

Mekong  
Migration  
Network  
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*The*

# Development *of* Migration Policies

Concerning Vietnamese  
Migrant Workers in Thailand

## The Development of Migration Policies Concerning Vietnamese Migrants in Thailand

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*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 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*

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## List of Acronyms

CSO	Civil Society Organization
Lao PDR	Lao People's Democratic Republic
MMN	Mekong Migration Network
MOU	Memorandum of Understanding
OSSC	One Stop Service Centre



*A Vietnamese worker awaits more supplies at a construction site.*

## The Development of Migration Policies Concerning Vietnamese Migrants in Thailand

In 2014, Vietnamese migrant workers<sup>1</sup> in Thailand came under the spotlight after the Thai media reported complaints that migrant workers from neighbouring countries were “stealing” jobs from Thai people.<sup>2</sup> These articles were published even though only a relatively small population of Vietnamese migrants work in Thailand compared to the number of migrants from Cambodia, Myanmar and Lao PDR. At the time, Decha Pruekpattanak, the Director of the Office of Foreign Workers Administration, suggested that many of the recent Vietnamese arrivals came to Thailand under a 30-day visa-exempt scheme to work without proper documentation.<sup>3</sup> The following year, in 2015, the Thai government launched the first ever registration programme aimed exclusively at registering all Vietnamese migrants in the country. Although Vietnamese communities have been present in Thailand for many decades, the sudden attention given to the Vietnamese population was unusual as all previous registration efforts and governmental regulations for migration have mainly focused on migrants from its direct neighbours, Cambodia, Lao PDR and Myanmar.

After Vietnamese migrants began gaining public attention, Mekong Migration Network (MMN) organised a consultation meeting in 2018 to discuss the impacts of current migration policies in Thailand.<sup>4</sup> During the meeting, representatives of Vietnamese Civil Society Organisations (CSOs) highlighted concerns about the lack of existing information on Vietnamese migrants’ experiences and the inadequate policy measures that respond to their needs. As a result, MMN agreed to undertake the following research to explore the recruitment process and working conditions of Vietnamese migrants in order to better understand their perspectives and needs. Gaining access to Vietnamese migrant communities is difficult as a majority of the Vietnamese migrant workers are irregular (employed without legal authorization to work),<sup>5</sup> and many fear being discovered will lead to arrest.<sup>6</sup>

1 This report refers to migrants from Vietnam who come to Thailand primarily for work as “Vietnamese migrant workers”.

2 “โวยต่างตัวแย่งอาชีพค้าขาย ห่วงเวียดนามสวมรอยนักท่องเที่ยวแฝงมาทำงานปีละ 5 หมื่น (Complaints about migrant workers stealing street vending jobs; Concerns about 50,000 Vietnamese migrants working on a tourist visa each year)”, Manager Online, 14 June 2014, available at <https://mgronline.com/qol/detail/9570000066919>.

3 Ibid

4 The MMN consultation meeting entitled, “Project Consultation Meeting on the Impacts of Current Migration Policies in Thailand” was held on 20-21 March 2018, Bangkok, Thailand.

5 In August 2018, the Thai government reported that only 1,130 Vietnamese migrants were regular workers. (Department of Employment, Thailand, “ก.แรงงาน ถกหารือหน่วยงานที่เกี่ยวข้องแก้ปัญหาขาดแคลนแรงงานภาคประมงทะเล, กรมการจัดหางาน, กระทรวงแรงงาน (Ministry of Labour consults relevant ministries to solve labour shortage in the fishing sector)”, 2 August 2018, available at [https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object\\_id/17244](https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object_id/17244).)

6 Nancy Huyen Nguyen and John Walsh, “Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development”, Jour-

In light of this barrier to access, the following report is primarily based on a review of existing literature, including newspaper articles, government reports, academic papers and reports by inter-governmental organisations, as well as an interview with a representative from the Vietnamese Embassy in Thailand.<sup>7</sup> Given the nature of this methodology, the intention of this report is not to provide a detailed primary research analysis on Vietnamese migrants in Thailand. Instead, by illuminating understudied concerns of migrant realities in Thailand, the findings of this report should serve as the basis to further investigate whether the rights of the Vietnamese migrants are being adequately protected, given that the needs of the community have long gone unnoticed.

## Historical Context

The first group of Vietnamese who settled in Thailand between the 13th and mid-20th century are commonly referred to by Thai people as the *Yuon Kaos* (ancient Vietnamese).<sup>8</sup> They were typically political dissidents who faced persecution at home and sought refuge in Thailand.<sup>9</sup> During the Second Indochina War (also known as the Vietnam War or Resistance War against America) from 1955-75, large numbers of Vietnamese refugees<sup>10</sup> fled to Thailand at different stages. However, as many as 46,256 persons were also sent back under a repatriation scheme between the Thai Red Cross Society and the Red Cross Society of the Democratic Republic of Vietnam between the late 1950s and early 1960s.<sup>11</sup> Official estimates in the late 1970s put the number of remaining Vietnamese refugees in Thailand at around 50,000.<sup>12</sup> This group of Vietnamese is commonly referred to by Thai people as the *Yuon Op Pha Yops*.<sup>13</sup>

Between the 1950s and the 1970s, the rights of the *Yuon Op Pha Yops* were largely restricted because of Thai policies aimed at containing the spread of communism. *Yuon Op Pha Yops* were required to register with the police in designated provinces (mainly in Isaan (Northeastern Thailand) and Eastern Thailand) where they were tightly monitored.<sup>14</sup> They also had limited prospects of acquiring Thai citizenship and were officially recognised as “illegal immigrants” under the Immigration Act B.E. 2522 (1979).<sup>15</sup> Citizenship restrictions began to relax in 1984 when the government allowed *Yuon Op Pha Yops* to obtain Certificates of Residence and non-Thai identification cards (known as the “Vietnamese Refugees ID card”, or White Cards with a Blue Border) and apply for permanent resident status. In 1993, citizenship was granted for the first time to children of *Yuon Op Pha Yops* who either entered the country between 1945 and 1946 or were born in Thailand.<sup>16</sup> In 1997, the remaining *Yuon Op Pha Yops* with Certificates of Residence and non-Thai

nal of Identity and Migration Studies, 8 (2014), 68-94.

