

# PROCEEDINGS OF

# The Multi-Stakeholder Workshop on Migrant Agricultural Workers in Thailand

**MEKONG MIGRATION NETWORK  
19 DECEMBER 2019**



**With the Support of Solidar Suisse & Oxfam**

# Acknowledgements

The Multi-Stakeholder Workshop on Migrants in Agriculture was organised by the Mekong Migration Network. The following organisations and individuals contributed to the workshop and ensured its success. We wish to acknowledge their efforts with a special thank you.

## **Discussants**

**Plenary One:** Ms Reena Arora, MMN legal consultant; Ms Janthana Sirimatuross, Head of Programme, Prevention and Problem Solving on Labour Protection, Informal Labour Protection Office, Ministry of Labour, Royal Thai Government; Ms Wai Phyo, Women and Children Rights Trainer, Foundation for Education and Development; Ms Cho Win Zu, Myanmar Migrant Worker from Phang Nga Province, Thailand; and Ms Kuanruthai Siripatthanakosol, National Project Coordinator for Thailand, International Labour Organization

**Plenary Two:** Mr Brahm Press, Director, MAP Foundation; Mr Prachoom Kansapt, Head of Programme, Management of Border Employment of Foreign Workers, Foreign Worker Administration Office, Department of Employment, Ministry of Labour, Royal Thai Government; Mr Nantachai Panyasurarit, Director, Social Security Contribution, Social Security Office, Ministry of Labour, Royal Thai Government; Ms Sunwanee Dolah, Programme Officer, Raks Thai Foundation; and Mr Hong Prakorp, Deputy Director, Provincial Department of Labour and Vocational Training Banteay Mean Chey, Royal Government of Cambodia

**Plenary Three:** Ms Supranee Pongpai, Senior Expert on Labour, the Bureau of Occupational Safety and Health, Department of Labour Protection and Welfare, Ministry of Labour, Royal Thai Government; Dr Sara Arphorn, Associate Professor, Department of Occupational Health, Faculty of Public Health, Mahidol University, Thailand; Mr Kyaw Soe Naing, Field Migrant Officer, Raks Thai Foundation; Mr Win Zaw Oo, Myanmar Migrant Worker, Mae Sot, Tak Province, Thailand; and Mr Bent Gehrt, South-East Asia Field Director, Worker Rights Consortium.

**Facilitators:** Ms Reiko Harima, MMN Regional Coordinator; Ms Pranom Somwong, MMN Consultant; and Mr Brahm Press

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**Project Partners:** MAP Foundation (Thailand), Raks Thai Foundation (Thailand), Foundation for Education and Development (Thailand), Future Light Centre (Myanmar), Confederation of Trade Unions of Myanmar (Myanmar), Cambodian Women Crisis Center (CWCC)

Finally, we would like to thank Solidar Suisse and Oxfam, without whom this workshop would not have been possible.

Mekong Migration Network

January 2020

[www.mekongmigration.org](http://www.mekongmigration.org)

# Table of Contents

Acronyms	1-2
Introduction	3-4
Agenda	5-7
Welcoming Remarks	8
<b>Launch of the MMN Report on Migrant Agricultural Workers in Thailand: MMN study background, methodologies, key findings and recommendations</b>	9-11
<b>Plenary One: Labour Protection of Migrant Agricultural Workers in Thailand</b>	12-16
<b>Plenary Two: Challenges Faced by Migrant Workers: How do migration policies and practices impact migrant agricultural workers' working condition, access to social services, and social protection on the ground?</b>	17-22
<b>Plenary Three: Occupational Health and Safety</b>	23-27
Recommendations and Closing Remarks	28

# Acronyms

<b>CWCC</b>	Cambodian Women’s Crisis Center
<b>CSO</b>	Civil Society Organisation
<b>CTUM</b>	Confederation of Trade Unions of Myanmar
<b>FGD</b>	Focus Group Discussion
<b>FED</b>	Foundation for Education and Development, Thailand
<b>FLC</b>	Future Light Centre, Myanmar
<b>GDP</b>	Gross Domestic Product
<b>III</b>	In-depth Individual Interview
<b>ILO</b>	International Labour Organization
<b>KII</b>	Key Informant Interview
<b>LPA</b>	Labour Protection Act
<b>Lao PDR</b>	Lao People’s Democratic Republic
<b>MAP</b>	Migrant Assistance Programme, Thailand
<b>MMN</b>	Mekong Migration Network
<b>MoU</b>	Memorandum of Understanding
<b>OHS</b>	Occupational Health and Safety
<b>PPE</b>	Personal Protective Equipment
<b>SSF</b>	Social Security Fund
<b>SSS</b>	Social Security System

<b>THB</b>	Thai Baht
<b>US</b>	United States
<b>USD</b>	United States Dollar
<b>WCF</b>	Workmen's Compensation Fund

# Introduction

Between January 2017 and August 2019, the Mekong Migration Network (MMN) with the support of Solidar Suisse undertook a collaborative research project focusing on the situation of migrant workers in Thailand's agriculture sector. As one of the world's leading exporters of commodity crops, agriculture plays a key role in the Thai economy, contributing 8.65 percent of the country's GDP,<sup>1</sup> and employing 35 percent of its workforce.<sup>2</sup> However, given Thailand's longstanding pattern of internal rural to urban migration, employers have increasingly turned to migrant workers from neighbouring countries, namely Myanmar, Lao People's Democratic Republic (Lao PDR), and Cambodia, to plug gaps in the agricultural labour market.<sup>3</sup>

While previous work by MMN has touched upon some of the issues facing migrant agricultural workers in Thailand,<sup>4</sup> a more targeted effort was deemed necessary to better understand and respond to the needs of migrants in this sector. As such, MMN's migrants in agriculture project aims to generate much-needed data on this hard-to-reach population and, in so doing, seek to give voice to migrant agricultural workers whose views and experiences are largely absent from the policy discourse. The project also seeks to contribute a set of workable recommendations that can fill existing policy gaps and contribute to better legal and social protection for migrant agricultural workers in Thailand.

