



## **Lao PDR Country of Origin Profile**

Drafted by the MMN Secretariat in July 2019

### ***ACRONYMS***

International Labour Organization (ILO)  
International Organization for Migration (IOM)  
Lao Federation of Trade Unions (LFTU)  
Lao People's Democratic Republic (Lao PDR)  
Malaysia Trade Union Congress (MTUC)  
Memorandum of Cooperation (MoC)  
Memorandum of Understanding (MoU)  
Migrant Resource Centres (MRC)  
Ministry of Labour and Social Welfare (MOLSW)  
Ministry of Labour-Invalids and Social Affairs (MOLISA)  
Ministry of Labour, Immigration and Population (MOLIP)  
Myanmar Kyat (MMK)  
National Socio-Economic Development Plan (NSEDP)  
Pre-Departure Training (PDT)  
Thai Baht (THB)  
United States Dollar (USD)  
Vietnam General Confederation of Labour (VGCL)

### ***1. MIGRATION TRENDS***

Working abroad remains an attractive option for many Lao workers, due to the prospect of higher wages and greater employment opportunities, especially in the sectors of agriculture, construction, and domestic work.<sup>1</sup> Official figures on the number of Lao citizens working abroad vary; the Lao People's Democratic Republic (Lao PDR) Ministry of Planning and Investment put the most recent number at 109,774 in 2016,<sup>2</sup> while statistics from the Ministry of Labour and Social Welfare (MOLSW) were much higher at an estimated 600,000 between 2015 and 2016.<sup>3</sup> According to government data, young women comprise the majority of Lao

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<sup>1</sup> The United Nations in Lao PDR, "Country Analysis Report: Lao PDR", 11 November 2015, p.29, accessible at [http://www.la.one.un.org/images/Country\\_Analysis\\_Report\\_Lao\\_PDR.pdf](http://www.la.one.un.org/images/Country_Analysis_Report_Lao_PDR.pdf).

<sup>2</sup> Ministry of Planning and Investment, "8<sup>th</sup> Five-Year National Socio-Economic Development Plan 2016-2020", June 2016, p. 35, accessible at [http://www.la.one.un.org/images/publications/8th\\_NSED\\_Plan\\_2016-2020.pdf](http://www.la.one.un.org/images/publications/8th_NSED_Plan_2016-2020.pdf).

<sup>3</sup> ILO, "Decent Work Country Programme for Lao People's Democratic Republic 2017-2021", May 2017, p.70, accessible at



Mekong Migration Network (MMN)

migrant workers, with female migrants representing 60% of the Lao population working abroad,<sup>4</sup> 63% of whom are under 16 years of age. Male migrants tend to be older, with an average age of 21 years.<sup>5</sup>

In 2018, Lao migrant workers sent home USD 149 million in remittances,<sup>6</sup> averaging USD 177 USD per remittance per month.<sup>7</sup> In most cases, the channel utilised for sending this money was either through a friend or an informal transfer agent.<sup>8</sup> A study by the International Organization for Migration (IOM) recorded that 90% of respondents viewed remittances as important or very important for their families' well-being.<sup>9</sup>

Thailand, in particular, presents itself as a popular destination of employment for Lao people, hosting an estimated 50% of all outbound migrants from Lao PDR, according to the International Labour Organization (ILO).<sup>10</sup> In addition to Thailand's geographical proximity to Lao PDR, considerable wage difference between the two nations accounts for its appeal. Thailand's current minimum wage is more than double of that in Lao PDR.<sup>11</sup> In August 2019, statistics from the Ministry of Labour in Thailand showed that 172,481 Lao migrant workers arrived in Thailand through processes established by a Memorandum of Understanding (MoU) signed between the governments of Lao PDR and Thailand. Meanwhile, an additional 48,320 were completing the Nationality Verification process and 57,044 were registered at One Stop Service Centres.<sup>12</sup>

Lao nationals typically migrated using the services of recruitment agencies and/or brokers, or with the help of family and friends who already live and work in Thailand.<sup>13</sup> The main

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[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_630313.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_630313.pdf).

<sup>4</sup> Ministry of Planning and Investment, "Pre-final Draft of Mid-Term Review of the Eighth National Socio-Economic Development Plan 2016-2020", 19 November 2018, p.63, accessible at [https://rtm.org.la/wp-content/uploads/2018/12/MTR\\_8thNSED\\_Prefinal-Daft-as-of-November-19-2018.pdf](https://rtm.org.la/wp-content/uploads/2018/12/MTR_8thNSED_Prefinal-Daft-as-of-November-19-2018.pdf).

<sup>5</sup> The United Nations in Lao PDR, "Country Analysis Report: Lao PDR", 11 November 2015, p. 48 at n.1 above.

<sup>6</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, "Lao PDR (July - September 2019)", 2019, p. 1, accessible at

[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614379.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614379.pdf).

<sup>7</sup> Ministry of Planning and Investment, "Pre-final Draft of Mid-Term Review of the Eighth National Socio-Economic Development Plan 2016-2020", 19 November 2018, p.63 at n.4 above.

<sup>8</sup> ILO, "Migrant workers' remittances from Thailand to Cambodia, Lao PDR, and Myanmar Synthesis report on survey findings in three countries and good practices", 2010, p.13, accessible at

[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_122089.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_122089.pdf).

<sup>9</sup> IOM, "Assessing Potential Changes in the Migration Patterns of Laotian Migrants and Their Impacts on Thailand and Lao People's Democratic Republic", 2016, p.ix, accessible at

<https://thailand.iom.int/sites/default/files/document/publications/EN%20-%20Assessing%20Potential%20Changes%20in%20the%20Migration%20Patterns%20of%20Laotian%20Migrants%20and%20Their%20Impacts%20on%20Thailand%20and%20Lao%20People%27s%20Democratic%20Republic.pdf>.

