)	Total (n=528)
% who responded, "Yes"	0	0	0.7%	0.4%	0.4%
No. who responded, "Yes"	0	0	1	1	2 ¹

¹ Both respondents who answered "Yes" were female workers in Tak Province.

Appendix VI

► Ministerial Regulation Concerning Labour Protection in Agricultural Work

Ministerial Regulation

Concerning Labour Protection in Agricultural Work B.E. 2557 (2014)

By virtue of Section 6 paragraph 1 and Section 22 of the Labour Protection Act B.E. 2541 (1998), the Minister of Labour hereby issues the following Ministerial Regulation;

Clause 1. The Ministerial Regulation concerning Labour Protection in Agricultural Work B.E. 2547 (2004) issued under the Labour Protection Act B.E. 2541 (1998) shall be repealed.

Clause 2. In this Ministerial Regulation, "Agricultural work" means works related to plantation, animal husbandry, forestry, salt-field, and fishing other than sea fishing.

Clause 3. An employer who employs an employee to perform agricultural work for the whole year shall act in accordance with the Labour Protection Act B.E. 2541 (1998).

Clause 4. An employer in agricultural work who does not employ an employee for the whole year and does not require an employee to perform continuing agriculture-related works shall comply with section 7, section 8, section 12, section 13, section 14, section 15, section 19, section 20, section 21, section 37, section 40, section 41, section 42, section 43, section 44, section 46, section 47, section 49, section 53, section 54, section 55, section 70, section 76, section 112, section 113, section 114, section 115, section 123, section 126, section 127, section 128, section 129, section 134, section 136, section 137, section 139, section 140, section 142, and section 143 of the Labour Protection Act B.E. 2541 (1998), and section 9, section 10, section 11, section 11/1, section 16, section 17, section 18, section 38, section 39, section 51, section 124, section 124/1, section 125, section 135, and section 141 of the Labour Protection Act B.E. 2541 (1998) amended by the Labour Protection Act (No. 2) B.E. 2551 (2008), and this Ministerial Regulation.

Clause 5. An employee who has worked for a period of 180 consecutive days is entitled to holidays as equivalent to 3 or more workdays. In this regard, an employer shall determine the date of such holidays in advance or in according to mutual agreement between an employer and an employee.

An employer shall pay wage to an employee on holidays thereof as same as payment of wage on workday.

Whereas an employer requires an employee to work on holidays under paragraph 1, an employer shall pay holiday pay in addition to wage to an employee at the rate of not less than 1 time of hourly wage rate on workday based on the number of hours worked, or at the rate of 1 time of piece rate on workday base on the number of units of work done in case of piecework.

Clause 6. Whereas an employer does not provide holidays under Clause 5 or provide fewer holidays than the number of holidays regulated in Clause 5 to an employee, an employer shall pay holiday pay in addition to wage to an employee at the rate of not less than 1 time of wage rate on workday.

Clause 7. An employee is entitled to sick leave according to actual sickness. In case of sick leave that has a duration of 3 or more workdays, an employer may require an employee to show a medical certificate issued by a first-class licensed physician or a public medical service institute. If an employee is unable to show a medical certificate thereof, an employee shall give explanation to an employer.

An employer shall pay wage to an employee during sick leave at the same rate as wage on workday, but the payment of wage during sick leave thereof shall cover only 15 days of sick leave per year.

Clause 8. An employer shall provide adequate hygienic drinking water to an employee. In case an employee lives with an employer, an employer shall provide a clean, hygienic and safe accommodation to an employee.

An employer shall provide other welfares in favour of an employee as prescribed by the Director-General of the Department of Labour Protection and Welfare.

Given on this 12th day of December B.E. 2557 (2014)
General Surasuk Kanchanarat
The Minister of Labour

Working and employment conditions in the agriculture sector in Thailand: A survey of migrants working on Thai sugarcane, rubber, oil palm and maize farms

Agriculture has historically been the backbone of the Thai economy, employing the majority of the national working age population. While the sector has seen a decline in the number of workers in recent years, some 12.7 million workers, approximately 30 per cent of Thailand's total labour force, work in agriculture today. Increasingly, the sector is depending on migrant workers from Cambodia, the Lao People's Democratic Republic, and Myanmar to fill the growing labour shortages in the sector.

Given the decent work deficits facing workers in the agricultural sector globally, this report aims to shed light on the specific situation of migrant workers in the agricultural sector in Thailand. The analysis in this report is based on a survey of 528 migrant agricultural workers in four prominent export crops – maize, oil palm, rubber and sugarcane – as well as in-depth interviews with local officials, NGOs, employers and migrant workers. It closes significant knowledge gaps on employment practices, including the recruitment and hiring process, and on the working conditions of migrant workers in the Thai agricultural sector, including wages and working hours, occupational safety and health conditions, housing, and access to social protection and other important support services.

By determining the current situation of migrant workers employed in Thailand's agricultural sector, the report identifies key gaps in policies and practices that need to be addressed, and provides a comprehensive set of recommendations.

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