





# INCREASING AWARENESS AND UNDERSTANDING OF RIGHTS AMONG MOST AT-RISK POPULATIONS TO SAFEGUARD MIGRANT WORKERS' RIGHTS



#### **USAID THAILAND COUNTER TRAFFICKING IN PERSONS**

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# **List of Acronyms**

CTIP Counter Trafficking in Persons

DATIP Division of Anti-Trafficking in Persons

DISAC Diocesan Social Action Center

KIIs Key Informant interviews

LGBTQI+ Lesbian, Gay, Bisexual, Transgender, Queer and Intersex

MDTs Multi-Disciplinary Teams

MoU Memorandum of Understanding

MSDHS Ministry of Social Development and Human Security

NRM National Referral Mechanism

RTF Raks Thai Foundation
TIP Trafficking in Persons
TFS The Freedom Story

TRM Trans-national Referral Mechanism

UNICEF United Nations International Children's Emergency Fund

USAID United States Agency for International Development

### **INTRODUCTION**

This Learning Paper Series was developed by the United States Agency for International Development (USAID) Thailand Counter Trafficking in Persons (CTIP) project with the overall aim to learn from previous and current programming to better inform future work. Winrock International is the lead implementing partner of this USAID Thailand CTIP project.

The USAID Thailand CTIP project seeks to reduce trafficking in persons (TIP) and better protect the rights of trafficked persons in Thailand by reducing the demand and incentives for using trafficked labor, empowering at-risk populations to safeguard their rights, and strengthening protection systems for survivors. The project works mainly with migrant and informal workers in Thailand's agriculture, fishery, and construction industries. The intervention is conducted in cooperation with the Royal Government of Thailand. The USAID Thailand CTIP intervention poses the Theory of Change that if we reduce opportunities for trafficking in workplaces and supply chains; and if we equip at-risk populations with skills, information and access to support, then trafficking in Thailand will be reduced and prevented. In addition, if we can identify those already trafficked and have improved access to strengthened support systems, survivors will live free and dignified lives, and the likelihood of human trafficking will decrease.

Based on the wealth of experience within USAID Thailand CTIP, this Learning Paper Series was developed to highlight crucial learnings to be widely disseminated to USAID, Winrock staff, and other stakeholders working in CTIP that want to ensure high quality program design and delivery.

The papers in this series are meant to be limited in scope, tackling specific areas of concern in the general programming models. In the future, CTIP partners can better address identified shortcomings and ensure that program activities are evidence-based and impactful for survivors.

This learning paper is an assessment of the USAID Thailand CTIP project Intermediary Result 2: (at-risk populations are empowered to safeguard their rights), focusing on ways they have been empowered by the project and the gaps that remain. It is an analysis of one of six learning questions around the effectiveness of the CTIP initiative beyond key performance indicators. The learning questions are open but targeted aimed at accessing factors that may be influencing program success.

Migrant workers coming from Cambodia, Lao People's Democratic Republic, and Myanmar into Thailand are at-risk of trafficking and exploitation, which is why the project aims to help them to safeguard their rights. When migrating through formal routes such as the Memorandum of Understanding (MoU) process, visas of migrant workers are dependent on sponsorship from a specific employer. This reliance creates vulnerability to exploitation from the employer. When migrating through irregular routes, migrant workers are increasingly vulnerable to exploitation and abuse, as they do not have legal status within Thailand (Beesey, Limsakul and McDougall, 2016). This lack of legal status can also mean that they are either unable or reluctant to access public services such as healthcare or social services due to fear of deportation or detention (USAID Thailand CTIP, 2021). Generally, migrant workers in construction, agriculture or fishery industries live in camp-like settings in structures like shipping containers, temporary shelters (United Nations International Children's Emergency Fund [UNICEF] and Baan Dek, 2017), or dormitories (USAID Thailand CTIP, 2021). They may be at a distance from public services, food, and water supplies. Without their own transport, migrant workers may rely on their employer, which increases their vulnerability to exploitation. For example, a common practice of exploitation is salary deduction, resulting in workers getting paid less than the minimum wage. In a survey of migrant workers (n=863), 29 percent reported that their employers reduced their salary to cover the cost of accommodation, electricity, and water, and four percent reported that the salary deduction was made to cover the cost of processing legal documents.