To mark the completion of the above project, MMN organised a Multi-Stakeholder Workshop on Migrants in Agriculture, which took place on 19 December 2019 at IBIS Riverside Hotel in Bangkok, Thailand. The workshop provided a forum for various stakeholders to provide input and feedback on the research findings, and discuss the

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<sup>1</sup> Statista (World Bank Source), "Thailand: Share of economic sectors in the gross domestic product (GDP) from 2007 to 2017, 2019," available at: <https://www.statista.com/statistics/331893/share-of-economic-sectors-in-the-gdp-in-thailand/>

<sup>2</sup> Food and Agriculture Organization of the United Nations, "Thailand, Country fact sheet on food and agriculture policy trends", February 2018, available at: <http://www.fao.org/3/i8683en/I8683EN.pdf10/RoCoOPolicyDialogueProceedings.pdf>

<sup>3</sup> United Nations Thematic Working Group on Migration in Thailand, "Thailand Migration Report 2019," 2019, p. 59, available at: <https://thailand.iom.int/thailand-migration-report-2019-0>

<sup>4</sup> These and other issues are discussed within MMN's previous publications including "From Our Eyes: Mekong Migrant Reflections, 2000-2012", August 2012; "Resource Book: Migration in the Greater Mekong Subregion", November 2005; "Permanently Temporary: Examining the Impact of Social Exclusion on Mekong Migrants", October 2016; "Legally Binding: A Summary of Labour Laws in the Greater Mekong Subregion", October 2011; and "Self-Care & Health Care: How Migrant Women in the Greater Mekong Subregion Take Care of their Health", April 2015. All of MMN's publications are available at [http://www.mekongmigration.org/?page\\_id=1393](http://www.mekongmigration.org/?page_id=1393)

way forward for advancing the rights of migrant agricultural workers in Thailand. Participants included representatives of relevant government ministries, Civil Society Organisations (CSOs), International Labour Organization (ILO) and other relevant stakeholders from Thailand, Myanmar, Cambodia, and beyond.

Three plenary sessions took place throughout the day, covering topics on labour rights protection, the impact of migration policies on working conditions and access to social protection, and occupational health and safety (OHS) of migrant agricultural workers. The workshop ended with participants providing input into key advocacy recommendations to be carried forward by MMN and relevant CSO partners.



*Participants of the Workshop*

# Agenda

- 8:30-9:00**            **Registration**
- 9:00-9:30**            **Welcome and Introduction**
- 9:30-10:00**          **Launch of the MMN Report on Migrants in Agriculture**  
“MMN study background, methodology, key findings and recommendations”, Ms Reiko Harima, Regional Coordinator, Mekong Migration Network (MMN)
- 10:00-10:20**         **Group Photo**
- 10:20-12:00**        **Plenary One: Labour Protection of Migrant Agricultural Workers in Thailand**  
*Facilitator: Ms Pranom Somwong*
- Presenters:
- “Legal analysis concerning the protection of migrant agricultural workers”, Ms Reena Arora, MMN legal consultant;
- “Thai laws, policies and standards concerning labour protection of migrant agricultural workers”, Ms Janthana Sirimatuross, Head of Programme, Prevention and Problem Solving on Labour Protection, Informal Labour Protection Office, Ministry of Labour, Royal Thai Government;
- “Working conditions and labour rights protection as experienced by migrant workers on a palm oil plantation”, Ms Wai Phyo, Women and Children Rights Trainer, Foundation for Education and Development (FED), and Ms Cho Win Zu, Myanmar Migrant Worker from Phang Nga Province, Thailand;
- “Labour inspections on agriculture in Thailand: standards and challenges”, Ms Kuanruthai Siripatthanakosol, National Project Coordinator for Thailand, International Labour Organization (ILO)
- Open discussion
- 12:00-13:00**        **Lunch**

13:00-14:30

**Plenary Two: Challenges Faced by Migrant Workers: How do migration policies and practices impact migrant agricultural workers' working conditions, access to social services, and social protection on the ground?**

*Facilitated by: Ms. Reiko Harima*

Presenters:

“Working conditions and other issues experienced by migrant agricultural workers in Mae Sot”, Mr Brahm Press, Director, MAP Foundation

"Various border pass arrangements for migrants and their implication for migrant agricultural workers in the case of Mae Sot", Mr Prachoom Kansapt, Head of Programme, Management of Border Employment of Foreign Workers, Foreign Worker Administration Office, Department of Employment, Ministry of Labour, Royal Thai Government

“Social security systems in Thailand and their application for migrant agricultural workers: Opportunities and challenges”, Mr Nantachai Panyasurarit, Director, Social Security Contribution, Social Security Office, Ministry of Labour, Royal Thai Government

“Various migration policies and their impact on working conditions, access to social services and social protection for migrant agricultural workers: Case of Surat Thani and Rayong”, Ms Sunwanee Dolah, Programme Officer, Raks Thai Foundation

“Perspectives from a country of origin: How do the Cambodian migration policies affect Cambodian workers migrating to work in agriculture in Thailand”, by Mr Hong Prakorp, Deputy Director, Provincial Department of Labour and Vocational Training Banteay Mean Chey, Royal Government of Cambodia

Open discussion

14:45-16:15

**Plenary Three: Occupational Health and Safety**

*Facilitator: Mr Brahm Press*

Presenters:

"Thailand's efforts in improving occupational health and safety (OHS) standards for agricultural workers" by Ms Supanee Pongpai, Senior Expert on Labour, the Bureau of Occupational Safety and Health, Department of Labour Protection and Welfare, Ministry of Labour, Royal Thai Government

"Challenges in improving OHS for all agricultural workers in Thailand", Dr Sara Arphorn, Associate Professor, Department of Occupational Health, Faculty of Public Health, Mahidol University, Thailand