7 Key informant interview with Mr Pho Hoang Han, Minister-Counsellor, Deputy Chief of Mission, Embassy of the Socialist Republic of Vietnam, Bangkok, Thailand, 1 June 2018.

8 Over the years, the *Yuon Kaos* have integrated into Thai society and have acquired Thai citizenship. They are usually concentrated in Bangkok and the provinces of Chanthaburi, Kanchanaburi and Ayutthaya, although some of them moved to Isaan between the late 1990s and the early 2000s. [See Thanyathip Sripana and Trinh Dieu Thin, *Viet Kieu in Thailand in Thai-Vietnamese Relationship (in Thai)* (Bangkok, Institute of Asian Studies, Chulalongkorn University: 2005)]

9 Tuan Anh Nguyen, “Labour migration flows from Vietnam to Thailand in the context of ASEAN Regional Integration”, *RUDN Journal of Economics*, 25 (2017), 275-282.

10 For the purpose of this report, Vietnamese who were fleeing the war in Vietnam after the Second World War would be referred to as “Vietnamese refugees” regardless of their official status provided by authorities in the destination country.

11 Thanyathip Sripana, “The Vietnamese in Thailand: A Cultural Bridge in Thai-Vietnamese Relationship,” *VNU Journal of Science*, 20 (2004), 49-64.

12 Khajathpai Buruspat, “*Yuon Oppayop*” (in Thai), (Bangkok, Duangkamol Publishing: 1978).

13 Thanyathip Sripana and Trinh Dieu Thin, *Viet Kieu in Thailand in Thai-Vietnamese Relationship (in Thai)* (Bangkok, Institute of Asian Studies, Chulalongkorn University: 2005)

14 The Immigration Act B.E. 2522 implemented in 1979 designated 13 provinces where the *Yuon Op Pha Yops* could stay. Before that, the number of designated provinces had often varied depending on political circumstances. [Thanyathip Sripana and Trinh Dieu Thin, *Viet Kieu in Thailand in Thai-Vietnamese Relationship (in Thai)* (Bangkok, Institute of Asian Studies, Chulalongkorn University: 2005)]

15 The Thai government does not officially consider Vietnamese and Indochinese refugees on its soil as “refugees”. Those who fled to Thailand before 1979 are referred to as “displaced persons” while those who came after 1979 are regarded as “illegal immigrants”. [S. Chantavanich and P. Rabe, “Thailand and the Indochinese Refugees: Fifteen years of Compromise and Uncertainty”, *Southeast Asian Journal of Social Science*, 18 (1990), 66-80.]

16 Sarinya Sukaree, “*Thai Mai: The Transformation of Vietnamese Diaspora into A New and Privileged Class of Nakhon Phanom*” (in Thai), *Journal of Human Science*, 17 (2016), 11-43.

identification cards could also apply for citizenship.<sup>17</sup>

Earlier mobility and citizenship restrictions meant that the Yuon Op Pha Yops had to negotiate difficult circumstances to improve their economic and social standing. Even as “illegal immigrants,” the Yuon Op Pha Yops worked in a handful of sectors and had to pay taxes.<sup>18</sup> A number of them became farm labourers and traded local products, including rice, fabric and honey in urban areas, while others owned small stores at their local village markets.<sup>19</sup> In the Northeast, one study found that the Yuon Op Pha Yops competed with Chinese-Thais in the same sectors of work and forced many of them out of business.<sup>20</sup> In Nakhom Phanom, another study found that the Yuon Op Pha Yops took advantage of the opportunities made available by the United States Air Force Base in the province, and worked in construction, mechanical equipment repair and food vending.<sup>21</sup>

Many Yuon Op Pha Yops built social networks with the Yuon Kaos, Chinese-Thai and local Thai people—sometimes through marriage—to escape the restrictions they faced as non-Thais.<sup>22</sup> In some instances, Yuon Op Pha Yops gave their children up for adoption to Thai families because Vietnamese refugee children were not allowed to attend state schools.<sup>23</sup> However, when the citizenship policies relaxed, the Yuon Op Pha Yops phased out these practices as they gradually gained equal rights to native-born Thai citizens and could live in different provinces, work in all available sectors of work and access social protection.<sup>24</sup>

## A New Phase of Labour Migration from Vietnam to Thailand

In the 1990s, Vietnamese migrant workers began migrating to Thailand in search of employment opportunities. By the mid-2000s, a growing number of Vietnamese were reportedly migrating to Thailand for work. A majority of these migrant workers are from Quang Binh, Ha Tinh, Nghe An, Thanh Hoa, Phu Tho, and Hoa Binh.<sup>25</sup> They usually work in manual work sectors left underfilled due to the declining number of people joining the labour force.<sup>26</sup> Vietnamese migrant workers are commonly known to work in food preparation and restaurants, construction, as parking lot attendants and street vendors, as well as performing other types of daily wage work.<sup>27</sup> Wage levels in Thailand are on average higher than those in Vietnam. In 2016, the Nation reported that migrant workers could earn between 6-8 million dong (around USD 260-350) per month in Thailand, significantly more than the average monthly salary of 3.8 million dong in Vietnam (around USD 160).<sup>28</sup> While abundant job opportunities and higher wages are the key drivers for migration from Vietnam

17 Krishna Thongkaew, Somsak Srisontisuk, and Viyouth Chamruspanth, “Powers and Politics of the Vietnamese Thai” (in Thai), *Suratthani Rajabhat Journal*, 3 (2016), 33-56.

18 Thanyathip Sripana and Trinh Dieu Thin, *Viet Kieu in Thailand in Thai-Vietnamese Relationship* (in Thai) (Bangkok, Institute of Asian Studies, Chulalongkorn University: 2005).

19 Sarinya Sukaree, “Thai Mai: The Transformation of Vietnamese Diaspora into A New and Privileged Class of Nakhon Phanom” (in Thai), *Journal of Human Sciences*, 17 (2016), 11-43.

20 Varophas, Kusol. “The Vietnamese Refugees in Thailand.” *World Affairs*, 128, (1966), 233-38.

21 Sarinya Sukaree, “Thai Mai: The Transformation of Vietnamese Diaspora into A New and Privileged Class of Nakhon Phanom” (in Thai), *Journal of Human Sciences*, 17 (2016), 11-43.