The COVID-19 pandemic has exacerbated challenges faced by migrant workers in Thailand. Many migrant workers are retained on contract but work fewer hours, and thus earn lower wages, or have lost their jobs and legal status (Khemannitthathai, 2021). This situation has increased debt and debt bondage for many migrant workers, a phenomenon that USAID Thailand CTIP partners witnessed first-hand in 2022 (USAID Thailand, 2021). There has also been an increased public stigma toward foreigners seen as carrying the COVID-19 virus. Xenophobia among Thais has increased discrimination towards migrants attempting to access their rights, such as healthcare (Beesey, Limsakul and McDougall, 2016).

The intervention is in its fifth year of implementation. Before the next implementation period (planned to start in September 2022), the intervention assessment can provide lessons learned, key findings and recommendations that may be useful to incorporate.

This paper presents four key learnings derived from the learning question, "In what ways does increasing awareness and understanding of rights among most at-risk populations safeguard migrant workers' rights?"

Overall, findings from the survey, key informant interviews (KIIs) and in-depth interviews with migrant workers show that increasing awareness and understanding can support migrant workers in making safer migration choices before migrating or during the journey. Still, once workers are employed, they are vulnerable to rights abuses from various stakeholders, including their employers. There have been positive case studies of migrant workers claiming their rights after violation with support from non-governmental organizations (NGOs) as part of this project. The key findings from KIIs suggest that developing a shared understanding of rights violations and corresponding prevention among all stakeholders has been instrumental for migrant workers to safeguard their rights. For example, this enables employers and workers to have a mutual understanding of how to keep migrant workers' legal documents up to date. In practice, awareness and understanding of rights for at-risk populations enables migrant workers to seek support from NGOs when they experience rights issues, such as confiscation of documents or late payments. This awareness also enables migrant workers to access public services. Still, the support of NGOs, community leaders, volunteers or public service outreach to migrant communities is important to overcome barriers to public service access.

In each learning, quotes from KIIs, data from the survey with migrant workers, and implementing agency evaluative reports are used to inform lessons learned.

### **LEARNING 1**

Due to awareness of their rights, migrant workers can seek support when they encounter rights issues

### **LEARNING 2**

Due to their awareness of their rights, migrants are better able to access public services, but barriers remain

### **LEARNING 3**

Awareness of rights is foundational to migrant workers achieving and retaining legal status and exercising their rights, but barriers remain

### **LEARNING 4**

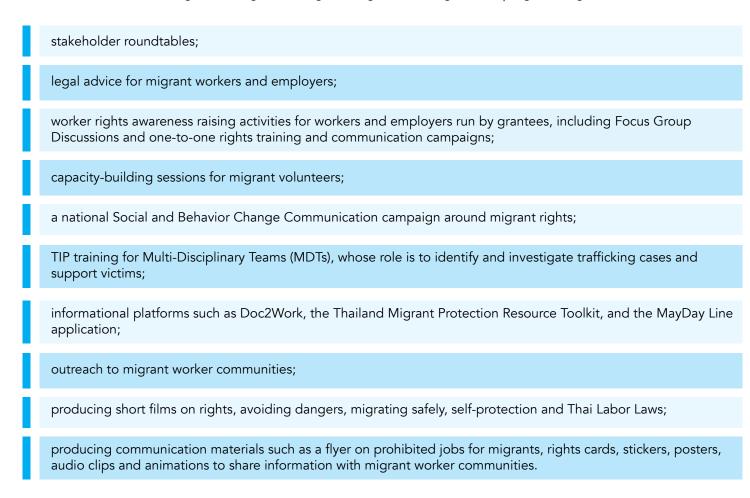
Due to awareness and understanding of rights, at-risk populations can provide support to each other and develop community protection