<sup>10</sup> ILO, "Decent Work Country Programme for Lao People's Democratic Republic 2017-2021", May 2017, p.70 at n.3 above.

<sup>11</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, "Lao PDR (July - September 2019)", 2019, p. 1 at n.6 above.

<sup>12</sup> Ibid., p.2.

<sup>13</sup> Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, "Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR", p.18, accessible at



Mekong Migration Network (MMN)

employment sectors for Lao nationals in Thailand are domestic work, construction, manufacturing, agriculture, and entertainment work.<sup>14</sup> Despite the higher legal minimum wage, in practice, underpayment of wages has been reported by various organisations.<sup>15</sup> Disparities along gendered lines were also found, with female migrant workers generally earning less than their male counterparts.<sup>16</sup>

## 2. MIGRATION MECHANISMS

### 2.1 LEGISLATION

The laws, supplementary decisions and decrees that govern outbound labour migration include:

- Labour Law of 2013, which became effective in 2014;
- Prime Minister's Decree No.68/PM on Export of Lao Workers Working Abroad, dated 28 May 2002;
- The Guideline on the Implementation of the Decree on Export of Lao Workers Working Abroad, No. 2417/MOLSW, dated 29 July 2002;
- The Decree of the Minister on Forbidden Occupations and Regions to Export Lao Labourers Working Abroad, No. 3824/MOLSW, dated 19 December 2002; and
- The MOLSW's Decision on the Establishment and Management on Employee Recruitment Enterprises, No. 043/MOLSW, dated 12 January 2010.

Nationally, the amended Labour Law of 2013, which took effect in 2014, serves as the primary framework governing outbound migration. It broadly denotes the rights of workers with regards to receiving wages and benefits, being protected under laws and contracts, and terminating contracts with recruitment agencies. Articles 38-40 discuss the definition of “foreign recruitment services”, agencies that can send Lao workers abroad, and the rights and obligations of those agencies. Articles 46-50 discuss the licensing and dissolution of recruitment agencies, as well as the roles of the Labour Administration Agency throughout these processes. Articles 66-67 state that the MOLSW and the Lao Labour Administrators Abroad, who are to be based in embassies and consulates abroad, must facilitate the protection of Lao outbound migrant workers. Article 132 requires that workers comply with the rights and obligations of other countries. Articles 136-138 outline the creation of a labour fund, which is set up for the “development of labor skills, assist Lao employees working abroad, and assist foreign employees working in Lao PDR.”<sup>17</sup>

The Ministerial Decision No. 043/MOLSW on the Establishment and Management on Employment Recruitment Enterprises in 2010 provides “the principles, regulations, measures on the establishment, and operation and supervision related to employment service enterprises in order to ensure employment, income and reducing of the poverty of Lao labour.

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<http://un-act.org/wp-content/uploads/2016/02/Operations-Manual-on-the-Protection-and-Management-of-Migrant-Workers-for-three-Ministries-of-Lao-PDR-1-1.pdf>

<sup>14</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, “Lao PDR (July - September 2019)”, 2019, p. 1, n.6 above.

<sup>15</sup> IOM, “Assessing Potential Changes in the Migration Patterns of Laotian Migrants and Their Impacts on Thailand and Lao People’s Democratic Republic”, 2016, p. ix at n.9 above.

<sup>16</sup> *Ibid.*, p. viii.

<sup>17</sup> See Lao PDR’s Labour Law, No. 43/NA (2013), accessible at <https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/96369/113864/F1488869173/LAO96369%20Eng.pdf>



Mekong Migration Network (MMN)

[sic]<sup>18</sup> According to the Ministerial Decision, recruitment agencies are required to pay for training courses,<sup>19</sup> housing, documentation, work permits, and transit fees when sending workers abroad.

Prime Minister's Decree No.68/PM on Export of Lao Workers Working Abroad, also known as the PM's Decree No.68/PM, regulates the administration and facilitation of outbound migration in order to create more favourable conditions for international cooperation and skills development.<sup>20</sup> Article 4 notes that migrant workers should be protected under the laws of countries of destination, and Article 8 stipulates that recruitment agencies bear responsibilities for the "benefits of Lao workers" they assist to migrate.<sup>21</sup>

The Guideline on the Implementation of the Decree on Export of Lao Workers Working Abroad No. 2417/MOLSW in 2002,<sup>22</sup> also known as the MOLSW's Guideline No.2417/MOLSW, further elaborates on the PM's Decree No.68/PM. It regulates that a prospective migrant must be at least 18 years of age and have completed primary education.<sup>23</sup> Workers must conclude an employment contract with stipulations on the amount of salary, method of payment, and wage deductions. If actual conditions differ from those stated in the contract, the worker has the right to make a claim against the recruitment agency. Before the point of signing, a worker must read and understand all clauses of the contract.<sup>24</sup> The Decree also states that a recruitment agency is responsible for the protection and benefits of Lao workers abroad, providing pre-departure training to prospective migrants under the supervision of the MOLSW, and must submit a report to the MOLSW at regular intervals giving updates of the "situation of the workers."<sup>25</sup> Fees charged by a recruitment agency for service provision cannot exceed 15% of the worker's monthly salary while abroad.<sup>26</sup>

Other laws that mention the protection of migrants include the Law on the Development and Protection of Women (2004)<sup>27</sup> and Ministerial Decree No. 3824/MOLSW on Forbidden Occupations and Regions to Export Lao Labourers Working Abroad (2002).<sup>28</sup>

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<sup>18</sup> MOLSW's Decision on the Establishment and Management on Employment Recruitment Enterprises No. 043/MOLSW, dated 12 January 2010, Article 1, accessible at [http://laoservicesportal.gov.la/images/download/Announcement\\_2017081809084842.pdf](http://laoservicesportal.gov.la/images/download/Announcement_2017081809084842.pdf).