22 Ibid; Krishna Thongkaew, Somsak Srisontisuk and Viyouth Chamruspanth, “Powers and Politics of the Vietnamese Thai” (in Thai), *Suratthani Rajabhat Journal*, 3 (2016), 33-56; and Thanyathip Sripana, “The Vietnamese in Thailand: A Cultural Bridge in Thai-Vietnamese Relationship,” *VNU Journal of Science*, 20 (2004), 49-64.

23 John Walsh, “The Vietnamese in Thailand: a History of Work, Struggle and Acceptance”, *Acta Universitatis Danubius*, 7 (2014), 160-172.

24 Narongsakdi Kuboonya-aragsa, Pisit Boonchai and Paiboon Boonchai, “The Roles of Ethnic Thai-Vietnamese People in Effecting Changes of the Thai Economy, Society and Culture”, *Nakhon Phanom University Journal*, 8 (2018), 107-116.

25 Anthony Le Duc, “The role of social media in community building for illegal Vietnamese migrant workers in Thailand”, *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

26 Nancy Huyen Nguyen and John Walsh, “Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development”, *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

27 Ibid; Silapakit Teekantikun, “Going to Thailand, Isn’t just Looking for Work”: The “Desire” of Vietnamese Peasants from Ha Tinh and Nghe An Provinces” *Journal of Mekong Societies*, 12 (2016), 139-162; Tuan Anh Nguyen, “Labour migration flows from Vietnam to Thailand in the context of ASEAN Regional Integration”, *RUDN Journal of Economics*, 25 (2017), 275-282; Watcharee Srikham, “Transnational Labor in the Greater Mekong Sub-region”, *International Journal of Humanities and Social Science*, 2 (2012), 294-298.

28 “Vietnamese flock to Thailand, Laos for higher-paying jobs”, *The Nation*, 4 March 2016, available at <http://www.nationmultimedia.com/business/Vietnamese-flock-to-Thailand-Laos-for-higher-payin-30280804.html>.

to Thailand, one scholar also noted that others migrate seeking new adventures and/or hope to settle permanently in Thailand as small entrepreneurs.<sup>29</sup>

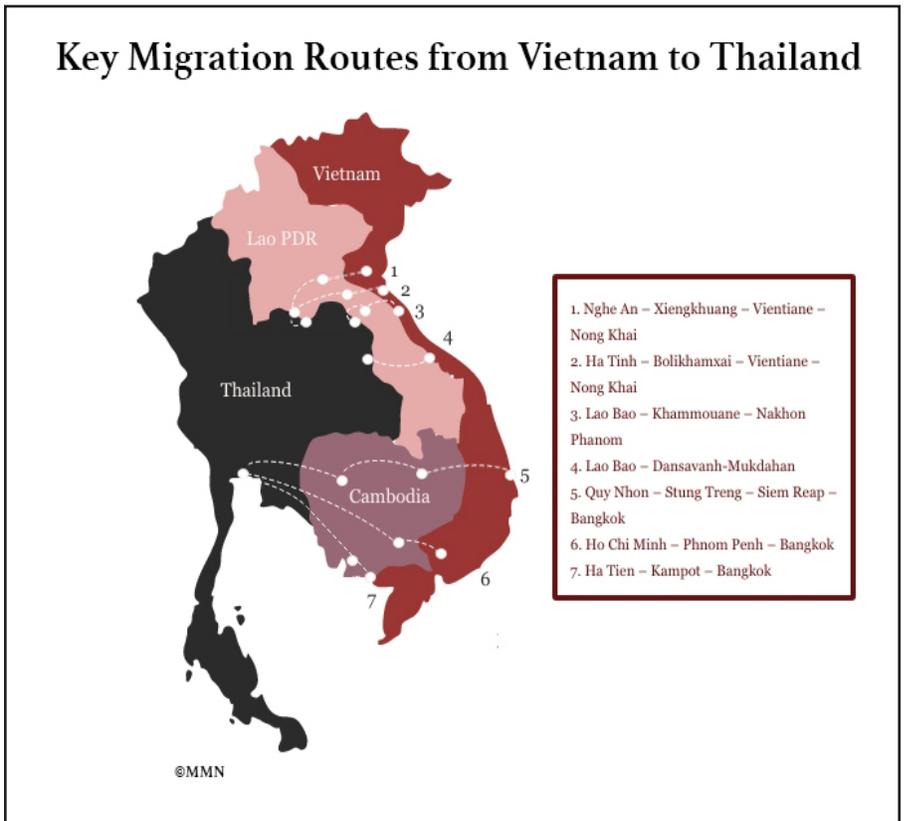
Because of Thailand's physical proximity to Vietnam, Vietnamese migrant workers can easily migrate via a number of land routes that require them to make a transfer in Cambodia or Lao PDR. The journey takes only a day to complete.<sup>30</sup> Recently, the popular land routes from Vietnam to Thailand are depicted in the map to the right.<sup>31</sup>

Reports found that migrant workers from Northern and Central Vietnam usually access the well-established routes passing through Lao PDR.<sup>32</sup>

Recent migration patterns from Vietnam to Thailand have largely

been shaped by immigration agreements between the two countries. In 2000, Thailand and Vietnam signed a bilateral agreement that permitted individuals from the other nation with ordinary passports to enter the country without a visa for up to 30 days (visa exemption).<sup>33</sup> This not only led to a spike in Vietnamese tourists visiting Thailand<sup>34</sup> but also an increase in the rate of irregular labour migration. The Department of Employment in Thailand estimates in 2015 that approximately 20,000 to 30,000 Vietnamese, who arrived in Thailand as tourists stayed on to work in Bangkok or other nearby provinces without official work authorisation.<sup>35</sup> As the visa-exempt period only lasts for 30 days, to stay legally present, migrants need to exit Thailand every month—typically to Lao PDR or Cambodia—before re-entering the country again to extend their visa-exemption period.<sup>36</sup>

Throughout the migration process, the existing Vietnamese communities in Thailand have played a major role in the recruitment and integration of Vietnamese migrant workers. The recruitment of a number of Vietnamese workers was facilitated by their friends and family members who were already working



29 Silapakit Teekantikun, "Going to Thailand, Isn't just Looking for Work": The "Desire" of Vietnamese Peasants from Ha Tinh and Nghe An Provinces" *Journal of Mekong Societies*, 12 (2016), 139-162.