### **METHODOLOGY**

The lessons learned in this paper are developed using thematic analysis of a survey with 863 at-risk migrant workers in five provinces in Thailand, selected for their large population of migrant workers (Surat Thani, Phuket, Trat, Sa Kaeo, Chiang Rai), KIIs with five stakeholders, including the Chief of Party for USAID Thailand CTIP, World Vision, Raks Thai Foundation, The Freedom Story, Diocesan Social Action Center (DISAC), a desk review of annual and quarterly progress reports from partners and grantees, and four supplementary research papers and articles. Key informants were asked open-ended and probing questions related to the learning question to ascertain the effectiveness of the project in relation to Intermediary Result 2: at-risk populations are empowered to safeguard their rights. "At-risk populations" are those vulnerable to trafficking, exploitation or abuse. Migrant workers are part of this group and the project's target.

# OVERVIEW OF USAID THAILAND CTIP PROGRAMMING TO INCREASE MIGRANT WORKER AWARENESS

The USAID Thailand CTIP intervention has coordinated stakeholders and delivered outputs to increase migrant workers' awareness and understanding of their rights, aiming to safeguard their rights. The programming has included:



This paper derives lessons learned related to the Theory of Change that IF at-risk populations are equipped with skills, information and access to support, TIP will be reduced and prevented, and specific strategies to: leverage networks and champions to support at-risk populations, support local grantees and Civil Society Organizations to improve services for at-risk populations, and amplify voices of vulnerable populations.



### **LEARNINGS**

### **LEARNING 1**

Due to awareness of their rights, migrant workers can seek support when they encounter rights issues

The USAID Thailand CTIP project grantees have raised awareness of rights among migrant worker communities through various project outputs. The endline survey with at-risk populations of migrant workers conducted in March 2022 revealed that 74 percent agree that they are aware of their rights. During the project's fourth year, informational platforms around migrant workers' rights increased subscription rates among migrant worker communities. For example, MayDay Line application subscriptions rose by 73 percent for Burmese workers, 56.8 percent for Khmer workers and 23 percent for Lao workers. In addition, grantees have provided communication media such as flyers, rights cards etc., to communities and community leaders and organized workshops and one-to-one coaching with migrant volunteers and community leaders.

Thus, there has been an increase in migrant workers identifying experienced rights issues and subsequently seeking support. For example, the Migrant Development Center in Phuket, established through this project in collaboration with DISAC, raises awareness and understanding of labor rights, complaint mechanisms and COVID-19 information. **Since opening in December 2019, 1,631 workers have used the service to access support.** 

Talking about the impact of rights training from this project, one migrant worker based in Phuket said

"In the past, migrant workers knew nothing. We could not access training and the law. But now the world opens. Migrant workers are also open to learn and listen. In my community, everything is good now. In the past, when we went to work, we were exploited by our employers. We were treated badly, we were scolded, or were physically abused. As a result, we did not dare to ask for help. But now we are not afraid to do so anymore. We dare to ask for help from the responsible organizations."

Another migrant worker based in Phuket reported that

"The issue I'm facing now is the labor rights. In the past, I didn't know who to contact for help. I didn't dare to ask for help at all. When I got fired, I felt that I had just lost my job. Now I know a lot about social security."

"In the past, the migrant workers were always wrong, whereas the employers were always right. We did not dare to fight for justice. After training, we know where we can ask for help, especially if the workers are right, we can really fight for it."