"OHS issues experienced by migrant workers", Mr Kyaw Soe Naing, Field Migrant Officer, Raks Thai Foundation, and Mr Win Zaw Oo, Myanmar Migrant Worker, Mae Sot, Tak Province, Thailand

"Brands' roles and responsibilities in improving OHS standards in agricultural production", Mr Bent Gehrt, South-East Asia Field Director, Worker Rights Consortium

Open discussion

**16:15-16:50      Recommendations**

**16:50-17:00      Closing Remarks**

# Welcoming Remarks

*Ms. Reiko Harima, Regional Coordinator, MMN*

Ms Reiko Harima, Regional Coordinator of MMN, officially opened the workshop and welcomed all participants, thanking them for their attendance at this busy time of year. After providing a brief overview of MMN’s work, Ms Harima acknowledged International Migrants Day the previous day (18 December), and specifically highlighted the contributions of migrants in Thailand in a number of sectors, including manufacturing, fisheries, agriculture, construction, and services. The theme of this workshop was then introduced as focusing on migrants in agriculture in Thailand.

The specific objectives of the day’s event were to:

1. Present MMN’s collaborative research on migrants in agriculture which was carried out from 2017-2019;
2. Discuss its findings and recommendations;
3. Facilitate multi-stakeholder discussions on the rights and well-being of migrants in Thailand’s agricultural sector, with a special focus on labour protection, migration policies, and OHS; and
4. Identify strategies to strengthen rights protection for migrant agricultural workers in Thailand.

*Ms. Reiko Harima*



Ms Harima expressed that she hoped that the workshop would serve as a forum for various stakeholders to provide input and feedback regarding MMN’s collaborative research and discuss the way forward for advancing the rights of migrant agricultural workers in Thailand. She extended heartfelt thanks to all MMN project partners, including Migrant Assistance

Programme, Thailand (MAP); Foundation for Education and Development (FED); Raks Thai Foundation; Cambodian Women’s Crisis Center (CWCC); Future Light Centre, Myanmar (FLC); Confederation of Trade Unions of Myanmar (CTUM); MMN consultants, Ms Reena Arora and Ms Pranom Somwong; and the MMN Secretariat research team. She also expressed gratitude to Solidar Suisse, Oxfam, and all supporters who made this study and workshop event possible.

Ms Somwong, independent consultant and legal analyst on the forthcoming ‘Migrant Agricultural Workers in Thailand’ report, then led a quick introduction exercise with participants, and handed back over to Ms. Harima to launch the research report.

# Launch of the MMN Report on Migrant Agricultural Workers in Thailand

## MMN study background, methodologies, key findings and recommendations

*Ms Reiko Harima, Regional Coordinator, Mekong Migration Network*

The launch of MMN's study and report on 'Migrant Agricultural Workers in Thailand' was led by Ms Harima, who provided an overview of the study's background, methodology, key findings, and recommendations.

By way of background, Ms Harima explained the key role that the agricultural sector plays in the Thai economy, representing 8.65% of the country's Gross Domestic Product (GDP). However, as longstanding patterns of rural to urban internal migration have depleted Thailand's agricultural workforce, migrants from Lao PDR, Cambodia, and Myanmar have increasingly migrated to Thailand to plug the gaps. As of May 2018, there were 436,188 registered migrants employed in the agricultural sector in Thailand – although Ms Harima noted that the actual number is likely much higher, given the informal nature of the work and difficulties migrants experience in obtaining formal immigration status.

Ms Harima explained that MMN has carried out many studies on migrant workers in the Greater Mekong Subregion in the past and many of them touched upon the lives of migrant agricultural workers, however it became clear that a more targeted study specifically on agricultural workers was needed to identify their needs and appropriate responses. Early discussions with project partners to identify existing knowledge and research gaps focused on two key issues:

1. The agricultural sector has historically been excluded from Thai labour law resulting in minimal workers' rights and a general lack of regulatory oversight; and
2. Migrant agricultural workers and their families tend to be isolated in geographically remote locations, which fosters social exclusion and creates access barriers to healthcare, education, governmental services, and the support of NGOs and community groups.

As such, the following research questions were developed to guide this study:

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

Specific crops focused on were corn, cassava, palm oil, and rubber plantations.

The study's methodologies were briefly presented, and included a desk review, surveys, key informant interviews (KIIs), focus group discussions (FGDs), and in-depth individual interviews (IIIs). Field study areas were Phang Nga, Surat Thani, Rayong, and Tak (Mae Sot) in Thailand; Kompong Thom and Banteay Mean Chey in Cambodia; and Bago region, Southern Shan State, Kayin/Karen state, and Mon state in Myanmar.

Zooming in on the survey, Ms Harima explained that questions were directed at current migrants and recent returnees, and covered a broad range of topics. 328 migrant workers were surveyed in total, 78% of whom were from Myanmar, while 28% were Cambodian. 64% were currently migrant workers at the time of interview, and 36% were returnees.

KIIs were conducted between January and July 2019. Nine family members of migrants were interviewed, along with nine government officials, eight representatives of CSOs, four private recruitment agencies, and seven employers or land owners in Thailand. A further 12 FGDs and 33 IIIs were carried out with migrant agricultural workers and returnees.



*Ms Reiko Harima presenting on the findings*

Ms Harima then briefly presented on the broad topic areas that emerged from the research, noting that discussion would take place in greater depth throughout the day. These included:

- Sub-minimum wage labour;
- Long working hours;
- Discrimination;
- Restricted freedom of movement;
- Limited access to schools, hospitals, and other forms of social protection;
- Insufficient and inadequate personal protective equipment (PPE);
- Lack of access to formal justice systems; and
- Harassment from elements within the rural community.