30 Anthony Le Duc, "The role of social media in community building for illegal Vietnamese migrant workers in Thailand", *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

31 Nancy Huyen Nguyen and John Walsh, "Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development", *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

32 "เส้นทางแรงงานเวียดนามบุกไทย (The Routes of Vietnamese Migrant Workers to Thailand)", *Bangkokbiznews*, 26 June 2014, available at <http://www.bangkokbiznews.com/news/detail/590222>. Those from Central Vietnam can currently choose from eight companies that bring them to Bangkok through Lao PDR. ("Danh sách các nhà xe đi Thái Lan" (in Vietnamese), *Viet Thai Today*, 17 January 2018, available at <http://vietthaitoday.net/danh-sach-cac-nha-xe-di-thai-lan/>.)

33 Vu Tung Nguyen, "Vietnam–Thailand Relations after the Cold War" in *International Relations in Southeast Asia: Between Bilateralism and Multilateralism*, (ISEAS–Yusof Ishak Institute: 2010), 67-91.

34 100,000 Vietnamese tourists have visited Thailand each year with projected increases in the future. Just from 2016 to 2017, the number of Vietnamese tourists rose by 12.56%. (Ministry of Tourism & Sport of Thailand, "Statistics of International Tourist Arrivals to Thailand 2017", 2017, available at [https://www.mots.go.th/more\\_news.php?cid=465&filename=index](https://www.mots.go.th/more_news.php?cid=465&filename=index).)

35 "แจ้งประสาน คม. เข้มตรวจเวียดนามลอบเข้าไทยหวังจดทะเบียนแรงงาน (Coordinating with the Immigration Bureau to strictly monitor Vietnamese migrant workers trying to enter Thailand for registration)", *Manager Online*, 12 February 2015, available at: <https://mgronline.com/qol/detail/9580000017394>.

36 Anthony Le Duc, "The role of social media in community building for illegal Vietnamese migrant workers in Thailand", *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

for Vietnamese employers in Thailand.<sup>37</sup> Utilising informal networks decreases the cost of migration as migrant workers do not have to use recruitment agencies or brokers and pay service fees. Upon arrival, Vietnamese migrant workers often already have a strong network of support from their friends and family members, who can provide different types of help such as lending money, arranging accommodation, teaching Thai language, culture and customs and providing assistance in cases of arrest. In some instances, migrant friends and family members in Thailand even pay the cost of transportation and meals for the first few months for newly arrived migrants.<sup>38</sup> A study found that some Vietnamese employers in Thailand also provide Vietnamese migrant workers free accommodation (at times with electricity and water included), on-the-job training, and pay visa fees and other administrative expenses.<sup>39</sup> These benefits assist migrants' ability to adapt to life in Thailand.



*Three Vietnamese employees work on metal and piping at a construction site.*

## Thailand's Policy on Vietnamese Migrant Workers

### *One-time Registration Programme*

With the increase of Vietnamese working without authorisation after gaining entry into Thailand as tourists, the Thai government rolled out a one-time policy in February 2015 aimed exclusively at registering all Vietnamese workers in the country. The measure created a window between 1 and 30 December 2015 for these workers to register and apply for a work permit at One Stop Service Centres (OSSCs). To qualify at the time, Vietnamese migrant workers had to: 1) work in restaurant service, construction work, fishery work, or domestic work; 2) work for a Thai employer and have an employment contract; 3) have a valid passport; 4) have an expired visa before the registration period; and 5) have entered Thailand before 10 August 2015.<sup>40</sup> They could receive a work permit valid for one year.<sup>41</sup> After the initial registration period closed, only workers in the construction and fishery industries were allowed to apply for an extension.<sup>42</sup> By the end of the registration period, 1,569 Vietnamese migrant workers had registered at OSSCs: 723 in restaurant services, 435 in domestic work, 411 in construction, and none in the fishing sector.<sup>43</sup> The following year, 100

37 Nancy Huyen Nguyen and John Walsh, "Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development", *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

38 Watcharee Sriksam, "Transnational Labor in the Greater Mekong Sub-region", *International Journal of Humanities and Social Science*, 2 (2012), 294-298.

39 Nancy Huyen Nguyen and John Walsh, "Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development", *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

40 Anthony Le Duc, "The role of social media in community building for illegal Vietnamese migrant workers in Thailand", *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

41 "Thái Lan cấp phép cho lao động Việt Nam (Thailand registers workers in Vietnam)", *VN Express*, 2 December 2015, available at <https://vnexpress.net/tin-tuc/the-gioi/nguoi-viet-5-chau/thai-lan-cap-phep-cho-lao-dong-viet-nam-3321188.html>.

42 "Thỏa thuận phải cử lao động giữa Việt Nam và Thái Lan (Labour Agreement between Vietnam and Thailand)", *Vov*, 24 June 2016, available at <http://vovworld.vn/vi-VN/khach-moi-cua-vov/toa-thuan-phai-cu-lao-dong-giua-viet-nam-va-thai-lan-447844.vov>.

43 Department of Employment, Thailand, "วารสารสถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือที่ราชอาณาจักร ประจำปี 2558, สำนักบริหารแรงงานต่างด้าว กลุ่มงานการจัดระบบองค์การเอกชน การเคลื่อนย้ายบุคคลตามข้อตกลงการค้าเสรีและสารสนเทศ ฝ่ายสารสนเทศ, กระทรวงแรงงาน, 2559 (Statistics of Migrant Workers Registration of 2015, Foreign Workers Administration Office, Ministry of Labour, 2015)", 2015, available at [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf).

Vietnamese workers in construction renewed their documents.<sup>44</sup>

### ***Memorandum of Understanding on Labour Cooperation***

In July 2015, Thailand and Vietnam also signed a Memorandum of Understanding (MOU) on Labour Cooperation. This agreement established the commitments and responsibilities of both countries for the migration of Vietnamese workers through recruitment agencies. Under the MOU, Vietnamese migrant workers are only permitted to work in construction and fishing.<sup>45</sup> As of August 2018, only 6 Vietnamese workers utilised the official migration channel established by the MOU.<sup>46</sup> The recruitment procedure established under the MOU is depicted in the infographic on the following page.

Thai employers are required to collect Vietnamese migrant workers from the airport, arrange medical check-ups, assist them with applying for work permits and provide a one-day post-arrival training. The employers are also expected to work with the Thai recruitment agency and the Vietnamese Embassy to address any issues that may arise during the migrants' employment.