Over half of those who participated in interviews agreed that because they learned about their rights, they could identify issues and know who to contact when issues arise. During the project's fourth year, COVID-19 restrictions exacerbated forced labor issues in the migrant worker community. To mitigate the situation, Raks Thai Foundation (RTF) and The Freedom Story (TFS), two project grantees, mobilized migrant volunteers through capacity-building sessions and one-one coaching to spread information about rights and forced labor issues among the migrant community. **Since then, almost 845 migrant workers have been trained by TFS** (TFS Annual Report, 2021& TFS Quarterly Report Q1-Q2, 2022), and 2,309 migrant workers have been reached through community outreach sessions by RTF (RTF Annual Report, 2021 & RFT Quarterly Report Q1-Q2, 2022). A total of 235 migrant workers experiencing human rights issues contacted RTF for legal assistance (RTF Annual Report, 2021 & RFT Quarterly Report Q1-Q2, 2022). The issues presented included document confiscation, intentional unpaid wages, employer resistance to the worker moving jobs, and inability to access social security services or compensation.

TFS, RTF, and DISAC also provide direct case management support to migrant workers facing labor rights abuses. The service is extremely valuable to complement migrant workers' awareness of rights due to the language, transport, or financial barriers migrant workers may face when claiming rights. For some disputes with employers, it is difficult for migrant workers to claim their rights themselves, especially if their employer confiscates their documents. One migrant worker based in Surat Thani reported,

"From the training, I know that human trafficking is about forcing the workers to work and physical abuse. Moreover, employers seize passports, so workers become illegal workers. The employers force them to work and detain them. When facing this, I would contact Raks Thai Foundation to handle the case and contact the Government and inform them that the workers' documents are seized by their employers."

A Civil Society Organization representative based in Phuket said,

"Many migrant workers have taken the proactive step in urging their rights through formal and informal complaint mechanisms such as community leaders and government agencies. This is due to training that helped increase the staff's knowledge that provided assistance [to community members], contributing to many successful cases which became... examples for other migrants to follow."

Migrant workers tend to reach out for support in dealing with disputes with their employers, sometimes due to language barriers and sometimes due to fear of retribution (USAID CTIP Annual Report, 2021). For example, two migrant workers in Phuket reflected that they realized asking for help from an organization would enhance their chance of success, as the employers give more respect to the organizations than the workers.

Overall, it appears that once migrant workers are aware of their rights, they may seek support with rights issues or violations. Therefore, case management services and resource centers that provide legal support are a vital component of the project and should continue. Beyond this, it i crucial for the long-term sustainability that these services systematically link to migrant worker communities. This could be an advocacy target for the project that falls under a revised MoU process.

### **LEARNING 2**

# Due to their awareness of their rights, migrants are better able to access public services, but barriers remain

The project has successfully improved access to public services such as healthcare, social services, and education for workers' children in line with Intermediary Result 2.2 (Access to Support Services by At-risk Populations Improved). Between the baseline and endline survey conducted with at-risk populations, there was a 15 percent increase in those who agreed that they are aware of how to access public services, with 83 percent agreeing in the endline survey (Figure 1). There was also a 28 percent decrease in those who had sought access to public services but could not access them, meaning that services were more accessible to migrant workers after understanding their rights through this project.

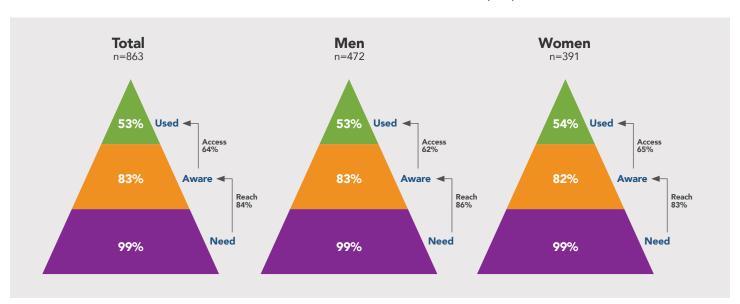


FIGURE 1: SUPPORT SERVICE USAGE AND CONVERSION (2022)

**Figure 1** shows the conversion rate between need and awareness of services. Overall, 99 percent of respondents reported a need for such a service, while 83 percent said they were aware such services were available, and 53 percent said they had used a service in the past 12 months. In terms of support service usage and conversion, this results in a reach of 84 percent (of those who need services) and access of 64 percent (of those who are aware). Men and women respondents had reported about the same amount of access to support services. Overall, this indicates that more than half can access services once migrant workers are aware of them.