<sup>19</sup> Ibid., Article 21.

<sup>20</sup> See Prime Minister's Decree No. 68/PM on Export of Lao Workers Working Abroad, dated 28 May 2002, Article 1, accessible at [http://un-act.org/wp-content/uploads/2016/02/Labour\\_Decree-68-on-Export-of-Lao-Workers-Working-Abroad.pdf](http://un-act.org/wp-content/uploads/2016/02/Labour_Decree-68-on-Export-of-Lao-Workers-Working-Abroad.pdf).

<sup>21</sup> Ibid., Articles 4 & 8.

<sup>22</sup> See The MOLSW's Guideline on the Implementation of the Decree on Export of Lao Workers Working Abroad No. 2417/MOLSW, dated 29 July 2002, accessible at <http://un-act.org/publication/view/lao-pdrr-guideline-on-implementation-of-decree-on-export-of-lao-workers-working-abroad/>.

<sup>23</sup> Ibid., Articles 3.2 & 3.3.

<sup>24</sup> Ibid., Article 4.3.

<sup>25</sup> Ibid., Article 8.1, 8.3, 8.4, & 8.5.

<sup>26</sup> Ibid., Article 12.2.

<sup>27</sup> See Law on the Development and Protection of Women, 2004, Articles 25-26 and 28, accessible at <https://www.ilo.org/dyn/travail/docs/1425/Law%20on%20the%20Development%20and%20Protection%20of%20Women%202004.pdf>.

<sup>28</sup> See Ministerial Decree No. 3824/MOLSW on Forbidden Occupations and Regions to Export Lao Labourers Working Abroad, 2002, Articles 2-3, accessible at

## 2.2 POLICY

The Eighth National Socio-Economic Development Plan 2016-2020 (NSEDP) is Lao PDR's overall socio-economic development strategy aiming to ensure political stability, reduce poverty, bring the country out of the “Least Developed Country” status by 2020, effectively manage and efficiently utilise natural resources, and enhance regional and international integration.<sup>29</sup> The plan identifies three socio-economic outcomes and specifies corresponding outputs to help achieve them. As part of the policy output to “Improve Public/Private Labour Force Capacity”,<sup>30</sup> the Lao government has plans to develop a protection and management mechanism for Lao workers overseas, strengthen the management of recruitment services and safe labour migration, create a clear, transparent and adequate legal framework for outbound migration, and issue a decree to provide support to migrant returnees..<sup>31</sup>

In 2018, the Ministry of Planning and Investment released the NSEDP Mid-Term Review to evaluate progress in achieving the outcomes and outputs set out under the policy. The review found that outbound migrant workers continue to face significant challenges, especially in terms of receiving accurate information about migration, comprehensive pre-departure training (PDT), and skill matching while abroad. Migrant returnees also face difficulties reintegrating into Lao society in terms of accessing social services and finding jobs.<sup>32</sup>

## 2.3 INSTITUTIONS

The MOLSW has the main duty of overseeing outbound migration and facilitate their skills development. As stipulated by Article 156 of the Labour Law, the MOLSW monitors the activities of recruitment agencies, administers labour funds relevant to Lao workers, collaborates with other sectors at the local level, and cooperates with foreign countries in establishing and implementing labour agreements.<sup>33</sup> Article 66 also states that the MOLSW has the duty to appoint a “representative for the administration of labour” stationed at a Lao embassy or consulate in receiving countries in order to protect Lao workers.<sup>34</sup> These representatives are responsible for assisting with dispute resolution, issuing documentation, and assisting in legal proceedings or in cases involving deportation, emergencies, abandonment, and other contract violations.<sup>35</sup>

The Labour Administration Agency is comprised of representatives of the MOLSW, as well as labour and social welfare officials at village, district, municipal, city, and provincial levels.

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<http://un-act.org/publication/view/lao-pdrs-decree-no-3824mlsw-of-the-minister-on-forbidden-occupations-and-regions-to-export-lao-labourers-working-abroad/>.

<sup>29</sup> Ministry of Planning and Investment, “The 8<sup>th</sup> National Socio-Economic Development Plan 2016-2020 (NSEDP), 2016, p.87 at n.2 above.

<sup>30</sup> This output is under outcome one entitled “Sustained inclusive economic growth with economic vulnerability reduced to levels required for [Least Developed Country] graduation and consolidated financial, legal and human resources to support growth.”

<sup>31</sup> Ministry of Planning and Investment, “The 8<sup>th</sup> National Socio-Economic Development Plan 2016-2020 (NSEDP), 2016, p.117 at n.2 above.

<sup>32</sup> Ministry of Planning and Investment, “Pre-final Draft of Mid-Term Review of the Eighth National Socio-Economic Development Plan 2016-2020”, 19 November 2018, p.63 at n.4 above.

<sup>33</sup> Lao Labour Law, 2013, Article 156 at n.17 above.

<sup>34</sup> *Ibid.*, Article 66.

<sup>35</sup> *Ibid.*, Article 67.



Mekong Migration Network (MMN)

Among its tasks, the agency issues the authorisation of recruitment agencies,<sup>36</sup> as well as orders for their dissolution.<sup>37</sup>

### *Lao Federation of Trade Unions*

The Lao Federation of Trade Unions (LFTU), the only national trade union centre in Lao PDR, is highly involved in the migration of overseas workers. Lao PDR's Law on Lao Trade Unions requires that a trade union encourage the registration of workers within "foreign labour units" in order to better facilitate trade union activities.<sup>38</sup> The LFTU Policy and Action Plan on Migration (2011-2013) outlines goals around the registration of migrant workers, both within Lao PDR and abroad, in order to establish a database of migrant workers; establishment of Migrant Resource Centres (MRC); collaboration with trade unions in destination countries; the promotion of multi-stakeholder dialogue on labour migration; and awareness raising on labour migration issues through organising workshops, distributing information material, and providing training on employment opportunities in Lao PDR for migrant returnees.<sup>39</sup> Provincial LFTUs are also responsible for collaborating with provincial Department of Labour and Social Welfare and the Lao Youth Union in conducting PDTs for prospective migrant workers.<sup>40</sup>