Thai employers are expected to pay recruitments costs including fees to Thai recruitment agencies and migrant workers' travel expenses to and from Thailand. Before departure, migrants have to pay for their passports, pre-departure medical check-up, visas, and the necessary training courses. They also have to contribute to the Overseas Employment Support Fund. All recruitment fees to the Vietnamese recruitment agencies are capped at no more than one month of their salary. Once migrants arrive in Thailand, they are required to pay for their post-arrival medical examinations, health insurance, work permits and work permit application fees.<sup>47</sup>

### ***Proposed Amendments for the 2015 Memorandum of Understanding***

In November 2018, the Cabinet approved in principle a draft amendment to the MOU between the two countries. The amendment would allow Vietnamese migrants under the MOU to work in the same sectors as Cambodian, Myanmar and Lao migrant workers, which would include labour work (i.e. manual labour as defined by the Department of Employment<sup>48</sup>) and domestic work.<sup>49</sup>

44 Department of Employment, Thailand, “ก.แรงงาน ดกหาหรือหน่วยงานที่เกี่ยวข้องแก้ปัญหาขาดแคลนแรงงานภาคประมงทะเล, กรมการจัดหางาน, กระทรวงแรงงาน (Ministry of Labour consults relevant ministries to solve labour shortage in the fisheries sector)”, 2 August 2018, available at [https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object\\_id/17244](https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object_id/17244).

45 International Labour Organisation, “Vietnam (January-June 2020)”, TRIANGLE in ASEAN Quarterly Briefing Note, 2020, available at <https://gnews.apps.go.th/news?news=24471>.

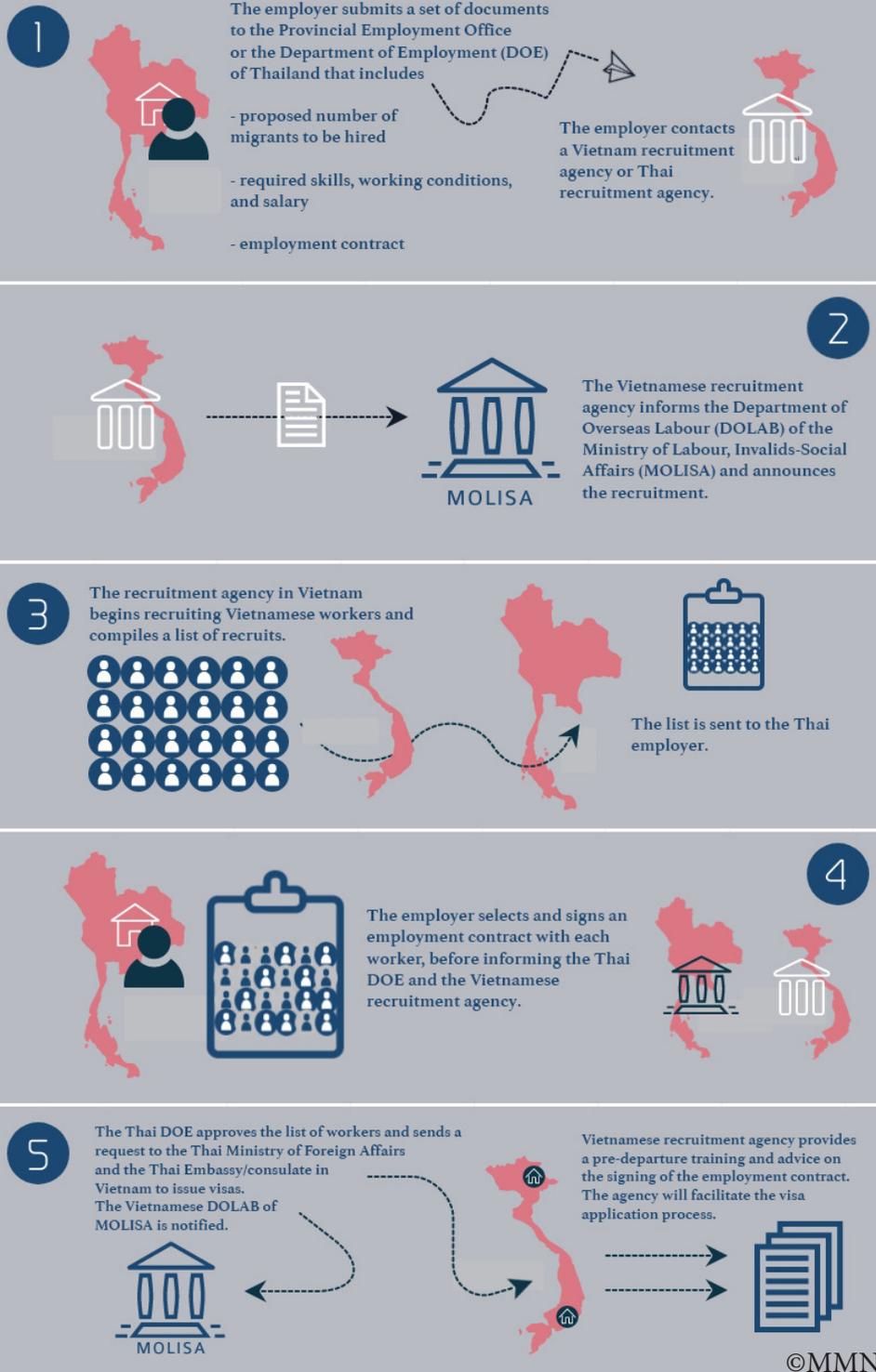
46 Department of Employment, Thailand, “ก.แรงงาน ดกหาหรือหน่วยงานที่เกี่ยวข้องแก้ปัญหาขาดแคลนแรงงานภาคประมงทะเล, กรมการจัดหางาน, กระทรวงแรงงาน (Ministry of Labour consults relevant ministries to solve labour shortage in the fisheries sector)”, 2 August 2018, available at <https://gnews.apps.go.th/news?news=24471>.

47 “Hướng dẫn đưa lao động sang Thái Lan làm việc (Guide to Sending Workers to Work in Thailand)”, Người Lao Động, 19 September 2017, available at <https://nld.com.vn/cong-doan/huong-dan-dua-lao-dong-sang-thai-lan-lam-viec-20170919141418296.htm>.