The specific vulnerability of agricultural workers was stressed by Ms Harima, due to the fact that they tend to be geographically isolated and hidden from the public gaze, and many lack official documentation. She also drew attention to the distinction between “formal” and “informal” workers, highlighting that MMN’s legal analysis has sought to challenge the commonly held view that all employees in the agricultural sector are informal workers and therefore not entitled to legal and social protection.

Finally, Ms Harima presented the recommendations from the report, explaining that while it is a long list, the workshop would provide opportunities for stakeholders to provide input to help narrow it down and focus on priority areas, and urged participants to keep this in mind throughout the day.

# Plenary One

## Labour Protection of Migrant Agricultural Workers in Thailand

Discussant Ms Reena Arora, MMN legal consultant:

*Legal analysis concerning the protection of rights of migrant agricultural workers*



Ms Reena Arora, independent legal consultant for MMN, provided an overview of the laws that affect the rights of migrant agricultural workers in Thailand. The Labour Protection Act (LPA) was highlighted as the primary source of protection, covering many of the core rights of workers including wages, hours, days off, and provisions on gender equality. Ms Arora drew specific attention to the fact that the LPA has been interpreted by MMN researchers to apply to all workers, regardless of

their legal immigration status. However, the law does allow for the exclusion of certain types of workers: firstly, Section 22 permits the Ministry of Labour to prescribe different labour regulations to agricultural workers and, secondly, some workers (including those classed as self-employed, contract labourers, or piece workers) do not meet the definition of “employee” under the LPA. Furthermore, the Ministerial Regulation Concerning Labour Protection of Employee in Agriculture Work stipulates that only agricultural workers who are employed for the whole year receive the full protection of the LPA, while those who are employed for just part of the year are only entitled to select rights. She stated:

*“ We often say that agricultural workers do not enjoy any labour rights under the law, but that is not always true. We should recognise that Thailand has eliminated some of its historical exclusions of agricultural works from labour protection, and migrant agricultural workers who work for a whole year enjoy full protection under the LPA.*

Ms Arora acknowledged that there are also many positive elements of the existing law, and drew attention to Section 12 on joint-employer liability, which makes primary contractors jointly liable for violations of the LPA along with subcontractors, and a worker can hold either or both liable in actions for legal recourse. However, limited legal protections around OHS remains an area of concern with regards to agricultural migrant workers.

**Discussant Ms Janthana Sirimatueros, Head of Programme, Prevention and Problem Solving on Labour Protection, Informal Labour Protection Office, Ministry of Labour, Royal Thai Government:**

*Thai laws, policies and standards concerning labour protection of migrant agricultural workers*

Ms Janthana Sirimatueros of the Ministry of Labour clarified the Ministry of Labour's role to protect the labour conditions, OHS, and welfare of workers, including migrants. According to Ms Sirimatueros, the Ministry has developed mechanisms for addressing labour issues to ensure that employees are protected and enjoy decent standards of working and living, as well as accesses to justice, services, welfare, and benefits in line with international labour standards. In particular, Ms Sirimatueros highlighted that the Ministry is working to increase the capacity of labour and OHS inspectors, in terms of improving their understanding of the relevant legal frameworks, and to take action against employers who do not conform to the laws. She explained:



*Next year we will have a new policy to identify cases of violations so that our labour inspectors can issue improvement orders to employers. If employers do not comply, cases will be filed to the police and referred to court.*

*Ms Janthana Sirimatueros*



In addition, the Ministry of Labour is working to increase public awareness about labour laws and protections. She specifically drew attention to two key legal instruments: 1. The LPA, which pertains to the formal sector. This covers conditions such as working days, hours, rest periods, holidays, off days, and compensation for dismissal. 2. The Home Workers Protection Act BE2553 (2010), which provides stipulations for informal

workers, including those in the agriculture sector. Vacation and sick leave entitlements are specified in this act, which differ from those afforded to formal workers under the LPA. Ms Sirimatueros stressed the Ministry's desire to comply with ILO standards, citing the example of Thailand changing the minimum age of workers from 12 to 15 years, with fines applicable for employers who do not comply. She also highlighted government initiatives to employ interpreters in provinces with large numbers of migrant workers to ensure that workers are aware of their rights and can communicate directly with government representatives and access services.

**Discussants Ms Wai Phyto, Women and Children Rights Trainer, Foundation for Education and Development (FED), and Ms Cho Win Zu, Myanmar Migrant Worker from Phang Nga Province, Thailand:**

***Working conditions and labour rights protections experienced by migrant workers on a palm oil plantation***

Ms Wai Phyto from the Foundation for Education and Development and Ms Cho Win Zu, a Myanmar migrant worker, jointly presented on some of the experiences of migrant workers on a palm oil plantation and rubber plantation in Phang Nga province, Thailand. Issues raised included the fact that palm oil workers are mostly located in remote areas, far from cities, which makes access to services and information difficult. Most are not provided with PPE by their employers and instead need to purchase these items themselves. Common hazards encountered by workers include dangerous knives used for harvesting, snake bites, and lifting heavy items such as branches. Lack of accountability for workplace accidents was discussed; according to Ms Wai Phyto, most workers have little to no opportunity to interact with their employers, and instead deal with managers day-to-day. Employers reportedly often do not know about accidents or issues that occur in the workplace, however managers do not take responsibility for these problems either. Lack of rest time for workers employed on more than one plantation was raised, along with long working hours. Late payment of wages – sometimes by as much as two-to-three months in arrears – is another common occurrence, yet workers are often too afraid to raise the issue with their employers due to fear of repercussions. Plantation workers are also highly vulnerable to weather conditions and crop requirements, as they do not receive wages for days that employers are unable to give them work. Workers’ isolated locations often make it difficult for them to access hospitals when they experience sickness or injury, and instead end up paying out of pocket to utilise services in local clinics. Workplace harassment and violence, lack of electricity and drinking water, and inadequate compensation awarded in cases of serious injury and death were among the other issues most commonly faced by migrants.



