

Thematic brief 1

Labour migration in Cambodia, Laos, Thailand and Vietnam: migrants' vulnerabilities and capacities across the labour migration cycle

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Labour migration and trafficking in persons: A political economy analysis

Key messages

Labour migrants experience a wide range of vulnerabilities that put them at risk of human trafficking and other forms of exploitation. At the same time, they also have agency and capacities that can help protect them from exploitation.

Mapping these vulnerabilities and capacities across each stage of the labour migration cycle can help identify where governments, civil society, international organisations and the private sector might focus their efforts to prevent the exploitation of labour migrants and human

trafficking, by addressing vulnerabilities and amplifying protective capacities.

This thematic brief sets out these vulnerabilities and the exploitation to which they can lead, as well as labour migrants' capacities to protect themselves, drawing on research in Cambodia, Laos, Thailand and Vietnam.

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About this publication

This publication was produced as an output of a research partnership between ASEAN-ACT and ODI. The research involved conducting an applied political economy analysis to understand the dynamics of labour exploitation and trafficking in persons in Southeast Asia, for the purposes of: 1) improving the evidence base for ASEAN-ACT and partners' programming and policy engagement; and 2) developing and implementing a process for feeding that evidence into ASEAN-ACT and partners' programming and consultations on a regular basis.

The purpose of this research is to advance understandings of the vulnerabilities of labour migrants to exploitation and trafficking. This can contribute to improved response capabilities of state agencies and international programmes to address these issues and strengthen protection and support for labour migrants and victims of trafficking in persons.

Phase 1 of the research project includes four country studies: Cambodia, Laos, Thailand and Vietnam.

This Thematic brief is one of four in Phase 1. Thematic briefs distil findings from across the four country studies on key cross-cutting issues. This brief focuses on the vulnerabilities and protective capacities of labour migrants.

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Contents

Acknowledgements	4
Contents.....	5
Acronyms	6
1 Introduction.....	7
2 Vulnerabilities labour migrant experiences	9
2.1 Pre-departure	11
2.2 Transit	14
2.3 Destination	15
2.4 Return.....	17
3 Protective Capacities	19
3.1 Pre-departure	21
3.2 Transit	21
3.3 Destination	22
3.4 Return.....	24
4 Conclusion.....	25
References.....	26

Acronyms

ASEAN	Association of Southeast Asian Nations
CSO	Civil society organisation
GTSEZ	Golden Triangle Special Economic Zone
ILO	International Labour Organization
IOM	International Organization for Migration
MOU	Memorandum of Understanding
MRC	Migrant Resource Centre
NGO	Non-government organisation
SEZ	Special Economic Zone
UNDP	United Nations Development Programme

1 Introduction

Labour migrants experience a wide range of vulnerabilities that can make them more susceptible to various forms of exploitation, from debt bondage to labour exploitation to human trafficking. These vulnerabilities and the diverse ways in which they may play out demonstrate the acute risks that labour migrants may face and the many ways in which they may suffer exploitation. Indeed, the extent of vulnerabilities across a labour migrant's journey can be overwhelming. Addressing these to protect migrants is part of a comprehensive response to diverse social inequities, discrimination, institutional inefficiencies and failures, as well as abuses of power. These are all embedded within a global economic and trade regime that is geared towards cost reduction, especially for downstream suppliers. This thematic brief examines these issues by disaggregating some of the vulnerabilities which labour migrants may experience at various stages of the migration cycle. It seeks to focus attention on specific vulnerabilities during pre-departure, transit, destination and eventual return across each stage of the labour migration cycle.

At the same time, labour migrants also have agency and some degree of capacity to protect themselves. While this capacity may not be enough on its own to prevent exploitation, it is nonetheless a valuable resource that governments, civil society, the international community and the private sector should seek to support or amplify, in order both to ensure some safety for labour migrants, as well as enabling them to make their own decisions. The second part of this thematic brief, therefore, draws attention to these protective capacities and agency at each stage of the labour migration cycle, to identify opportunities for those working on safe labour migration and counter-trafficking to protect labour migrants and prevent exploitation.