Figure 1 above shows the impact of the outputs of the project on migrant workers exercising their rights in practice.

"When someone got sick, we brought the person to the hospital directly, as we already knew about our rights and access to health and medical services. We never knew this before". Zin Mar Cho, a female worker in Surat Thani

Awareness of rights and information about services is crucial to migrant workers safeguarding their rights. However, many do not feel comfortable navigating the process alone due to language barriers, especially for migrant workers who are not confident in their Thai, and discrimination from officials toward migrant workers (Khemannitthathai, 2021). For example, stakeholders reported during roundtable discussions that the Department of Employment in Surat Thani had only one language interpreter, which was insufficient to meet demand.

The USAID Thailand CTIP project advocates for an increasing number of interpreters in both the public sector in target provinces and with private sector partners, aiming to bridge the language barrier. The project team has worked with



the public sector to develop and roll out a National Referral Mechanism (NRM) to systematically assist migrant workers on a case-by-case basis (USAID CTIP Annual Report, 2021). This work, and complementary work on developing a Transnational Referral Mechanism (TRM) for cross-border case referral, should continue in the project's next phase to ensure migrant workers have access to support as needed.

The project's rights training for community leaders and case management services from grantees has supported migrant workers in accessing public services. Beyond this, community leaders' awareness of rights when supporting other workers has reduced discrimination toward migrant workers from some public service providers (Khemannitthathai, 2021). A Program Officer at an NGO in Bangkok said that

"One of the most effective parts of the intervention was the intensive capacity-building training (rights training) for migrant community leaders or head of labor groups, which contributed to strengthening strong coordination between service providers and clients. So, protection and legal services were accessible as needed. As a result of this capacity building...Thai government officials' mindset appears to have shifted toward positively supporting migrant workers."

In summary, when migrant workers understand their rights regarding accessing public services, they may seek support in accessing services or even access services directly. However, barriers to accessing public services remain from the public services' side, including lacking sufficient interpreter services. Therefore, in the project's next phase, collaboration with the public sector should continue, including training around migrant rights and advocating for more interpreter services on the front line. It is also clear that one-to-one support for migrant workers to access public services is important due to contextual and individual nuances. For this reason, like Learning 2, one-to-one support for migrant workers is a crucial part of service access. Therefore, the work to roll out the NRM or TRM, should continue in the project's next phase so that every migrant worker community can access one-to-one support when needed.

### **LEARNING 3**

# Awareness of rights is foundational to migrant workers achieving and retaining legal status and exercising their rights, but barriers remain

Undocumented migrants and their dependents are especially vulnerable to exploitation, abuse and trafficking. Gaining an understanding of rights and the processes to obtain legal status and social security can be life changing. A migrant worker in Chiang Rai reported their experience working with a grantee NGO of the project:

"Without the Freedom Story, my daughter would not be able to obtain an ID card. Without an ID card, life would be aimless, and one wouldn't dare to have a dream."

One migrant worker based in Phuket said that

"If I had not attended the training, I would not have known where to contact. Now I know. And with Social Security, I can live comfortably now."

However, barriers to accessing rights remain. The stakeholder roundtable discussions and collaboration with employers and migrant workers revealed that employers rarely followed the regulations necessary to keep workers' documents up to date with immigration and often breached workers' rights by withholding workers' documents.