*Ms Wai Phyto (right) and Ms Cho Win Zu (left)*

Recounting her own experience working on a palm oil and rubber plantation, Ms Cho Win Zu said:

“ Once my son was involved in an accident while helping out on the field and had to go to the hospital for an operation. The employer did not pay us any compensation or medical fees. I also had to get personal protective equipment on my own.

She concluded by calling for employers to take responsibility for the safety and well-being of their workers.

### **Discussant Ms Kuanruthai Siripatthanakosol, National Project Coordinator for Thailand, International Labour Organization:**

#### ***Labour inspection on agriculture in Thailand: standards and challenges***

Ms Kuanruthai Siripatthanakosol from the ILO presented on some of the challenges associated with implementing labour inspections in the agricultural sector in Thailand. Echoing other panellists, Ms Siripatthanakosol discussed issues with agricultural workers being categorised as ‘informal’ under the law, and the fact that this limits their protections by the state. With specific regards to labour inspections, she stressed the importance of inspectors having awareness of common occupational hazards in the agricultural sector, such as exposure to chemicals and heat, and inhalation of fumes from the burning of crop waste matter. She also noted that language barriers pose a major challenge when workers and labour inspectors do not speak the same language, and affect workers’ capacity to access their rights and report problems. She remarked:

“ Even though the number of labour inspectors in Thailand has increased, they should have good planning and programming in order to access geographically remote locations where migrants in agriculture work.



*Ms Kuanruthai Siripatthanakosol*

Supply chains within the sector are often complex, and it can be difficult to identify during inspections where exactly responsibility and burden lie for addressing issues in order to hold the appropriate parties to account. Ms Siripatthanakosol highlighted relevant international conventions and recommendations with regards to labour inspections, but noted that most had not been ratified by the government of Thailand. Key improvements to the current system of labour inspections should include reporting, referral, and monitoring and evaluation mechanisms, as well as better integration of OHS components. Plenary facilitator, Ms Somwong, highlighted the ratio of inspectors to workers as being around 1:33000, illustrating severe under-resourcing.

## **Open Discussion**

A participant noted the similarities in working conditions and challenges in other Southeast Asian countries, including Malaysia and Indonesia, and raised the question of whether collaborative regional advocacy might be relevant if employers are internationally connected. Ms Cho Win Zu and Ms Wai Phyo restated that most workers don't know who their employers are, and are therefore unsure about international links.

Ms Sirimatuos was asked about specific cases being brought against employers in the agriculture sector with regards to underage workers. She mentioned cases of child workers in the fishery industry, but also noted that the piece rate system of payment often incentivises parents to bring their children to help. When this is viewed as an issue of 'family work', it can make it difficult to prosecute. Ms Arora also reiterated the impact of geographical isolation for many agricultural workers; many don't know who their employers are, don't know the names of the pesticides they are required to work with, don't know what services are available to them, and are in locations that are difficult for inspectors to access. Ms Sirimatuos drew attention to the Ministry of Labour's hotline (1506), which can be utilised by all workers, regardless of their immigration status, and which has a Burmese language option.

# Plenary Two

## Challenges Faced by Migrant Workers: How do migration policies and practices impact migrant agricultural workers' working condition, access to social services, and social protection on the ground?

Discussant Mr Brahm Press, Director, MAP Foundation:

### *Working conditions and other issues experienced by migrant agricultural workers in Mae Sot*



Mr Brahm Press

Mr Brahm Press of MAP Foundation shared research findings on the situation of migrant workers in the border town of Mae Sot in Tak Province, Thailand. The Royal Ordinance on the Management of Employment of Foreign Workers 2560 (2017) attempts to regulate all migrant workers through a Memorandum of Understanding (MoU)

system, however MAP has found this to be incompatible with agricultural migrant workers, who are usually working on a temporary basis, who go back and forth across a porous border, and who are geographically spread out. As a result, less than 10% of workers in Tak are registered under the MoU, while 50% are under the Section 64 border pass scheme, which permits nationals of countries that share a land border with Thailand to enter the Kingdom on a temporary basis or for seasonal work at a specified location. Many workers in Mae Sot are not officially registered at all.

The majority of agricultural workers in Mae Sot are employed on a seasonal or even daily basis, excluding them from certain protections and coverage afforded to year-round full-time workers (as discussed in Plenary One). MMN's research on cassava and corn crops found that working hours averaged 9-11 hours per day, and workers earned wages of around Thai Baht (THB) 150-180 per day, with men generally paid more than women. Specifically, men earn THB 30 more per day for handling chemical pesticides.

Employment contracts are often verbal, leaving workers vulnerable to exploitation, while the geographical isolation of agricultural migrants makes involvement in any sort of collective action difficult. Mr Press discussed limitations around legal redress, noting that no significant cases have made it into the court system and that issues such as wage disputes and OHS grievances tend to be dealt with at the village level. He also commented on the lack of representation of the agricultural sector in the Migrant Worker Assistance Centre (a multi-stakeholder committee that provides support to workers).

Lack of PPE and common workplace safety issues were raised by Mr. Press, including cuts, and exposure to chemicals and contaminated water. He noted:

“ It is common for workers not to have PPE, and many workers improvise their PPE using boots, sandals, and other types of equipment. Little information about OHS is provided to migrants by employers.

The associated health issues can lead migrants to miss work and therefore lose income, while the costs of treatment, medicine, and transportation to health facilities are paid out of pocket by workers. Few structures are in place to respond to issues of family violence, sexual violence, or harassment, as migrants tend to fall through the cracks due to being “outside the system”.