### **2.4 MOU PROCESS**

In 2002, the governments of Thailand and Lao PDR signed the first MoU on Labour Cooperation which outlined objectives pertaining to the employment and repatriation of migrant workers; protection of migrant workers' rights; and prevention of irregular border crossing and trafficking.<sup>41</sup> In 2016, an updated MoU was signed between Lao PDR and Thailand, which established a regular migration channel for Lao citizens going to work in Thailand and promised cooperation on social security and skills development.<sup>42</sup>

Under processes established by the MoU, migrant workers are required to follow a number of steps to travel to Thailand for work. First, they must sign a labour contract with a recruitment agency and undergo interviews with recruitment agencies. During this time, workers must submit pertinent information, including necessary identification documents, their criminal record, and a health check. From here, the recruitment agency creates a list of potential

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<sup>36</sup> Ibid., Article 48.

<sup>37</sup> Ibid., Article 50.

<sup>38</sup> Law on Lao Trade Union, 2007, Articles 11 & 12, accessible at [https://asean.org/wp-content/uploads/2016/06/L1\\_LAW-on-Lao-Trade-Unions-2007.pdf](https://asean.org/wp-content/uploads/2016/06/L1_LAW-on-Lao-Trade-Unions-2007.pdf).

<sup>39</sup> See Lao Federation of Trade Unions, "LFTU Policy and Action Plan on Migration (2011-2013)", 2011, pp. 2-3, accessible at

[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_319020.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_319020.pdf).

<sup>40</sup> Ministry of Labor and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, "Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR", 2015, p. 24, at n.13 above.

<sup>41</sup> ILO, "Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries", 2015, p.1, accessible at <http://un-act.org/publication/view/review-of-the-effectiveness-of-the-mous-in-managing-labour-migration-between-thailand-and-neighbouring-countries/>.

<sup>42</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, "Lao PDR (July - September 2016)", 2016, p. 1, accessible at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_531470.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_531470.pdf).



Mekong Migration Network (MMN)

workers and submits it to the Provincial Department of Labour and Social Welfare, which approves the list and works with the LFTU and Lao Youth Union to conduct PDTs. These training courses provide outbound migrations with information on the laws, lifestyle, and culture of Thailand. Workers receive training certificates upon completion of the course. Next, the recruitment agency submits applications for work permits and permission to send workers abroad, which are issued by the Department of Skill Development and Employment under the MOLSW. The recruitment agency is also required to request type L-A visas (working visas with legal status in Thailand) from a representative of the Thai Consular Department based in Lao PDR. Once the applications are officially approved and the agency receives the necessary work permits and visas, prospective workers can travel to Thailand for work.<sup>43</sup>

Despite this legal infrastructure, only a small proportion of Lao workers migrate using processes established by the MoU, possibly owing to high fees, slow process and the complexity involved.<sup>44</sup> According to a 2018 study by the ILO and the United Nations Development Programme, migrants reported an average wait of four months between signing a contract with a recruitment agency and being deployed to Thailand, while 20 percent of respondents claimed that their waiting time lasted between six months and two years.<sup>45</sup> Those who travelled via formal channels had to navigate complicated procedures, leading many to procure the assistance of recruiters and brokers, at their own expense.<sup>46</sup> Additionally, despite regulations under the MOLSW's Guideline No.2417 requiring that fees charged by a recruitment agency does not exceed 15% of a worker's monthly wage while abroad, cases have been reported of recruitment agencies charging rates beyond the legal cap.<sup>47</sup> In one ILO survey, migrants reported being charged by their agency between Thai Baht (THB) 600 and THB 30,000 (USD 20- 992).<sup>48</sup>

#### *DEPLOYMENT BANS*

The updated 2013 Labour Law prohibits its citizens to work overseas jobs that are “dangerous to health and safety, contrary to Lao customs and traditions, or the laws of the Lao PDR, or any country in which safety cannot be guaranteed”.<sup>49</sup> Rather, Lao nationals are encouraged to seek work abroad that offers skills development, technical training, continued education, and enables Lao nationals to fulfil their professional goals.<sup>50</sup> Ministerial Decree No. 3824/MOLSW on Forbidden Occupations and Regions to Export Lao Labourers

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<sup>43</sup> Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, “Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR”, 2015, pp. 24-25 at n.13 above.

<sup>44</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, “Lao PDR (July - September 2019)”, 2019, p. 1 at n.6 above.

<sup>45</sup> ILO, “What’s the Incentive? Comparing regular and irregular migrant work experiences from the Lao People’s Democratic Republic to Thailand”, 2018, p.72, accessible at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_647499.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_647499.pdf).

<sup>46</sup> ILO, “Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries”, 2015, p.15 at n.41 above.

<sup>47</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, “Lao PDR (July - September 2019)”, 2019, p. 1, above at n.6.

<sup>48</sup> ILO, “What’s the Incentive? Comparing regular and irregular migrant work experiences from the Lao People’s Democratic Republic to Thailand”, 2018, p.72, at n.45 above.

<sup>49</sup> Lao PDR Labor Law (2013), Article 38, at n.17 above.

<sup>50</sup> Ibid.