Even when migrant workers have an awareness of their rights, there is little they can do to put pressure on employers to uphold their legal responsibility due to the implicit power dynamics between employer and employee. It is therefore important to work with employers to ensure that they are aware of migrant workers' rights and accountable for upholding them. For example, employers should understand migrant workers' rights and immigration procedures to ensure that workers remain legally employed following immigration processes and registered for social security (USAID Thailand CTIP Annual Report, 2021).

In its fourth year, the USAID Thailand CTIP project conducted training on the Thai Labor Protection Act for nine employers from three sectors in collaboration with the Provincial Employment Office and the Provincial Labor Protection and Welfare agency. The workshop improved relationships between the inspectors and employers and led to further consultation with employers from RTF, with employers actively seeking further advice to make improvements (USAID Thailand CTIP Annual Report, 2021).

Training employers, when migrant workers are simultaneously becoming more aware of their rights, could help to reduce or prevent any exploitation resulting from employer ignorance. Four migrant workers have reported that employers treat them better, partly because they are also more aware of migrants' rights. Therefore, the project should continue training employers on migrant workers' rights and consider increasing these efforts to reduce instances of exploitation as much as possible.

### **LEARNING 4**

Due to awareness and understanding of rights, at-risk populations can provide support to each other and develop community protection

Migrant workers often live in camp-like settings or dormitories, and most hear about jobs through their relatives or friends (69 percent of those surveyed) and therefore end up living and working in tight-knit communities. This provides a close support network and enables communities to safeguard not just their own rights but the rights of each other. Five of the 19 workers interviewed said that they have already applied what they have learned about their rights in their own life and used it to help others with issues around health, exploitation, and labor rights. Two migrant workers stated



that the rights training they received enabled them to advise others in the community about trafficking, demonstrating a community protection mechanism. As part of the project, some community members have also participated in capacity-building and training sessions around migrant workers' rights and have become community leaders and volunteers who liaise with resource centers and NGOs.

In the cases of rights violations where migrant workers need support from others, the community around them is often the first point of contact. One migrant worker based in Surat Thani reported that,

"One case I helped before was a case where a worker was hit by a car, and the driver had run away. Unfortunately, the employers just did nothing. The other case I helped was hit by a truck. He had a head injury. He did not go to a hospital and went back to Myanmar afterwards. In my community, some obtain the right information, whereas others do not. So, we need more help."

One migrant worker based in Phuket who worked in the fishing sector at the time reported that,

"In the past, we helped the fishing crew a lot. They were detained and did not get paid. They were locked up in the house. We used to help the human trade cases also. We helped translate at the police station."

One worker from Phuket who had recently claimed her rights after an abuse, with support from a grantee, stated that

"I feel happy. I don't want others. To be the victim like me. I advise others that if they do not get their wage, they can press charges. I also tell them where to ask for help".

It is crucial for at-risk populations to understand their rights to protect themselves and support each other when needed. This emphasizes the importance of disseminating information on rights, the law, and the processes to follow to exercise rights throughout communities. These cases also highlight the importance of a scalable, systematic approach to disseminating and sharing knowledge on rights among migrant worker communities so that any migrant workers experiencing abuse, rights violations, or any type of emergency are aware of the processes to follow to access support.



### **NEXT STEPS**

The first step for migrant workers to safeguard their rights is awareness and understanding of rights, but this alone is insufficient. A clear theme throughout KIIs, the migrant worker survey and reports from implementing agencies is that employer and public service enforcement of policies supportive of migrant rights is low. Informants specified the two major causes: lack of political will in public sector services to support migrant workers effectively, and lack of incentive to support migrant workers to retain legal status and access to services in the private sector, especially at the lower rungs of the supply chain, such as sub-contractors with higher turnover. For example, for migrant workers to access healthcare, their employer must pay their social security contribution and/or health insurance. Unfortunately, many sub-contractors who directly hire migrant workers neglect to do so, and workers are unaware of their employer's negligence. As a result, when health problems arise, workers may realize that their social security contributions have not been made and they do not have access to healthcare.