**Discussant Mr Prachoom Keansub, Head of Programme, Management of Border Employment of Foreign Workers, Foreign Worker Administration Office, Department of Employment, Ministry of Labour, Royal Thai Government:**

*Various border pass arrangements for migrants and their implication for migrant agricultural workers in the case of Mae Sot*



*Mr Prachoom Keansub*

Mr Prachoom Keansub of the Ministry of Labour discussed documentation for migrant workers in Thailand, focusing on Burmese workers under the Section 64 border pass scheme. Section 64 allows for migrant workers with proper documentation from neighbouring countries to carry out certain jobs in Thailand on a periodic or temporary basis in locations

connected to the country’s border. The border pass is considered valid for daily work, seasonal work, and periodic jobs. The office of the Prime Minister has identified locations and areas where jobs can be undertaken by border pass holders, as well as

the terms and conditions of employment. These locations are generally in border areas and certain special economic zones, including Tak Province. The types of jobs permitted under Section 64 include domestic work and labour-intensive jobs. He noted that the Ministry of Labour and the Ministry of Foreign Affairs are currently collaborating with countries of origin to work out how best to accommodate daily workers:

“ *The Ministry of Labour of Thailand has worked with relevant ministries in Cambodia and Myanmar to ensure that holders of the border pass can perform work in Thailand. Negotiations with the government of Lao PDR are also ongoing.*

The border pass is valid for a period of 30 days, however migrant workers are also required to hold a work permit, which has a validity of three months.

**Discussant Mr Nantachai Panyasurarit, Director, Social Security Contribution, Social Security Office, Ministry of Labour, Royal Thai Government:**

***Social security systems in Thailand and their application for migrant agricultural workers: Opportunities and challenges***



Mr Panyasurarit, representing the Social Security Office, stressed the government’s commitment to principles of equity and equality, and efforts to provide social security coverage to all workers – regardless of their nationality or legal status. He clarified the distinction between the Social Security Fund (SSF) and the

Workmen’s Compensation Fund (WCF), which excludes independent workers, such as street vendors. Mr Panyasurarit stated that the Social Security Office is attempting to improve the fund to ensure that employers register their employees, and that deaths, injuries, and other types of “suffering” receive compensation. He also acknowledged the issue of workers in the agricultural sector not having access to PPE and said that the WCF compensates for associated injuries. The SSF, on the other hand, is a contribution-based system where both workers and employers pay in – although he noted that workers in the fishery and livestock sectors are not required to register. Mr Panyasurarit expressed the government’s commitment to including all migrant workers within the Social Security System (SSS), particularly given the incentive to enlarge the pool of members due to the rate at which Thailand’s society is ageing. He remarked:



*We are committed to include all migrants in the SSS of Thailand. This is our direction for the next three years. We hope to enlarge the pool of funds and to cover all migrant workers...we are working with the Department of Employment to make sure all workers are enrolled in the SSS and are registered to participate in the WCF.*

In Tak Province, there are as many migrant workers in the agricultural sector as there are employed in factories, and Mr Panyasurarit highlighted the need to ensure that all are enrolled in both the SSF and the WCF. He also noted that his office receives around 400 complaints per day through online channels and a hotline from migrant workers who are not receiving the benefits they are entitled to.

### **Discussant Ms Sunwanee Daloh, Programme Officer, Raks Thai Foundation**

#### ***Various migration policies and their impact on working conditions, access to social services and social protection for migrant agricultural workers: Case of Surat Thani and Rayong***

Ms Sunwanee Daloh from Raks Thai Foundation provided insight into the situation of migrant agricultural workers in Surat Thani and Rayong provinces. According to Ms Daloh, large numbers of migrant workers are now registered in both provinces, the majority of whom are men. She noted specific challenges experienced by workers who wish to change employers due to sub-optimal employment conditions, but end up not doing so because of the difficulties involved in the documentation processes. The MoU migration channel was discussed in relation to migrant workers, noting that the process is complex and expensive for agricultural workers. Given that these workers usually do not have support in the form of human resource teams in their workplaces to assist them with their migration process, most rely on agents or intermediaries and shoulder the fees themselves.



*Ms Sunwanee Daloh*

Once in-country, most workers in the agricultural sector are located in remote rural areas, while government offices are located in district centres. This makes it difficult for workers to complete bureaucratic requirements in-person, and again leads to heavy reliance on agents or intermediaries. For many Burmese and Cambodian workers, their vital documents from their home country are often missing or incomplete, and the fees associated with resolving this in Thailand can be extremely expensive (especially as a proportion of their income). For migrants who bring their family with them, the costs can be astronomical when dealing with issues of documentation for multiple family members. Ms Daloh also acknowledged gender-based issues faced by migrant workers, including the fact that women are often highly dependent on their husbands and therefore often do not have the option to leave in cases of domestic violence.

Access to social services and education for children of agricultural workers is often challenging, due to the isolated locations of workers. Children are therefore regularly left at home unsupervised while parents are working, leaving them highly vulnerable to sexual abuse and labour exploitation. With regards to working conditions, migrant agricultural workers tend to work for low wages with no days off and long hours. Many work 8-9 hours per day but they are not necessarily consecutive hours; rather, they work split shifts, which has an impact on their available rest time. She pointed out:

“ Regardless of immigration status, working conditions are similar in the sector. Rubber plantation workers do not enjoy days off or paid leave days, and work long and inconsecutive hours... Many workers are also not registered in any healthcare schemes and must pay out of their own pockets.

Finally, Ms Daloh noted that in addition to costs associated with accessing medical services, travelling to hospitals and clinics usually means passing checkpoints. For undocumented workers, this can result in needing to pay additional fines to the authorities.

**Discussant Mr Hong Prakorp, Deputy Director, Provincial Department of Labour and Vocational Training Banteay Mean Chey, Royal Government of Cambodia:**

*Perspectives from a country of origin: How do the Cambodian migration policies affect Cambodian workers migrating to work in agriculture in Thailand*

Mr Hong Prakorp shared from the perspective of the Cambodian government, as a country of origin for migrant workers in Thailand. In addition to encouraging collaboration between local Cambodian and Thai authorities along the border, Mr Prakorp discussed the efforts of Banteay Mean Chey's Provincial Department of Labour and Vocational Training to strengthen recruitment processes of migrant workers, particularly mechanisms to prevent recruitment agents from giving prospective migrants false information. Specifically, punitive measures are being employed against recruitment agencies who do not comply with certain protection standards, and an insurance compensation scheme has been created to assist migrants who have lost money through recruitment agencies.