48 “List of jobs reserved for Thais trimmed”, The Nation, 22 June 2018, available at <http://www.nationmultimedia.com/detail/national/30348366>.

49 The Secretariat of the Cabinet of The Royal Thai Government, “ส่วนราชการเจ้าของเรื่อง รง วันที่มีมติ 26/11/2561 (Cabinet Meeting Resolution , 26 November 2018)”, 26 November 2018, available at [https://cabinet.soc.go.th/soc/Program2-3.jsp?top\\_serl=99330568](https://cabinet.soc.go.th/soc/Program2-3.jsp?top_serl=99330568).

# VIETNAMESE MOU PROCESS



Infographic developed by MMN in August 2019; based on information from International Organization for Migration, Migration Information Note Issue 30, December 2016, available at [https://thailand.iom.int/sites/default/files/document/publications/MLN%20No.30\\_ENG\\_FINAL.pdf](https://thailand.iom.int/sites/default/files/document/publications/MLN%20No.30_ENG_FINAL.pdf).

## Existing Challenges in Protecting Vietnamese Migrant Workers

### Policy Gaps

Even though the Thai government has taken an active approach to regularise Vietnamese workers, gaps in previous and existing policies have led to a noticeably low rate of regularisation. For instance, the stringent requirements of the registration policy are likely the reasons why only 1,569 migrants registered through OSSCs in December 2015.<sup>50</sup> Specifically, the precondition that migrants last entered Thailand before 10 August 2015, four months prior to the registration period in order to qualify, limited the eligible pool. This policy failed to take into account the usual migration pattern where Vietnamese workers leave and



*A worker welds together a steel frame.*

re-enter the country every month for the visa-exempt 30-day stay. The additional requirement that migrants must be involved in restaurant services, fishery, construction and domestic work also excluded workers engaged in other types of work. The fact that no Vietnamese workers registered as fishery workers<sup>51</sup> could stem from policymakers focusing on the needs of Thailand's labour market rather than targeting Vietnamese actually working in the industry.

Similar restrictions in the 2015 MOU between Vietnam and Thailand have also resulted in the low rate of formal migration through recruitment agencies. As of August 2018, only 6 Vietnamese migrants entered Thailand through the migration channel established by the MOU.<sup>52</sup> The most recent statistics from the Ministry of Labour, Thailand, reported only 96 Vietnamese migrants working in Thailand under MOU scheme.<sup>53</sup> This low number may be due to the fact that the MOU only permits Vietnamese migrants to work in fishery and construction. According to a representative of the Vietnamese Embassy in Thailand, Vietnamese workers have traditionally been drawn to more lucrative sectors in Thailand, such as street vending, tailoring and restaurant service. Vietnamese are less interested in fishery and

50 Department of Employment, Thailand, “วารสารสถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือที่ราชอาณาจักร ประจำปี 2558, สำนักบริหารแรงงานต่างด้าว กลุ่มงานการจัดระบบองค์การเอกชน การเคลื่อนย้ายบุคคลตามข้อตกลงการค้าเสรีและสารสนเทศ ฝ่ายสารสนเทศ, กระทรวงแรงงาน, 2559 (Statistics of Migrant Workers Registration of 2015, Foreign Workers Administration Office, Ministry of Labour, 2015)”, 2015, available at [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf); and Anthony Le Duc, “The role of social media in community building for illegal Vietnamese migrant workers in Thailand”, *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

51 Department of Employment, Thailand, “วารสารสถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือที่ราชอาณาจักร ประจำปี 2558, สำนักบริหารแรงงานต่างด้าว กลุ่มงานการจัดระบบองค์การเอกชน การเคลื่อนย้ายบุคคลตามข้อตกลงการค้าเสรีและสารสนเทศ ฝ่ายสารสนเทศ, กระทรวงแรงงาน, 2559 (Statistics of Migrant Workers Registration of 2015, Foreign Workers Administration Office, Ministry of Labour, 2015)”, 2015, available at [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/cea979ea00fbb2f2ad2b6d5e53d5dde8.pdf).

52 Department of Employment, Thailand, “แรงงาน ถกหาหรือหน่วยงานที่เกี่ยวข้องแก้ปัญหาขาดแคลนแรงงานภาคประมงทะเล, กรมการจัดหางาน, กระทรวงแรงงาน (Ministry of Labour consults relevant ministries to solve labour shortage in the fishing sector)”, 2 August 2018, available at [https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object\\_id/17244](https://www.doe.go.th/prd/main/news/param/site/1/cat/7/sub/0/pull/detail/view/detail/object_id/17244)

53 Ministry of Labour, Thailand, December 2019, cited in International Labour Organisation, “Thailand (April–June 2020), TRIANGLE in ASEAN Quarterly Briefing Note, 2020”, available at [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_735108.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_735108.pdf).



*Thailand's attempt to attract Vietnamese migrants to its fishing industry has largely failed. The industry is notorious for its dangerous working conditions, and primarily employs migrants from Myanmar and Cambodia. (Photo: John Hulme/MMN)*

construction in Thailand as the two industries offer similar levels of pay as in Vietnam.<sup>54</sup> Aside from wage rates, the International Labour Organization notes restricting opportunities to traditionally “male-dominant” industries precludes migrant women from accessing formal migration channels.<sup>55</sup> The exclusion of industries attracting potential women migrants may have also contributed to the lacklustre response to the migration channel established by the MOU. In 2018, the Thai government removed restrictions limiting opportunities to construction and fishery by agreeing, in principle, to expand sectors available to Vietnamese workers to fields that migrants from Cambodia, Lao PDR and Myanmar are currently allowed to work in, including labour work (i.e. manual labour as defined by the Department of Employment<sup>56</sup>) and domestic work. The impact of the change is currently unknown.

On top of limited work sectors, existing migration procedures through recruitment agencies offer few incentives for workers to migrate through regular channels as they are more costly, lengthy and complicated than migration through irregular channels. If potential Vietnamese migrants are directly recruited by their friends and family members, they can often avoid paying recruitment fees and the waiting time for processing a visa. And while touted as safer, migration through formal channels is not completely risk-free. A representative of the Vietnamese Embassy in Thailand raised concerns that some existing recruitment agencies or intermediaries in Vietnam still engage in unscrupulous and exploitative practices, such as charging exorbitant fees or failing to place migrants in the jobs promised to them.<sup>57</sup>

54 Key informant interview with Mr Pho Hoang Han, Minister-Counsellor, Deputy Chief of Mission, Embassy of the Socialist Republic of Vietnam, Bangkok, Thailand, 1 June 2018.