The vulnerabilities and protective capacities of labour migrants at each stage of the labour migration cycle are set out in Figures 1 and 2 respectively. The remainder of this brief explores these in greater detail, demonstrating the exploitation to which vulnerabilities can lead, and the safeguarding or safety nets that migrants' own protective capacities and agency can afford.

This brief draws on research undertaken by ODI for the ASEAN-Australia Counter Trafficking (ASEAN-ACT) Program, looking at the political economy of the vulnerability of labour migrants to trafficking

across the ASEAN region.¹ Country studies have been undertaken to date in Cambodia, Laos, Thailand and Vietnam, with further studies planned for 2023. This thematic brief, one of four, synthesises findings from the first four country studies to distil key messages for those working on counter-trafficking. Phase 2 of this research will include country studies of Indonesia, Malaysia, Myanmar and Philippines.

¹ The Association of Southeast Asian Nations (ASEAN) includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

2 Vulnerabilities experienced by labour migrants

Across the stages of the labour migration cycle, labour migrants are vulnerable to exploitation, including human trafficking. These vulnerabilities vary depending on a wide range of factors, including the migrants' identity, their source and destination countries, the migration pathways, whether formal or informal, and the nature of their work. These factors influence how vulnerabilities play out and what forms of exploitation can result from them. The vulnerabilities that individual migrants may experience arise from a combination of systemic and structural challenges, including:

- long-standing social inequities and forms of discrimination, leading to differential access to information, services and social protections, as well as economic opportunities;
- institutional inefficiencies and failures, which may mean that services or resources are set up in such a way that renders migrants vulnerable (or fail to protect them); and
- abuses of power, which mean that authorities at various levels, employers and recruiters exacerbate rather than lessen migrants' vulnerability.

These vulnerabilities are depicted in Figure 1, and elaborated in the following sections in terms of the exploitation that they can prompt.

Figure 1 Vulnerabilities to exploitation that labour migrants experience in Southeast Asia at each stage of the labour migration cycle



Source: ODI, 2022

2.1 Pre-departure

Prospective migrants may be vulnerable due to situations of **economic precarity, including indebtedness**, which in turn prompt migration (US Department of State, 2022: 343). Both long-term and more immediate precarity can lead people to seek opportunities to improve their economic situation and that of their families by migrating for work (both through remittances and by reducing the family's outgoings). Such situations of precarity and indebtedness can make prospective migrants vulnerable to promises of higher-than-local rates of pay, as well as to offers of 'bride price' by those looking to facilitate cross-border marriages.

Identity factors such as gender, ethnicity, age and geographic location can make some labour migrants relatively vulnerable to human trafficking and other forms of exploitation. In Vietnam for example, strong economic growth in recent decades has not been evenly distributed, meaning that some ethnic minorities have not benefited in the same way as the Kinh majority. Tending to reside in remote and rural areas, where there are fewer job opportunities, there is a greater push to migrate to seek better prospects (Apland and Yarrow, 2019). Household dynamics also play a role here, with younger daughters often more likely to migrate. A young woman from Bat Xat district in Lao Cai province of Vietnam said that at the age of 13: *'I had to drop out of school because my family has many siblings and I was the second, so I have to stop schooling to work to help my parents'* (interview with returned migrant worker, Vietnam, December 2021). A Cambodian informant noted that many girls and women who migrate for domestic work do so *'following their parents' advice on how to be good daughters and earn an income for their families'* (interview with representative of a civil society organisation (CSO), Cambodia, 6 January 2022). In the case of Cambodia, it has been found that boys and young men – to a greater extent than girls and young women – influence decisions on whether they should migrate (World Vision, 2014). In Laos, younger, female and ethnic minority migrants are seen as more vulnerable to exploitation, as they are perceived to be less worldly and more trusting (World Vision, n.d.: 1). It has also been noted that communities who live in more remote regions far from the capital are less able to access information and services, and tend to be less aware of recruitment scams (Blue Dragon, 2020).