Working Abroad (2002) specifically bans work in certain areas, mostly in which women are dominant and where opportunities for skills development are lacking, such as cleaning work, domestic work, and sex work.<sup>51</sup> These promulgations remain ambiguous, though, given that the government has also simultaneously acknowledged that many Lao workers can migrate under the MoU scheme for domestic work. There is also disagreement over whether or not commonly perceived “low-skilled” construction and agriculture positions contradict this stipulation regarding the need for room for skills development.<sup>52</sup>

## 2.5 COMPLAINT MECHANISMS

The 2013 Labour Law states that the Lao Labour Administrator abroad should assist in legal proceedings and legal disputes.<sup>53</sup> It also stipulates that labour disputes with “international characteristics can be brought before the Labour Administration Agency, the Committee for Resolution of Labour Disputes, or in accordance with conventions or international agreements to which the Lao People’s Democratic Republic is a party”.<sup>54</sup> However, detail is lacking on the specific roles or responsibilities of these different actors in resolving disputes, rendering the process for how migrants can access grievance mechanisms unclear.<sup>55</sup>

## 3. INFORMATION DISSEMINATION

In collaboration with government agencies, trade unions and civil society, ILO has set up MRCs in Xayaboury, Champasak and Luang Prabang,<sup>56</sup> while LFTU runs another MRC in Savannakhet.<sup>57</sup> These MRCs assist with “counselling, information, and training and legal assistance services to support safe migration and protection of [migrants’] labour rights”.<sup>58</sup> MRCs play the additional role of handling complaints from workers; however, the ILO reported in 2017 that the centres were yet to report having received any complaints on incidents of abuse. This is likely due to a reluctance on the part of migrants to approach services offering assistance, and low levels of community outreach on the part of MRCs.<sup>59</sup>

In 2015, the Lao Women’s Union collaborated with the ILO to distribute 1,500 copies of a pamphlet entitled, “Safe Migration Booklet for Migrants from Lao PDR”<sup>60</sup> across Savannakhet, Khammounane, and Champassak provinces. The booklet explained the rights of women who migrate to Thailand for work, especially those who work within the domestic

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<sup>51</sup> Ministerial Decree No. 3824/MOLSW on Forbidden Occupations and Regions to Export Lao Labourers Working Abroad, 2002, Article 2, at n.28 above.

<sup>52</sup> ILO, “Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries”, 2015, p. 24, at n.41 above.

<sup>53</sup> Lao PDR Labor Law (2013), Article 67, at n.17 above.

<sup>54</sup> Ibid., Article 153.

<sup>55</sup> ILO, “Access to justice for migrant workers in South-East Asia”, 2017, p.13, accessible at <https://www.refworld.org/pdfid/597aec374.pdf>.

<sup>56</sup> See the webpage of the ILO website entitled, “Migrant Worker Resource Centres in Lao PDR”, accessible at [https://www.ilo.org/asia/WCMS\\_630324/lang--en/index.htm](https://www.ilo.org/asia/WCMS_630324/lang--en/index.htm).

<sup>57</sup> ILO TRIANGLE in ASEAN, “Progress on the implementation of recommendations adopted at the 3<sup>rd</sup>–8<sup>th</sup> ASEAN Forums on Migrant Labour”, 2017, p.7, accessible at <http://nsinitiative.net/wp-content/uploads/2018/01/AFML-Progress-3rd-to-8th-Report.pdf>.

<sup>58</sup> ILO, “Access to justice for migrant workers in South-East Asia”, 2017, p.13, at n.55 above.

<sup>59</sup> Ibid.

<sup>60</sup> See UN Women, “Safe Migration Booklet for Migrants from Lao PDR”, 2017, accessible at <https://asiapacific.unwomen.org/en/digital-library/publications/2017/09/noo-hin>.

sector.<sup>61</sup> In October of 2017, the UN Women’s Regional Migration project published and printed a further 10,000 copies of the same pamphlet, mostly targeting checkpoints along the Thai-Lao border and local civil society organisations in their distribution.<sup>62</sup>

### *Pre-Departure Training*

The Provincial Department of Labour and Social Welfare, in tandem with LFTU, is charged with providing PDT sessions immediately preceding deployment. These short courses are meant to instruct on labour laws and regulations, and share information regarding the culture and customs of destination countries. Workers are issued certificates at the end of the training.<sup>63</sup> These courses are offered in increments of three to five days for two to three hours.<sup>64</sup>

In addition to government orientation sessions, recruitment agencies are also required to hold PDTs for prospective migrant workers.<sup>65</sup> Through these trainings, recruitment agencies are supposed to act as an intermediary between employers and employees by instructing prospective workers on the expected “system, procedure, and quality of labour” in their future workplace.<sup>66</sup>

In 2014, MOLSW, in collaboration with ILO, developed a curriculum on migration to Thailand, which ILO suggests could have been a factor strengthening PDTs in Lao.<sup>67</sup>

## **4. RECRUITMENT AGENCIES**

According to the Lao Labour Law, only the Labour Administration Agency and recruitment agencies, are allowed to send workers abroad,<sup>68</sup> of which there are 24 currently licenced.<sup>69</sup> Among them, 17 agencies have been approved to send Laotian workers to Japan under the Technical Training Internship Programme as of November 2019.<sup>70</sup>

### 4.1 LICENCING CONDITIONS

<sup>61</sup> ILO TRIANGLE in ASEAN, “Progress on the implementation of recommendations adopted at the 3<sup>rd</sup>–8<sup>th</sup> ASEAN Forums on Migrant Labour”, 2017, p.7, at n.57 above.

<sup>62</sup> Yoomi, Jun, “A UN Women booklet helps smooth the journey for Lao migrant workers in Thailand”, *UN Women*, 17 December 2017, accessible at <http://asiapacific.unwomen.org/en/news-and-events/stories/2017/12/journey-for-lao-migrant-workers-in-thailand>.

<sup>63</sup> Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, “Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR”, p. 24, at n.13 above.

<sup>64</sup> *Ibid.*, p. 26.

<sup>65</sup> Lao PDR Labour Law (2013), Article 40, at n.17 above; and the PM’s Decree No.68/PM, Article 8, at n.20 above.

<sup>66</sup> Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, “Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR”, p. 20, at n.13 above.