55 International Labour Organisation, “Vietnam (January-March 2017)”, TRIANGLE in ASEAN Quarterly Briefing Note, 2017, available at [https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms\\_550149.pdf](https://www.ilo.org/wcmsp5/groups/public/--asia/--ro-bangkok/documents/publication/wcms_550149.pdf).

56 “List of jobs reserved for Thais trimmed”, The Nation, 22 June 2018, available at <http://www.nationmultimedia.com/detail/national/30348366>.

57 Key informant interview with Mr Pho Hoang Han, Minister-Counsellor, Deputy Chief of Mission, Embassy of the Socialist Republic of Vietnam, Bangkok, Thailand, 1 June 2018.

## A Timeline of Thai Migration Policies on Vietnamese Migrants

The following presents a timeline of attempts by the National Council for Peace and Order (NCPO) to regularise Vietnamese migrant workers in Thailand after they came to power in 2014.

1. On 9 July 2014, delegates of Thailand and Vietnam discussed plans for an MOU on labour migration between Vietnam and Thailand. The meeting was inconclusive.<sup>1</sup>
2. On 31 January 2015, delegates of Thailand and Vietnam followed up on the possibility of signing a new MOU. They also discussed plans to register irregular Vietnamese migrant workers in Thailand.<sup>2</sup>
3. On 10 February 2015, the Cabinet announced a proposal to register Vietnamese workers in restaurant service, construction work, fishery, or domestic work at One Stop Service Centres (OSSCs).<sup>3</sup>
4. On 23 July 2015, Thailand and Vietnam signed the Memorandum of Understanding on Employment Cooperation and the Agreement on the Employment of Workers.<sup>4</sup>
5. On 10 November 2015, the Thai Cabinet released guidelines to register Vietnamese migrant workers in Thailand.<sup>5</sup>
6. Between 1 to 30 December 2015, irregular Vietnamese workers were registered at OSSCs.<sup>6</sup>
7. On 23 June 2017, the Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560 (2017) came into effect. The new decree imposed severe penalties for irregular migrants and their employers.<sup>7</sup> Irregular workers can be fined between THB 20,000 and 100,000 and face imprisonment for up to five years, while their employers can be fined between 400,000 and 800,000.<sup>8</sup> The implementation of the decree was later postponed for six months.<sup>9</sup>
8. On 6 March 2018, the Cabinet amended the Royal Ordinance on the Management of Foreign Workers Employment to reduce punishments for irregular migrants and their employers. Under this change, Irregular workers can be fined between THB 5,000 and 50,000 without imprisonment, while employers can be fined between THB 10,000 and 100,000.<sup>10</sup>
9. On 26 November 2018, the Cabinet approved a proposal to amend the MOU between Thailand and Vietnam signed in 2015. Under the amendment, MOU migrants from Vietnam would be allowed to work in the same sectors as those from Cambodia, Myanmar and Lao PDR.<sup>11</sup>

1 Ministry of Labour, Thailand, "Vietnam seeks to send construction workers to Thailand", 27 August 2014, available at <http://www3.mol.go.th/en/anonymouse/news/38641>.

2 Ministry of Labour, Thailand, "Vietnam Consults with the Ministry of Labour in MOU for Vietnamese Worker Migration", 31 January 2015, available at <http://www.mekongmigration.org/?p=3082>.

3 The Secretariat of the Cabinet of The Royal Thai Government, "ส่วนราชการเจ้าของเรื่อง รง วันที่มีมติ 10/02/2558 (Government Resolution on 10 February 2015)", 10 February 2015, available at [http://www.cabinet.soc.go.th/soc/Program2-3.jsp?top\\_serl=99312311&key\\_word=%E1%C3%A7%A7%D2%B9%B5%E8%D2%A7%B4%E9%D2%C7%20%E0%C7%D5%C2%B4%B9%D2%C1&owner\\_dep=&meet\\_date\\_dd=&meet\\_date\\_mm=&meet\\_date\\_yyyy=&doc\\_id1=&doc\\_id2=&meet\\_date\\_dd2=&meet\\_date\\_mm2=&meet\\_date\\_yyyy2=](http://www.cabinet.soc.go.th/soc/Program2-3.jsp?top_serl=99312311&key_word=%E1%C3%A7%A7%D2%B9%B5%E8%D2%A7%B4%E9%D2%C7%20%E0%C7%D5%C2%B4%B9%D2%C1&owner_dep=&meet_date_dd=&meet_date_mm=&meet_date_yyyy=&doc_id1=&doc_id2=&meet_date_dd2=&meet_date_mm2=&meet_date_yyyy2=)

4 International Organization for Migration, Migration Information Note Issue 30, December 2016, available at [https://thailand.iom.int/sites/default/files/document/publications/MIN%20No.30\\_ENG\\_FINAL.pdf](https://thailand.iom.int/sites/default/files/document/publications/MIN%20No.30_ENG_FINAL.pdf).

5 IOM, Migration Information Note Issue 28, December 2015, available at <https://thailand.iom.int/sites/default/files/document/publications/Migration%2BInformation%2B28%2BEnglish.pdf>.

6 Department of Employment, Thailand, "วารสารสถิติจำนวนคนต่างด้าวที่ได้รับอนุญาตทำงานคงเหลือที่ราชอาณาจักร ประจำปี 2558, สำนักบริหารแรงงานต่างด้าว กลุ่มงานการจัดระบบองค์การเอกชน การเคลื่อนย้ายบุคคลตามข้อตกลงการค้าเสรีและสารสนเทศ ฝ่ายสารสนเทศ, กระทรวงแรงงาน, 2559 (Statistics of Migrant Workers Registration of 2015, Foreign Workers Administration Office, Ministry of Labour, 2015)", 2015, available at [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/cea979ea00fbb2f2ad2b-6d5e53d5dde8.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/cea979ea00fbb2f2ad2b-6d5e53d5dde8.pdf).

7 Government Gazette, "พระราชกฤษฎีกา การบริหารจัดการการทำงานของคนต่างด้าว พ.ศ. ๒๕๖๐ (The Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560)", 2017, available at <http://www.ratchakitcha.soc.go.th/DATA/PDF/2560/A/065/1.PDF>.