The complicated and **fragmented system of recruitment and labour migration pathways** are a further source of vulnerability and make it difficult for prospective migrants to establish how to migrate safely. There are licensed recruitment agencies, brokers, family and friends, as well as methods for finding work on social media, and migrants may rely on a combination of these. There is both regular

migration and irregular migration, the latter sometimes offering opportunities for ‘regularising’ once in a destination country, as is the case of Thailand (Harkins, 2019). The differences between the intermediaries is not always clear. In Vietnam, licensed agencies have been found to recruit labour through informal networks and brokers, or to sell their licenses to private companies (Hoang, 2020). While there are various institutional arrangements to assist prospective migrants in navigating these options (such as the Migrant Resource Centres and Job Centres), potential migrants may avoid these if they are reluctant to have any contact with formal authorities, or if they are not easily accessible by those wishing to migrate.

Prospective migrants may be vulnerable owing to **limited knowledge of the risks of exploitation** involved in labour migration, which stems from the inadequate dissemination of information. This may include a lack of awareness of the possibilities of labour violations and exploitation – from low pay and poor working conditions, to confiscation of documents and restricted freedom of movement, to forced labour and trafficking. Alternatively, it may involve a lack of awareness of the *extent* or widespread nature of exploitative practices, leading to a sense that ‘this won’t happen to me’. In more extreme cases, this vulnerability can result in human trafficking – as is increasingly being documented in the Golden Triangle Special Economic Zone (GTSEZ) in Laos and in Phnom Penh, Sihanoukville and other parts of Cambodia, where young people across the region are lured by promises of well-paid jobs in online scams, only to be sold or forced into sexual and labour exploitation when they fail to meet unrealistically high sales targets (Gore et al., 2022: 22; US Department of State, 2022: 344; Muntarhorn, 2022; Saksornchai, 2022).

The **costs and time involved in facilitating migration** are also a source of vulnerability for prospective migrants. Regular migration through registered recruitment agencies is especially time-consuming and expensive, with estimates in Laos of this costing, on average, USD 542, and similar or higher amounts reported in Cambodia, as well as taking up to six months to be deployed (ILO, 2020a; IOM, 2021: 19; Verité, 2019; Ros et al., 2017). This leads many migrants to opt for irregular migration, even though it offers less protection. The regular route into Thailand is perceived as expensive and, administratively cumbersome. Moreover, it does not guarantee that migrants will not be exploited in the workplace (Harkin, 2019). The migration expenses can lead to prospective migrants becoming indebted to recruitment agencies, or to employers via debt bondage, or to brokers, family or other lenders. As with the economic precarity and debt that can motivate people to seek labour migration in the first place, (further) indebtedness to facilitate migration makes prospective migrants vulnerable to various forms of exploitation given their more limited options and financial obligations.

Commonly, **regular migration through recruitment agencies ties migrants to one employer**, which means that migrants become irregular if they leave the employment. This stipulation makes labour migrants vulnerable to poor working conditions and the whims of the employer, who knows that they have no alternative. By contrast, irregular migration, while riskier in some ways, enables labour migrants to move between employers. Labour migrants interviewed as part of this study said that they will leave exploitative employers to seek other work.

Growing online recruitment in Southeast Asia makes migrants vulnerable to false promises of high salaries and dubious employers. Poor digital literacy is a factor, but the sophistication of recruitment scams makes it difficult to separate legitimate from illegitimate recruitment. Difficulties in verifying sources, confirming information or protecting personal data create a risk of online recruitment into exploitative conditions, or scams that promise employment that does not exist, but still charging a fee to migrants.

Levels of education and especially literacy may also make migrants more vulnerable, affecting whether prospective migrants are able to interpret contracts and other documentation. It has been found that children's literacy significantly increases the awareness of the risks of trafficking (World Vision, 2014). A study by Dinh et al. (2014) found a correlation between the educational level of the overall household and the risk of trafficking, deducing that better educated households are also better equipped to identify legitimate migration pathways. However, it tends to be the best-educated family members who are sent to work abroad, in the expectation they will earn the highest salaries. The prevalence of more educated migrants creates a spurious link with exploitation – increased risk of exploitation is a result of the numbers of educated migrants, not their education level itself (Dinh et al., 2014).