<sup>67</sup> ILO, “What’s the Incentive? Comparing regular and irregular migrant work experiences from the Lao People’s Democratic Republic to Thailand”, 2018, p.30, at n.45 above.

<sup>68</sup> Lao PDR Labor Law (2013), Article 39 at n.17 above.

<sup>69</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, “Lao PDR (July - September 2019)”, 2019, p. 2, at n.6 above.

<sup>70</sup> See the webpage of the Japan International Training Cooperation Organization website, entitled “Sending Countries and Sending Organizations”, accessible at <https://www.jitco.or.jp/en/regulation/send/>.

The Labour Administration Agency authorises licences of recruitment agencies for a period of three years, after which they can be extended for another three years.<sup>71</sup> The law requires that the founder of an agency be a Lao citizen and have hired staff with a clean record (presumably criminal record) and a level of expertise “appropriate for the business operation.” The business must also have conducted a feasibility study; the agency must be located in an office that has an area for conducting PDTs; and there must be a starting capital of at least two billion kip (USD 224,789) and a cash security guarantee in kip equal to USD 20,000.<sup>72</sup> A recruitment agency will be dissolved if it receives an order from the government or the Labour Administration Agency, if the owner dissolves the agency, or if the court declares an agency bankrupt.<sup>73</sup>

The Ministerial Decision No. 043/MOLSW expands regulation on licences by clarifying that a foreigner who desires to establish a Lao recruitment agency can only do so as a joint venture with a Lao citizen. All founders must be at least 25 years of age, be in good health, and not be in a period of bankruptcy.<sup>74</sup> The Prime Minister’s Decree No.68/PM further states that a recruitment agency sending workers abroad must be a “trustworthy company.”<sup>75</sup>

#### 4.2 OBLIGATIONS

Article 40 of the 2013 Labour Law specifies that recruitment agencies are required to do the following:

- Utilise diplomatic channels to coordinate with foreign companies and countries that are interested in employing Lao nationals;
- Sign work agreements for sending Lao workers abroad;
- Hold PDTs sessions;
- Monitor, protect, and assist Lao workers during their time overseas;
- Arrange for their return after the expiration of contracts or in cases of emergency;
- Pay registration fees, service fees, and taxes to the government; and
- Respect and comply with obligations as stipulated by the law.

The Operations Manual on the Protection and the Management of Migrant Workers collectively developed by MOLSW, the Ministry of Foreign Affairs, and the Ministry of Public Security further states that recruitment agencies should monitor and manage workers to protect their rights and benefits, ensure their safety, and send workers home after the termination of labour contracts. In cases of labour disputes, recruitment agencies should respond promptly and notify the government. Recruitment agencies have to disseminate information to workers about their safety and provide advice and counselling services to migrants.<sup>76</sup>

#### *Pre-departure training*

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<sup>71</sup> Lao PDR Labor Law (2013), Article 48 at n.17 above.

<sup>72</sup> Ibid., Article 47.

<sup>73</sup> Ibid., Article 50.

<sup>74</sup> The Ministerial Decision No.043/MOLSW, Article 14, at n.18 above.

<sup>75</sup> Prime Minister’s Decree No. 68/PM, Article 6, at n.20 above.

<sup>76</sup> Ministry of Labour and Social Welfare, Ministry of Foreign Affairs and Ministry of Public Security, “Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR”, p.21, at n.13 above.

Recruitment agencies have a duty to provide PDT to prospective migrant workers under the supervision of the MOLSW.<sup>77</sup> Decision No. 043/MOLSW specifies that PDT sessions must include information that is related to the laws of Lao PDR as well as destination countries. Information on workplace safety and job security can be provided via manuals, leaflets, posters, and magazines.<sup>78</sup> The Decision also mandates that recruitment agencies should pay for “training, food, accommodation, documents [and] travel expenses”.<sup>79</sup>

#### 4.3 RECRUITMENT PRACTICES

According to the Guideline on Implementation of Decree on Export of Lao Workers Working Abroad No. 2417, recruitment agencies may not charge workers more than 15 percent of a basic monthly wage.<sup>80</sup> Despite the legal cap, the MOLSW cited that migration to Thailand—the most popular destination country for Lao workers—can cost between THB 15,000 (USD 480) and THB 21,000 (USD 675).<sup>81</sup> It is common for Lao workers to incur fees as high as THB 30,000 (USD 965) before they even leave Lao.<sup>82</sup>

An ILO study revealed that only 89% of regular migrants were asked to sign employment contracts with a recruitment agency, two-thirds of whom had not understood the agreement. 43% stated that there was complicated terminology, and 36% explained that they did not know what was in the contract because they had not read it before signing.<sup>83</sup> The study points out that while failure to read the contract might be partially due to literacy levels in some cases, it also demonstrates that the perceived importance of agreeing to legal statements might be low in both Lao PDR and Thailand.<sup>84</sup> It is important to note that the MOLSW guideline does not require that any contract between a recruitment agency and worker be supported by another contract with an employer in the country of destination. This means that many of the conditions that migrant workers agree upon with the recruitment agency could be impossible to enforce with employers.<sup>85</sup>

#### 5. OVERSEAS ASSISTANCE

Overseas assistance for Lao workers is limited. Currently, there is only one Lao labour attaché, located in Bangkok, for Lao’s estimated migrant workforce of 300,000 in Thailand. The attaché was appointed by the MOLSW, predominantly with the function of assisting migrant workers in resolving labour disputes. However, dispute filings are extremely low.<sup>86</sup> Over a 12 month period in 2015, the country’s sole labour attaché received one complaint.<sup>87</sup> This highlights that existing support mechanisms are not being utilised by migrants,

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<sup>77</sup> Prime Minister’s Decree No. 68/PM, Article 8, at n.20 above.