8 Labour migration and human trafficking: an analysis of laws, regulations and policies in Thailand and Cambodia", Mig-Right, 2018, available at [http://www.gvc-italia.org/labour\\_migration\\_and\\_human\\_trafficking.html](http://www.gvc-italia.org/labour_migration_and_human_trafficking.html).

9 Ibid.

10 Kusakabe Kyoko et al, "Labour migration and human trafficking: an analysis of laws, regulations and policies in Thailand and Cambodia", Mig-Right, 2018, available at [http://www.gvc-italia.org/labour\\_migration\\_and\\_human\\_trafficking.html](http://www.gvc-italia.org/labour_migration_and_human_trafficking.html).

11 The Secretariat of the Cabinet of The Royal Thai Government, "ส่วนราชการเจ้าของเรื่อง รง วันที่มีมติ 26/11/2561 (Cabinet Meeting Resolution , 26 November 2018)". 26 November 2018. available at [https://cabinet.soc.go.th/soc/Program2-3.isd?top\\_serl=99330568](https://cabinet.soc.go.th/soc/Program2-3.isd?top_serl=99330568).

### *Arrest, Detention and Deportation*

Because of the low rate of workers regularised through previous and existing mechanisms, the majority of Vietnamese workers in Thailand, estimated to be at least 20,000 to 30,000 migrants,<sup>58</sup> are irregular and entitled to fewer legal protections. While access to regularisation channels remain limited, the Thai government has simultaneously intensified efforts to arrest and deport irregular migrants. In 2017, for instance, the Thai government implemented the Royal Ordinance on the Management of Foreign Workers Employment, which imposed severe penalties to irregular migrants and their employers. Heightened risks of arrest and penalties increase the instability of Vietnamese irregular migrants in their daily lives. The fear of arrest often prevents them from asserting their rights, accessing public services or seeking formal assistance in cases of abuse and exploitation. A previous study found that some employers took advantage of the apparent vulnerabilities of irregular Vietnamese migrants and underpaid them for their work.<sup>59</sup>

One study found that, because of fear of arrest, irregular Vietnamese migrant workers with several Thai-entry stamps on their passports<sup>60</sup> were often charged more at the border to re-enter Thailand.<sup>61</sup> Another study found instances when irregular migrant workers made payments to evade arrest.<sup>62</sup> These payments do not necessarily protect migrants from future arrest—especially raids launched by higher-level officials<sup>63</sup>—and significantly increase their expenses.

### *A Dearth of Literature*

Limited research on Vietnamese migrant workers makes it difficult for both Thailand and Vietnam to develop policies that address their needs and offer better protection of their rights. As one study suggested, the Vietnamese community in Thailand remains rather impenetrable because most of the irregular migrants are reluctant to participate in any research out of a fear of being discovered and arrested.<sup>64</sup> So far, only a handful of scholars have conducted extensive research on Vietnamese migrants in Thailand. These researchers are usually deeply involved in Vietnamese migrant communities<sup>65</sup> and thus are more successful in accessing and gathering information. The estimated number of Vietnamese in Thailand is also relatively small compared to other destination countries like Taiwan and Japan, which shifts scholarly attention away from Thailand.

## **Conclusion and Recommendations for Further Research**

Although the Thai government has begun to pay more attention to Vietnamese migrant workers since 2015, previous and existing policies that aim to regularise their statuses fail to effectively reach the communities. These policies do not reflect the migration patterns between Vietnam and Thailand and impose restrictions that either disincentivise or make it difficult for migrants to regularise. In order to improve these policies and existing mechanisms to protect rights, stakeholders should seek to better understand Vietnamese migrant workers' needs and difficulties. MMN suggests the following areas as the basis of further study:

58 “แจ้งประสาน ตม. เข้มตรวจเวียดนามลอบเข้าไทยหวังจดทะเบียนแรงงาน (Coordinating with the Immigration Bureau to strictly monitor Vietnamese migrant workers trying to enter Thailand for registration)”, Manager Online, 12 February 2015, available at <https://mgronline.com/qol/detail/9580000017394>.

59 Nancy Huyen Nguyen and John Walsh, “Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development”, *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

60 Usually an indication that they have exited and re-entered the country many times to avoid overstaying the 30-days visa-exemption period.

61 Anh Tuan Nguyen, “Chain Migration through Social Networks: Case Study of Vietnamese Migrants in Thailand”, *Journal of Identity & Migration Studies*, 10 (2016), 60-74.

62 Nancy Huyen Nguyen and John Walsh, “Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development”, *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

63 Anthony Le Duc, “The role of social media in community building for illegal Vietnamese migrant workers in Thailand”, *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

64 Nancy Huyen Nguyen and John Walsh, “Vietnamese Migrant Workers in Thailand—Implications for Leveraging Migration for Development”, *Journal of Identity and Migration Studies*, 8 (2014), 68-94.

65 Anthony Le Duc, “The role of social media in community building for illegal Vietnamese migrant workers in Thailand”, *Journal of Identity and Migration Studies*, 10 (2016), 4-21.

- Collection of systematic data regarding the size, gender and sector breakdown of Vietnamese migrant workers, and analysis of the major factors driving them to migrate to Thailand.
- Assessment of the challenges and risks faced by Vietnamese migrants throughout their migration cycle. This includes difficulties in accessing formal channels of migration; the risks involved in recruitment processes through informal networks (friends and family members) or through recruitment agencies and brokers; the difficulties in accessing social services and other forms of assistance; and issues related to their working and living conditions.
- Analysis of the gaps and impacts of Thai laws and policies. In particular, monitoring the impact of the amendments made in 2018 to the existing MOU and whether these policy changes address migrants' needs and resolve their difficulties. Investigating as well how the Royal Ordinance on the Management of Foreign Workers Employment 2017 has affected employment and migration patterns, migrants' access to social services and assistance and their working and living conditions.
- Examining the roles the Vietnamese government takes on to assist migrants—both regular and irregular—throughout their migration cycle. These roles include passing laws and policies to protect migrants, instituting complaint mechanisms, disseminating information, providing pre-departure training, regulating recruitment agencies, providing overseas assistance, cooperating with the Thai government to expand on-site services to migrants, and assisting migrants upon return.



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