Finally, **limited civic space** in all the countries covered in this study (to varying degrees) creates vulnerabilities to exploitation for prospective migrants. This is because a more constrained civil society and limitations on media, for instance, mean that there is less scope for investigations or research on trafficking and critical analysis of related power structures and beneficiaries of exploitation and crime, and consequently to less robust information about migration risks. The lack of government transparency and accountability also results in limited oversight of the institutions and officials who are involved in facilitating migration, and thus more space for them to act in their own interests. One element of this are the ownership structures of recruitment agencies, and businesses reliant on migrant labour, where public and private interests may overlap, creating conflicts of interest and undermining accountability. This creates an environment in which migrants are more vulnerable to exploitation.

2.2 Transit

Once migrants begin their journey, vulnerability arises from the lack of knowledge of travel routes, limited linguistic and cultural familiarity and/or a limited understanding of the mechanisms of migration. For many, since this will be their first journey abroad, they may have little idea of what to expect. Documentation, including visas and contracts where they exist, may not be in their own language. If migrants cross several countries, fewer border officials may be able to communicate with them in their own language.

Particularly in the case of irregular migration, **many migrants travel either with no documentation at all, or with incorrect documentation** (i.e. without visas). In Vietnam, undocumented migration makes it harder to identify victims of trafficking on their return, and travelling without the correct documentation may be a criminal offence. While Vietnam has no legal provision for the non-criminalisation of victims for violations, such as illegal border crossings, practitioners say that most identified victims of trafficking will be not fined (see Vietnam case study). The onus for being identified as victims is often placed on the migrants, although the benefits of doing so are not clear. For those who cannot prove or provide any information/evidence that they are victims of trafficking, they may risk being fined in the absence of clear guidance from central agencies. For migrants from Laos, having the wrong and/or missing documentation can lead to being fined by border officials on return (IOM, 2020: 7).

In part to mitigate this lack of knowledge, **migrants rely on brokers or transporters** to facilitate their journey and navigate the complexities. One key area is documentation. Brokers are usually responsible for providing the appropriate documentation for migrants, depending on the arrangement. Inevitably, some brokers and transporters abuse this power. In some rare cases, there have been instances of forged documentation being used by migrants or provided by brokers (Zhang et al., 2021). In addition, there is a risk of extortion because migrants are reliant on them. Lack of appropriate documentation can also encourage demands for **bribes or other abuses of power by border officials**, in addition to cases where brokers collude with border officials to extract payments from migrants.

There are **few existing mechanisms to monitor borders and identify potential victims of trafficking**. In Laos, for instance, until 2019 there was some presence of the Anti-Trafficking Department of the National Police at official border crossings, as well as visits by international organisations or CSOs. These ceased following the 2019 Decree on International Border Management, which saw the military stationed at border crossings, with no training in identifying the victims of trafficking.

Many irregular migrants travel independently or in small groups to avoid detection by authorities, who may fine, detain or deport them. But solo travel, particularly for women, can make them vulnerable to being deceived or forced into sexual exploitation as they travel to seek job opportunities (interview with international organisation, Laos, 25 February 2022).

The **closure of international borders during COVID-19** to contain the pandemic rendered labour migrants more vulnerable and made border crossings illegal, thus increasing the reliance on brokers to facilitate movement (McAdam, 2020; Khemanitthathai, 2021; Buckley et al., 2022). However, the closure of many industries did not reduce the demand from individuals desperate to migrate to seek work. Rather there were large numbers of aspiring migrant workers, with fewer opportunities available.

2.3 Destination

At their destination country, many labour migrants, regardless of their status, are vulnerable because of their **lack of awareness of the social protections available** to them or how to access them. This can mean that even where there are services available for labour migrants, they are not widely used, meaning that migrants miss out on potential protection. The protection system itself is often flawed, with **officials abusing their power and demanding bribes** from migrant workers seeking assistance, particularly those with irregular status. This is notwithstanding developments in labour policy, for instance in Thailand, where foreign workers are legally recognised as having the same rights as Thai workers, even if they are irregular (ILO, 2020b). Limited use of existing social protections by both regular and irregular labour migrants is related to their **lack of knowledge of the relevant laws and policies**, as well as the processes involved in accessing services or protection. This means that labour migrants are often unaware of their rights and entitlements. A **lack of linguistic and cultural familiarity** complicates this further, making laws, policies and processes more difficult to navigate and understand. The language and cultural challenges also make labour migrants vulnerable to social isolation and exploitation by employers or others. In addition, in many countries that receive large numbers of migrant workers, there is little concern about their wellbeing. Rather they are seen as responsible for crime, unemployment among nationals, and more recently COVID-19 transmission. This creates an environment in which abuse and exploitation can flourish.