*Mr Hong Prakorp*

According to Mr Prakorp, the department helps to prepare the departure arrangements for outbound migrants and to ensure that they understand all the conditions of their employment contract and living arrangements in their destination country, and a one-stop service centre has been established to help

migrant workers to apply for legal status. Nonetheless, many agricultural workers feel that the official channels for migration are too restrictive, as they are required to sign a two-year employment contract. He observed:

“ *Most migrants in agriculture [from Cambodia] do not want to migrate through a recruitment agency, because they have to pay recruitment fees and the employment contract period is fixed for two years. Agricultural workers just cross the border, which gives them more freedom. They can go home once the work is done.*

Mr Prakorp called on Thai colleagues to continue to work together to find ways of dealing with undocumented Cambodian workers and asked the Thai government not to arrest them.

### Open discussion



*A CSO representative from Mae Sot, Thailand*

During the discussion portion of the plenary, the Thai government representatives were asked to clarify employers' responsibilities with regards to workers' compensation for undocumented agricultural workers. Mr Keansub re-emphasised that all workers automatically qualify for the WCF if they work for an employer. He urged those who are not currently enrolled to contact his office so that they can take action. He also added that the Ministry of Labour has already conducted 10 awareness-raising training sessions for migrant workers to help them understand their rights, and these will be continued on a regular basis. Mr Panyasurarit acknowledged that there are currently factors preventing migrant workers under Section 64 from enrolling in the SSS and stated that a consultation on this topic is necessary. Ms Arora encouraged the government representatives to ensure that migrant workers themselves are included within any such consultations. Mr Win Zaw Oo, a Myanmar migrant worker from Mae Sot and discussant in Plenary Three, also urged government officials to ensure that migrant workers understand their entitlements to compensation, bearing in mind the restrictions on movement for Section 64 migrants that may limit their ability to access information and lodge claims.

# Plenary Three

## Occupational Health and Safety

**Discussant Ms Supranee Pongpai, Senior Expert on Labour, Bureau of Occupational Safety and Health, Department of Labour Protection and Welfare, Ministry of Labour, Royal Government of Thailand:**

*Thailand's efforts in improving occupational health and safety (OHS) standards for agricultural workers*

Ms Supranee Pongpai



Ms Supranee Pongpai gave an overview of efforts by the Ministry of Labour to improve OHS standards for agricultural workers. Specifically, she spoke of an OHS centre that has been established to conduct awareness-raising activities to ensure

that workers understand how to protect themselves and what their rights are under existing safety standards. She emphasised that the Occupational Health, Safety and Environment Act provides measures to protect the wellbeing and health of workers in Thailand on a non-discriminatory basis, regardless of their nationality. She also referenced other legal instruments that have clauses pertaining to workplace safety, for example Provision 4 of the Home Workers Protection Act B.E.2553 (2010) which prevents the recruitment of pregnant women and children in jobs that are considered unsafe. Employer obligations detailed by Ms Pongpai include the provision of potable water and appropriate accommodation for workers, as well as ensuring the safety and cleanliness of workplace facilities. Employers also must provide PPE, for example helmets, gloves, and goggles, and ensure that they are actually being worn by employees. She also stated that a regulation is currently under the consideration of cabinet which would require employers to provide annual health checks for employees to ensure the health and safety of workers are being protected and covered. With specific regards to non-formal and agricultural sectors, the Ministry of Labour has launched a number of initiatives since 2009 to raise awareness of self-protection measures among workers. She stated:



*The Ministry of Labour has launched an initiative to promote and raise awareness on safe storage and transportation of hazardous chemicals, the physical setting of a safe environment, prevention of disease, and use of PPE. We have been piloting training programmes, targeting workers in agriculture, as well as Thai and non-Thai workers.*

To conclude, Ms Pongpai highlighted the need for an integrated, cross-ministerial approach to addressing OHS.

**Discussant Dr Sara Arphorn, Associate Professor, Department of Occupational Health, Faculty of Public Health, Mahidol University, Thailand:**

*Challenges in improving OHS for all agricultural workers in Thailand*



*Dr Sara Arphorn*

Dr Arphorn presented on the findings of research conducted by master's graduates of Mahidol University on migrant workers in the agricultural sector, with a focus on pesticide use. Dr Arphorn pointed out that while the number of Thai agricultural workers has declined in recent years, larger numbers of migrant workers are being seen employed in the sector, and her students' study specifically looked at the safety behaviours of Mon

workers. As with other agricultural workers discussed throughout the workshop, the participants of this study were located in remote areas, and a large proportion were found to have low or very low knowledge of pesticide use (around 40%), particularly around how pesticides enter the body and symptoms of poisoning. While Dr Arphorn highlighted key elements of working environments that were found to need improvement in many cases (including clearing of walkways, and availability of handling devices for heavy objects), many of her findings were behavioural. Workers were found to demonstrate many positive safety behaviours, however they didn't necessarily always know why they behaved in certain ways, highlighting the need for greater knowledge. She emphasised:

“ The government should actively disseminate safety information because knowledge is the foundation of positive behaviours and safe handling of agricultural chemicals.