<sup>78</sup> Decision No. 043/MOLSW on the Establishment and Management on Employee Recruitment Enterprises (2010), Article 6, at n.18 above.

<sup>79</sup> *Ibid.*, Article 21.

<sup>80</sup> Guideline on Implementation of Decree on Export of Lao Workers Working Abroad No. 2417/Ministry of Labor and Social Welfare (MOLSW) (2002), Article 12.2, at n.22 above.

<sup>81</sup> ILO, “Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries”, 2015, p.17, at n.41 above.

<sup>82</sup> ILO, “What’s the incentive? Comparing regular and irregular migrant work experiences from the Lao People’s Democratic Republic to Thailand”, 2018, p.21, at n.45 above.

<sup>83</sup> *Ibid.*, p.x.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*, p.5.

<sup>86</sup> ILO, “Access to justice for migrant workers in South-East Asia”, 2017, p.13, at n.55 above.

<sup>87</sup> *Ibid.*

potentially due to inadequate dissemination of information on the role of the labour attaché. Fear among migrants that those who file complaints will have their work permits removed or suffer worse abuses from their employers are other possible reasons cited by ILO for underutilisation of complaint processes.<sup>88</sup>

Under Article 28 of the Decree on the Development and Protection of Women, Lao embassies should also play an active role in assisting victims of labour abuse abroad through active intervention,<sup>89</sup> cooperating with government officials to prosecute violators, and repatriating victims.

## 6. INTERNATIONAL COOPERATION

In 2010, 2011, and 2013 Lao PDR sent teams of officials to collaborate with the Thai government in registering existing undocumented workers in Thailand in what became known as the National Verification Process. This changed the landscape of documented Lao citizens in Thailand, which rose to 926,000 during that time period.<sup>90</sup>

In June 2017, the new Thai law on foreign employees and migrant workers, entitled “Royal Decree on Managing the Work of Aliens B.E. 2560,” came into effect and introduced increased penalties for both undocumented workers and their employers. In July 2017, Lao and Thai government officials met in Luang Prabang to discuss the process of regularising undocumented Lao workers.<sup>91</sup> One month later, the Lao Worker Status Adjustment Office was established in Bangkok, staffed by 32 officials from different Lao government and employment agencies. The office aimed to support “Lao workers by facilitating their document requirements” in Thailand without necessitating return to Lao PDR. Estimates show that 71,000 Lao citizens were working in Thailand with pink cards, a temporary identity document, as of August 2017.<sup>92</sup>

According to the MOLSW’s public Facebook page, the government agencies concerning labour in Lao PDR and Thailand met on 5-6 June 2019 to talk about the upcoming expiration of visas in 2020 and how to continue to expand protection for Lao workers when this

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<sup>88</sup> ILO, “Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries”, 2015, p.21, at n.41 above.

<sup>89</sup> 2004 Decree of the President of the Lao People’s Democratic Republic No. 70/PO on the Promulgation of the Law on Development and Protection of Women, Article 28, accessible at <https://www.ilo.org/dyn/travail/docs/1425/Law%20on%20the%20Development%20and%20Protection%20of%20Women%202004.pdf>.

<sup>90</sup> ILO, “Social protection for migrant workers in ASEAN: Developments, challenges, and prospects”, 2018, p. 54, accessible at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_655176.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_655176.pdf).

<sup>91</sup> “Laos, Thailand Discuss Legalisation of Informal Workers”, *KPL*, July 2017, accessible at <http://kpl.gov.la/En/Detail.aspx?id=26157>.

<sup>92</sup> Soukthavy, Thephavong, “Gov’t Opens Lao Worker Status Adjustment Office in Thailand”, *Lao News Agency*, August 2017, accessible at <http://kpl.gov.la/En/Detail.aspx?id=27458>.

happens.<sup>93</sup> The pending expiration of work permits within the fishing and agriculture sectors in November 2019 and March 2020 was also discussed.<sup>94</sup>

## 7. Welfare Fund and Social Security

Lao PDR's provisions for social security are structured under the 2013 Social Security Law No.34/NA. Citizens are entitled to protections with regards to health care, maternity rights, employment injury and diseases, sick leave, retirement funds, life insurance, and unemployment benefits.<sup>95</sup> However, the Law does not specify whether outbound migrant workers are able to participate in the country's social protection programmes. 2018 marked a change in the country's policies relevant to social welfare when the National Assembly of Lao PDR passed the newly amended Law on Social Security in June, Law on Health Insurance, Law on People with Disabilities, and Law on Overseas Representative Offices of the Lao PDR in December.<sup>96</sup> The Law on Health Insurance is expected to allow poor families to access universal health insurance and ensure the transparency, quality and effectiveness of health services.<sup>97</sup> The implications of these new laws on migrant workers is not known at the moment.

Article 136 of the 2013 Labour Law authorises the provision of a labour fund for Lao migrant workers abroad and foreign employees contracted to work in Lao PDR. Lao workers abroad are requested to contribute 5% of their monthly salary stated in their employment contract.<sup>98</sup> In 2019, an ILO report documented that a second draft of a Ministry Agreement on Migrant Workers Support Fund was completed in February.<sup>99</sup>