Restrictive immigration and labour migration policies can leave labour migrants, and particularly those with irregular status, vulnerable to exploitation by employers and corrupt officials. This is exacerbated by the imbalance in the supply and demand for labour across the different countries in the region. Reporting exploitation to the authorities is rarely considered to be an option for irregular

migrant workers because of the fear of **abusive practices by authorities, risk of deportation or the demand for bribes**.

Employers can take advantage of this vulnerability. For example, a Vietnamese migrant worker who had returned from Thailand reported that her employer threatened to turn her into the police if she kept complaining about unpaid wages. After four months she left secretly, without having been paid (interview, returned migrant worker, Vietnam, January 2022).

Even regular labour migrants can be vulnerable to exploitative employers and poor working conditions. In some instances, **work visas are tied to a particular employer**. This makes labour migrants vulnerable to deportation if they complain about their working conditions or salary. In many cases, labour migrants may in principle have recourse to lodge a complaint with the recruitment agency that facilitated their employment. In practice, however, **recruitment agencies seem unable or unwilling to take up complaints with employers**. Instead, at best they advise their workers to seek help from the police in the host countries (interview with labour export companies, Vietnam December 2021).

A further vulnerability for labour migrants arises from the **challenges with cross-border investigations or prosecutions**. Authorities in source countries have no power to conduct investigations and gather evidence themselves, and rarely have relationships with their counterparts in the destination countries that could facilitate this. Investigations are also harder and less likely when the perpetrator is an employer, thus giving priority to the rights of employers over those of migrant workers. This means there is seldom any prospect of employers being held to account for the treatment of migrant labourers.

Labour migrants in destination countries are also vulnerable to employers **confiscating their documentation**, which limits their freedom of movement, and ability to physically seek assistance. In Thailand, for example, the United Nations Development Programme (UNDP) found that 96% of regular migrant workers had their passports confiscated by their employer or supervisor (UNDP, 2018). In addition, **mobile phones have been confiscated and access to the internet restricted**, preventing migrants from seeking assistance or navigating social protection systems – or even building social networks that may provide some degree of protection. **Wage-theft** by employers is also experienced by migrants, who have limited power to challenge or complain about them. This can include non-payment of wages, lack of overtime pay, paying below legal minimum, illegal wage deductions and paying different wages based on certain characteristics, for instance nationality or gender (Harkins, 2020).

Debt-financed labour migrants are vulnerable to exploitation as creditors exert pressure on them to repay their loans before returning home, as well as from families who rely on their remittances. This

undermines the options for complaining or challenging exploitative employers because of the need to continue working.

Labour migrants **working in 'hidden' sectors with little oversight** are even more vulnerable to exploitation. Sectors such as fisheries, domestic work and agriculture in remote regions take place outside public view and mean that employers can exploit them with little prospect of oversight or accountability. At the same time, hidden sectors may be more attractive to irregular migrants because they are also hidden from the authorities. In addition, physical access to assistance for labour migrants is impossible if, for instance, they are working on board a ship, or difficult if they are confined to a domestic residence or living in a remote area and unable to travel to the nearest town or city – highlighting the need for more strategic linkages between the protective measures across labour policy and anti-trafficking measures (Derks, 2010).

In a similar vein, **Special Economic Zones (SEZs)** – a core feature of the economic development plans of many countries in the region – have become a source of vulnerability, precisely because they are associated with weaker regulatory environments and more limited oversight. While these vary greatly, those in Cambodia, Laos and Myanmar have been shown to have particularly significant risks of criminal operations deceiving and exploiting migrant workers. In the GTSEZ in northern Laos, for instance, migrant workers from Laos, Malaysia, Thailand and elsewhere, have escaped or been rescued from work in online scams. The workers have been forced to work long hours with no breaks and some instances of sexual and other assault, with the threat of being sold into other forced labour or sex work if they do not meet high sales targets (Gore et al., 2022: 22; US Department of State 2022: 344). While the Lao authorities have jurisdiction and authority over the SEZs in the country, the political economy of the SEZ, heavily influenced by the relationship – and debt – with China, suggests that the arrangements concerning the de facto authority in the SEZs are unclear. The relationship between local authorities and the management of the GTSEZ may make for particular vulnerabilities and lack of access to protection or law enforcement there (interview, international organisation, Laos, 2 March 2022; interview, trafficking expert, Laos, 6 April 2022; Interview, trafficking expert, Laos, 8 April 2022).