**Discussants Mr Kyaw Soe Naing, Field Migrant Officer, Raks Thai Foundation, and Mr Win Zaw Oo, Myanmar Migrant Worker, Mae Sot, Tak Province, Thailand:**

*OHS issues experienced by migrant workers*

Mr Kyaw Soe Naing of Raks Thai Foundation shared some of the common health and safety issues encountered by the migrant communities he works with. Many experience cuts and snake bites, and often find that when they seek treatment the costs are not covered by their hospital card. He also expressed a common perception among workers that their employers lack concern in situations when workers are injured. While other panellists raised issues of workers not having access to information about their rights, Mr Kyaw Soe Naing said that even when migrants know what their rights are, they often do not feel free to push for what they are entitled to due to an inherent power imbalance in the workplace. PPE was also raised as an issue, as workers sometimes find certain items, such as hats, heavy and

uncomfortable to work in. Finally, Mr Kyaw Soe Naing cited the high costs of medical care for migrants in general (aside from those incurred as a result of workplace hazards), such as for childbirth, and for treatment after motorcycle accidents. As an example, he explained:

“ *While many migrant women are enrolled in the healthcare system, costs of hospitalisation are not always fully covered. Many women end up paying between THB 8,000 and THB 10,000 for a C-section delivery.*

Migrant worker, Mr Win Zaw Oo, then spoke about his own experience as an agricultural worker in Mae Sot. He described generally poor working conditions and infrastructure, including exposure to pesticides and lack of adequate drinking water. Workers are usually told how much of the pesticide to use, but don't have any further information regarding safe handling or the dangers associated with exposure to the chemicals. Sometimes handwashing facilities are not available and workers therefore cannot wash their hands before eating. Mr Win Zaw Oo expressed concern at employers not responding when employees have health emergencies, and spoke about workers' heavy reliance on non-governmental organisations to provide assistance in these situations. He also described fewer support mechanisms and lack of access to recourse for agricultural workers who experience wage disputes. As his final point, he remarked:

“ *We want CSOs to mediate on behalf of workers to make employers pay the minimum wage, as well as make sure that migrants have safe and decent working and living conditions.*



*Mr Kyaw Soe Naing (left) and Mr Win Zaw Oo (right)*

**Discussant, Mr Bent Gehrt, South-East Asia Field Director, Worker Rights Consortium:**

*Brands' roles and responsibilities in improving OHS standards in agricultural production*



*Mr Bent Gehrt*

Mr Bent Gehrt of Worker Rights Consortium presented a case study of collective action undertaken by agricultural workers in the United States (US), highlighting how big brands at the top of the retail food chain can be leveraged to influence working conditions. The Fair Food Program began in Florida, US, where tomato farmers identified the big companies that were purchasing their produce and began public campaigns to inform consumers about where their tomatoes were coming from and the conditions of the workers –

including their undocumented status, poor wages, and cases of sexual abuse, child labour, and violence. After a decade, the campaign forced some of the big food providers to change their buying practices which had positive impact on working conditions.

Mr Gehrt highlighted several key components of this example: firstly, it was worker-driven, included worker-to-worker education, and workers played a key role in negotiating with retailers and formulating a code of conduct. It also included mechanisms for complaint resolution, had independent auditing, and relied on market-based enforcement. Their “Penny per Pound” campaign charges buyers an additional penny per pound of tomatoes, which goes directly to workers and has raised USD 30 million since 2011. Very large brands, including McDonald’s and Walmart, ultimately joined the scheme, and has created a dynamic where if farm owners do not participate in the programme it is almost impossible to sell to the major participating buyers. The key strategy employed by workers was to go over the heads of their employers, directly to the major buyers at the top of the chain. They were also successful in establishing OHS committees and policies to ensure compensation and support for workers, including standardised working conditions and mechanisms to file complaints. Mr Gehrt reiterated that this code of conduct was formulated by the workers themselves and is a powerful example of what can be possible when those affected have the power to demand their specific needs. He emphasised:



*Workers can play a key role in negotiating with retailers to improve conditions in the workplace. If workers are able to engage with retailers and tell farms to address the needs of workers, it is possible to get sustainable solutions.*

While the example in the US might not be the exact solution for Thailand’s context, there are a number of parallels between the two situations, including high numbers of

undocumented workers who cannot easily access law enforcement or avenues for legal recourse.

### **Open discussion**

Mr Gehrt was asked how small-scale farmers best be supported, and he responded by citing the example of the Coalition of Immokalee Workers in the US to illustrate the effectiveness of organising workers on the ground, combined with applying pressure on brands to provide better pay through higher prices that would go directly to workers in their supply chain. A question was also raised about the potential for cross-sectoral support between garment and agricultural workers, as both groups are fighting for improved working conditions and access to rights, although it was noted that the geographical context of agricultural workers, who are dispersed across the province, makes this difficult. The role of CSOs in supporting workers to organise was discussed, as well as advocating for improved wages, safety standards, and living conditions.

Ms Pongpai was asked about how the government plans to improve oversight of working conditions on farms, who responded by acknowledging the challenges associated with monitoring remote locations. She stated that the Ministry of Labour intends to scale up its programme coverage over the next 10-15 years. The importance of workers understanding the function of PPE and using it correctly was mentioned, however the fairness of according responsibility for behavioural change around PPE to the workers themselves was questioned by participants. Employers have a responsibility to ensure that working conditions are not unnecessarily dangerous in the first place and need to be held accountable.

# Recommendations

*Facilitated by Ms Pranom Somwong*

In order to begin narrowing down the long list of recommendations to a set of key priority areas, Ms Somwong distributed paper to all participants, asking them to note the recommendation they feel is most important to put forward to protect migrant workers. Participants were encouraged to write in their local language if preferred, and did not need to identify themselves on the paper. They were informed that MMN would collect the note papers and identify the issues participants felt most strongly about to incorporate in the final set of recommendations, which was to be discussed the following day in a CSO strategy meeting.

## Closing Remarks

Ms Thet Thet Aung from FLC provided closing remarks, in which she thanked all attendees for their active participation, and officially closed the workshop.



Mekong Migration Network (MMN)

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

#### CONTRACT INFORMATION



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**Recognise, Respect and Promote the Human Rights of All Migrants in Mekong**