In addition, grievance procedures are often unclear, and public sector agencies may not see this problem as their responsibility but rather the employer's responsibility. As migrant workers' visas and work permits depend on their direct employer, raising issues can be a conflict of interest. Due to the power dynamics in the system, the individual circumstances of migrant workers, and barriers faced by migrant workers to safeguard or exercise their rights, one-to-one support from NGOs has proven critical for migrant workers.

The USAID Thailand CTIP project should continue to build on their work with the public sector and employers of migrant workers in order to build their awareness around migrant rights and advocate for their increased capacity to ensure legal status, access to services, and fair treatment of migrant workers. One informant suggested bringing findings and targeted advocacy requests on how the public sector works with the private sector on these issues to the national level, specifically to continue advocacy around seasonal migration policies, MoU policies, and shelter policies. In its fourth year of the project, the USAID Thailand CTIP project, in collaboration with the Division of Anti-Trafficking in Persons (DATIP), brought the discussion on shelter policies, especially concerning the vulnerability of transgender women being sent to male detention centers, to the Ministry of Social Development and Human Security (MSDHS). This attempt resulted in the MSDHS designating a shelter in Chiang Rai for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex (LGBTQI+) TIP victims. Key informants suggested that further national advocacy requests should include:

- Develop a process to attain documentation for stateless workers or undocumented workers who may have been trafficked
- Formulate more coherent policy and procedures for all relevant stakeholders supporting migrant workers to access public services, address worker rights violations, and settle legal disputes. For example, employers can help link migrant worker communities to local case management services as part of their orientation in Thailand
- Reduce corruption throughout the supply chain to ensure decent working contracts for migrant workers that are adhered to in practice (i.e., without unlawful wage deductions by contractors), which may include public sector inspection of contracts and pay slips
- Provide clarification on grievance and complaint mechanisms between all stakeholders

The USAID Thailand CTIP project should advocate for revision of the MoU to include more support to migrant workers from the public and private sectors and incentives for implementing these policies in both sectors. One informant stated the importance of working on advocacy for at-risk populations sector by sector, considering the significant differences in challenges, for example, between migrant workers in the sugar cane supply chain versus the construction supply chain. Therefore, a sector-by-sector approach could be considered.

From the migrant worker's perspective, there are often barriers (language, transport, power dynamics) to accessing public services or dealing with disputes with their employer, even once they are aware of their rights. Therefore, any revisions of policy or MoU enforcement should include consultation with migrant workers, community leaders and community-based support staff or volunteers who can attest to the current gaps in policy enforcement and the current challenges for migrants to access their rights.

Key informants stated that, in the current intervention, the collaboration between various stakeholder groups through roundtable discussions and coordination by MDTs have been productive in identifying challenges, developing plans to respond to challenges, and forming shared understanding between stakeholder groups. One example of strong coordination between stakeholders was the development of a cross-border referral system for migrants through the Chiang Rai Provincial Social Development and Human Security department, which involved Chiang Rai Shelter for TIP, Chiang Rai Immigration and DATIP. The coordination occurred at the provincial level, as there is currently no NRM or TRM in place. Therefore, the stakeholder roundtable model could be used to further engage migrant worker voices and escalate conversations to the national level.

Of course, for these discussions to be escalated to the national level systematically and for uptake of evidence and advocacy requests, the USAID Thailand CTIP project could conduct further research on incentives for the private and public sectors. Additionally, the project team could consider engaging with standard-setting agencies for this advocacy, such as the Securities Exchange Committee. Employers and the public sector may be required to develop better systems and processes for managing migrant workers to safeguard their rights. Accordingly, it also requires efficient and appropriate law enforcement relating to trafficking and forced labor, along with supportive financial incentives from the Bureau of Finance. The USAID Thailand CTIP can consider these points in developing the advocacy workstream, ensuring migrant workers' experiences and circumstances are well considered in the review of the operationalization of the MoU.

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