2.4 Return

When migrant workers return home, this should be to a situation of safety, but vulnerability may continue. **Social dislocation** may be experienced and there may be **social stigma** from having been away, having lived or worked in particular sectors or communities and being seen as no longer part of their own community in the same way (Buakhiao, 2020: 237-8). **The shame of failure**, and the family's disappointment, can result in workers not returning to their community. There may be **unemployment** on return (even more so

in the post-COVID-19 context and economic downturn), resulting in **financial precarity**. These stresses can contribute to **poor mental health** and give rise to the possibility of re-migration for work, with the possibility of being re-trafficked.

Migrant workers who were exploited or trafficked may also **experience trauma as a result**. While there are various support services intended for victims of trafficking, most of these were developed in response to sexual exploitation, and give inadequate attention to labour exploitation. Stemming from this, there is a particular lack of services for men and boys, who make up a significant proportion of labour migrants. In addition, since most trafficked or otherwise exploited migrants are never identified as such, this means they cannot access such services.

Returned labour migrants are also vulnerable owing to **limited options for exercising legal voice or agency**. Although many shelters provide services to trafficking victims and link them up with legal aid organisations, it is extremely difficult to secure cross-border convictions or compensation since civil action is limited. In 2021, 11 victims reportedly received compensation in Laos; at least seven in Vietnam, while in Cambodia USD83,400 in compensation was paid out to an unknown number of victims (US Department of State, 2022). Convictions for cross-border crimes are rare.

In some cases, there are **problems associated with being identified as a victim of trafficking**. In Vietnam, returnees need to be formally identified as victims in order to access support services, which in turn requires a perpetrator to be identified. This is difficult when the perpetrator is an employer, and it is further complicated when labour migration turns into trafficking in third countries where these offences were not identified. Even if trafficking is identified in the destination country, conducting investigations, collecting evidence and pursuing prosecutions there is extremely difficult. In addition, many migrant workers return to Vietnam of their own accord, referred to as 'self-rescue'. In these cases, there is no formal identification of their status and hence no support. In Cambodia, a person who migrated via the formal process would rarely be regarded as a victim of trafficking and criminal action is typically considered only if the victim migrated through an irregular process.

3 Protective Capacities

The vulnerabilities of migrant workers create space for multiple actors – recruitment agencies, brokers, transporters, border officials, other authorities and employers – to abuse their power to exploit them. Pinpointing these vulnerabilities also offers opportunities for governments, civil society, international organisations and the private sector to address them so that migrant workers are less exploitable. Clearly, migrant workers also have agency and protective capacities and forms of resilience on which to draw to negotiate and improve their circumstances, even if only in small ways and in the face of huge power imbalances. Acknowledging and supporting these is also key to enabling labour migrants to better avoid exploitation.

Figure 2 Protective capacities and agency of labour migrants in Southeast Asia at each stage of the labour migration cycle



Source: ODI, 2022

3.1 Pre-departure

Individual decisions to migrate for work are based on the information and resources at their disposal. While there are instances where these are extremely limited, some migrants have **knowledge of migration routes and destinations, as well as deceptive practices** gathered from family, friends and acquaintances who have previously worked abroad. Some labour migrants already have **social networks in the destination country**, offering a degree of protection and source of information.

In some countries, such as Vietnam, former migrants are often reluctant to share their experiences, whether because of the stigma attached to human trafficking, because of its association with sexual exploitation, or a need to continue earning. Nonetheless, the growth of **migrant networks** in Vietnam offers a resource for aspiring migrants, and a support network for returnees. Other **information is also available through migrant resource centres (MRCs) and non-government organisations (NGOs)** and via **training offered by recruitment agencies**. While the available information is generally limited, these outlets offer some degree of knowledge that could be built on and expanded to better equip labour migrants and inform their decisions. **Social media** is also an increasingly accessible source of information – offering both potential forms of protection and of vulnerability, depending on the quality of the information and who is behind it. The ability of social media to enable labour migrants to connect with individuals and organisations online can provide them with information and social networks that potentially offer some form of protection.