## 8. UPON RETURN

<sup>93</sup> "Labour News and Social Welfare Facebook", @news.molsw, 10 June 2019, accessible at [https://www.facebook.com/news.molsw/posts/1044844475714503?\\_xts=%5B0%5D=68.ARBtIevF\\_zlct4vm0p6xnAzhzy\\_oWL3KzBIXz1XQSKxpOEBnsv7VZDrQ348wCupv3Eg2IeH2KtWfYHQg28\\_OP00ZJP\\_eZNs6RVvBqFbIts9DncL8YqQ2Jph8fw6WhRfb3wHWMWIAy-AktD77ZvIGcg66aN9qAZpuVZVvX-8i-ZMDDP2Ad6ICvOfIzZj0urYPuYACwFnh4IIVWBtngqOvAtdKNRWUS9kDgO5xlgUJDEhiflWvaZPoQZhzOiDBRSjvo56XSpJzDkO-MI0dsZteHletjJKZsqH5NOIS6ZrkH4jSnTW7p7pHtNzLoK\\_SxNRFFOV87b-fVkyFfatBVPA4ievCuA&\\_tn=-R](https://www.facebook.com/news.molsw/posts/1044844475714503?_xts=%5B0%5D=68.ARBtIevF_zlct4vm0p6xnAzhzy_oWL3KzBIXz1XQSKxpOEBnsv7VZDrQ348wCupv3Eg2IeH2KtWfYHQg28_OP00ZJP_eZNs6RVvBqFbIts9DncL8YqQ2Jph8fw6WhRfb3wHWMWIAy-AktD77ZvIGcg66aN9qAZpuVZVvX-8i-ZMDDP2Ad6ICvOfIzZj0urYPuYACwFnh4IIVWBtngqOvAtdKNRWUS9kDgO5xlgUJDEhiflWvaZPoQZhzOiDBRSjvo56XSpJzDkO-MI0dsZteHletjJKZsqH5NOIS6ZrkH4jSnTW7p7pHtNzLoK_SxNRFFOV87b-fVkyFfatBVPA4ievCuA&_tn=-R).

<sup>94</sup> @news.molsw, Labour News and Social Welfare Facebook, 10 June 2019 [https://www.facebook.com/news.molsw/posts/1044844475714503?\\_xts=%5B0%5D=68.ARBtIevF\\_zlct4vm0p6xnAzhzy\\_oWL3KzBIXz1XQSKxpOEBnsv7VZDrQ348wCupv3Eg2IeH2KtWfYHQg28\\_OP00ZJP\\_eZNs6RVvBqFbIts9DncL8YqQ2Jph8fw6WhRfb3wHWMWIAy-AktD77ZvIGcg66aN9qAZpuVZVvX-8i-ZMDDP2Ad6ICvOfIzZj0urYPuYACwFnh4IIVWBtngqOvAtdKNRWUS9kDgO5xlgUJDEhiflWvaZPoQZhzOiDBRSjvo56XSpJzDkO-MI0dsZteHletjJKZsqH5NOIS6ZrkH4jSnTW7p7pHtNzLoK\\_SxNRFFOV87b-fVkyFfatBVPA4ievCuA&\\_tn=-R](https://www.facebook.com/news.molsw/posts/1044844475714503?_xts=%5B0%5D=68.ARBtIevF_zlct4vm0p6xnAzhzy_oWL3KzBIXz1XQSKxpOEBnsv7VZDrQ348wCupv3Eg2IeH2KtWfYHQg28_OP00ZJP_eZNs6RVvBqFbIts9DncL8YqQ2Jph8fw6WhRfb3wHWMWIAy-AktD77ZvIGcg66aN9qAZpuVZVvX-8i-ZMDDP2Ad6ICvOfIzZj0urYPuYACwFnh4IIVWBtngqOvAtdKNRWUS9kDgO5xlgUJDEhiflWvaZPoQZhzOiDBRSjvo56XSpJzDkO-MI0dsZteHletjJKZsqH5NOIS6ZrkH4jSnTW7p7pHtNzLoK_SxNRFFOV87b-fVkyFfatBVPA4ievCuA&_tn=-R).

<sup>95</sup> Lao Social Security Law, 2013, Article 9, accessible at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/95117/128492/F1193623474/LAO95117%20Eng.pdf>.

<sup>96</sup> "NA's 6<sup>th</sup> Ordinary Session Concluded", Lao News Agency, 2018, accessible at <http://kpl.gov.la/En/Detail.aspx?id=42516>.

<sup>97</sup> "NA approved Law on Health Insurance", Lao News Agency, 2018, accessible at <http://kpl.gov.la/En/Detail.aspx?id=42317>.

<sup>98</sup> Lao PDR Labour Law (2013), Article 137, at n.17 above.

<sup>99</sup> ILO, TRIANGLE in ASEAN Programme, Quarterly Briefing Note, "Lao PDR (January - March 2019)", 2019, p. 1, accessible at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614379.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614379.pdf).



Mekong Migration Network (MMN)

The mid-term review of 8<sup>th</sup> NSEDP in 2018 acknowledged that Lao nationals face difficulties in social reintegration including access to social services and job placement.<sup>100</sup> The review stated as one of its future plans to expand the services provided to migrant workers to assist with return and reintegration.<sup>101</sup>

Recruitment agencies, under article 40 of the 2013 Labour Law, bear responsibility for arranging for migrant workers' return in cases of termination of contract or emergency.<sup>102</sup> In one ILO survey, only 7% of migrant workers said their recruitment agencies arranged for their return to Lao PDR.<sup>103</sup>

It has been noted that migrants return to Lao at a rate of 250 people per week, and MRCs function as an invaluable check-point for reintegration, especially in terms of gaining access to social support systems in Lao PDR.<sup>104</sup>

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<sup>100</sup> Ministry of Planning and Investment, "Pre-final Draft of Mid-Term Review of the Eighth National Socio-Economic Development Plan 2016-2020", 19 November 2018, p.63, at n.4 above.

<sup>101</sup> Ibid., p.64.

<sup>102</sup> Lao Labour Law, 2013, Article 40, at n.17 above.

<sup>103</sup> ILO, "What's the Incentive? Comparing regular and irregular migrant work experiences from the Lao People's Democratic Republic to Thailand", 2018, p.67, at n.45 above.

<sup>104</sup> ILO, "ILO-China project to expand employment services and enhance labour market information in Cambodia and Lao PDR", 15 September 2016, p. 108, accessible at <https://www.ilo.org/evalinfo/product/download.do?type=document&id=17529>.