3.2 Transit

During transit, labour migrants who **know the migration routes, are familiar with the country of destination and knowledge of local languages** are relatively protected from some of the deception to which migrants are otherwise exposed. These dynamics have helped protect Lao and Cambodian seasonal agricultural workers who routinely migrate back and forth to Thailand and work on known farms (sometimes owned by extended family or friends), and use secure travel routes.

Labour migrants are often strategic in the ways that they travel – avoiding authorities (especially if they are irregular migrants) and **travelling in groups for greater safety**. In Laos, for instance, some respondents in the research spoke about labour migrants travelling independently or in small groups to avoid attracting the attention of authorities, even though this can pose various challenges as noted above. Conversely, in Thailand, Cambodian agricultural workers spoke about travelling in groups using private hired vehicles, finding

protection in numbers, and avoiding possible detection by authorities were they to use public transport.

Finally, labour migrants with **migrant networks** are able to draw on these as they travel – to provide information, advice or offer transport or accommodation.

3.3 Destination

While the **wide range of documentation that labour migrants can use** may be a source of confusion and potential vulnerability, with implications for access to social protections and employment rights, it can also offer them some degree of protection and agency. The breadth of documentation available offers a range of options that labour migrants can use strategically to secure different entitlements and access. This avoids highly formal processes that provide only a limited number of ‘right’ options and offers a range of informal entry paths into labour migration and employment.

Memoranda of Understanding (MOUs) between source and destination countries establish an authorised channel for regular labour migration that can afford some protection for labour migrants. This provides a legal framework and recourse to a range of government processes (such as complaints to labour attachés in the migrant workers’ embassy in the destination country, for instance). As we have seen, regular migration is no guarantee of avoiding exploitation, including trafficking. MOUs remain largely toothless without robust processes to support them and – importantly – being functional and used. As discussed above, the associated processes may also create vulnerabilities to abuse and exploitation.

Regularisation of irregular migrants, specific to Thailand, can provide a degree of protection to irregular labour migrants – offering pathways to regularisation despite initially migrating irregularly, although these registration processes are often ad hoc rather than systematic. As above, this provides opportunities for greater entitlements and access to social protections that help expand the rights of (previously irregular) labour migrants. On the other hand, labour migrants may perceive and experience the process of verifying their nationality as a control mechanisms of the destination country’s authorities, rather than as efforts to protect them (Derks, 2013). In 2020, Thailand said that it will provide no further amnesties for irregular migrants, although similar statements have been made in earlier years.

Additional protections are – in theory – provided by the **recruitment agencies’ complaints mechanisms**, whereby labour migrants can complain about poor working conditions or exploitative employers to the recruitment agencies that facilitated their employment. While it is not clear whether these are used or work in practice, they are nonetheless an existing mechanism that could be strengthened to afford greater protection to labour migrants. In addition, labour

inspectors and other government mechanisms, NGOs working in certain sectors, trade unions (and similar structures), to varying degrees and effectiveness, provide avenues to voice grievances and seek resolutions to disputes and other problems at workplaces.

Long-term experience in a destination country can enable labour migrants to better navigate existing systems. For example, in Taiwan, large numbers of debt-financed Vietnamese migrant workers leave the employers to whom they are tied through their visa either to earn more or to remain after their visa expires (Hoang, 2017). In doing so, these migrants become irregular and may thus be at greater risk of exploitation because their status deters them from seeking assistance from authorities, for fear of being deported. Even so, these migrants have often been in Taiwan for several years, have a better understanding of the context, may have learned the language and probably have social networks. This strengthens their position and they use their knowledge of the risks and benefits of the migration system to their advantage. Thus, O’Connell Davidson (2013) argues that while debt-financed migration creates vulnerability because of the need to repay the debt, it can also provide a pathway to increased income. A similar dynamic is evident in Thailand, where regular labour migrants sometimes choose to hide their identity, effectively making them irregular, as they see this as a means to buy them some freedom of movement and provide more space for agency. This is because formal invisibility creates options of moving on from abusive employers (Derks, 2013).

Finally, a range of networks can provide labour migrants with agency – including legal agency – and protection. Most notably, this includes **civil society groups and trade associations** in destination countries that provide information, advice and support to labour migrants, including support for legal action in some instances. Trade union support for labour migrants cannot be taken for granted, however, in part due to popular perceptions that they depress wages to the detriment of national workers. This is the case in Thailand, where trade unions are not politically strong or widespread. With estimates that only 2% of Thai workers are organised in trade unions, the capacity of trade union representation is weak (ILO, 2018). However, it appears that Thai unions are becoming more active in supporting labour migrants’ rights, and there are some promising developments such as recent MOUs signed between Thai and Cambodian unions and more recently discussions underway with Laos (ILO, 2013).

There is increasing work among CSOs to develop protection strategies that bridge different areas of law and practice. For example, in Thailand in particular, civil society actors are working more creatively across different legal strategies, beyond the criminal justice field of the counter-trafficking measures, and where the focus is more on the victim than on perpetrators. There are also examples

of joint efforts by CSOs and trade unions in source and destination countries to provide essential services for migrant workers, including the establishment of joint helplines. As in previous stages of the labour migration cycle, **migrant networks** can be a source of information and protection, with many labour migrants changing employers having heard about better conditions or pay from other labour migrants. **The internet** and **social media**, as well as having **access to mobile phones**, can improve the protections available to labour migrants. Laotian and Cambodian women in situations of forced marriage in China, for instance, have been able to use mobile phones and social media to contact family or authorities to arrange return (Chandran, 2018; UN-ACT, 2016: 17).

3.4 Return

Protective capacities on return are often provided through shelters and other civil society or legal aid groups that have been set up to cater for victims of trafficking. These services can provide **psycho-social support and counselling, reintegration and skills training** and **legal advice and legal aid services** (though the latter are especially limited). These services are not always tailored as well as they could be to the experiences of labour migration but nonetheless offer some possibility of protection and agency for returned migrants (interview, migration expert, Laos, 1 April 2022). Restrictions on movement, variable quality of services and challenges with accountability and oversight in shelters can also undermine (re)integration.

In addition, in some cases, labour migrants return with the **skills and experience they have gained abroad**, which give them an advantage in local job markets, although this cannot be assumed. They also return with more **established migrant networks**, which can assist in reintegration, with re-migration if they so choose, as well as with potentially sharing information, advice and networks with other prospective migrants.

4 Conclusion

The breadth of vulnerabilities that labour migrants may experience, as well as the protective capacities and resilience on which they can draw, offer fertile ground for working in different ways on the issue of labour migration and counter-trafficking. While there is a strong focus on apprehending and prosecuting perpetrators as part of counter-trafficking efforts, a focus on labour migrants and the factors that put expose them to greater risk of exploitation, as well as those that can help them to avoid it, offers an alternative and complementary approach. By pinpointing vulnerabilities and protective capacities across each stage of the labour migration cycle, those looking to better protect labour migrants can begin to see in greater detail the opportunities to address vulnerabilities and maximise protective elements.

While the vulnerabilities arise from structural causes, focusing on the individual level provides insight into the impact of labour migration regimes on migrants, and any interventions need to be considered in light of these vulnerabilities to assess their impact on different groups. Similarly, migrants' existing protective capacities and resilience should be safeguarded. In other words, it is essential to be aware of migrants' existing capacities to avoid responding in ways that might undermine these.

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Interviews

Interview with returned migrant workers, Vietnam, December 2021

Interview with labour export companies, Vietnam, December 2021

Interview with returned migrant worker, Vietnam, January 2022

Interview with CSO, Cambodia, 6 January 2022

Interview with international organisation, Laos, 25 February 2022

Interview with international organisation, Laos, 2 March 2022

Interview with migration expert, Laos, 1 April 2022

Interview with trafficking expert, Laos, 6 April 2022

Interview with trafficking expert, Laos, 8 April 2022

