



Cambodia-Thailand Seasonal Migration Research

POLICY BRIEF

Despite Thailand's heavy reliance on a seasonal work force of Cambodian workers in multiple sectors in the eastern Special Economic Zones, this seasonal mode of labor migration remains opaque to workers leading to high cost of migration and their access to social protection remain limited.

BACKGROUND

Tens of thousands of workers from Cambodia, Laos, Myanmar are currently working in Thailand on a seasonal basis.¹ These workers are governed under Section 64 of Thailand's *Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561* that only grants partial rights and welfare as compared to other migrant workers. Reports from NGOs in the special economic zones also paint a picture of widespread labor violations and lack of knowledge about workers' rights. Workers from this group also face

significant vulnerabilities in navigating the migration process, including the risk of debt bondage.²

Between May to November 2022, USAID Asia CTIP conducted this study to explore the current policies and practices regarding Cambodian seasonal migrant workers (SMWs) in Thailand.³ This research uses a qualitative methodology, consisting of an initial desk review followed by qualitative primary research. A desk review was undertaken to review policy frameworks, descriptive statistics, and existing research while qualitative research included field visits, in-depth interviews with migrant workers, and key informant interviews with government officials, employers, and civil society actors. In total, 110 SMWs from the service, agriculture, factory, seafood, construction and domestic work sectors were interviewed using semi-structured in-depth interviews across three Thai border provinces (Chanthaburi, Sa Kaeo, Trat) and one in Cambodia (Poipet). A total of 19 key informant interviews were held with 3 government officials, 6 employers, and 10 Civil Society Organizations (CSOs). Further consultations were undertaken with government officials and CSO stakeholders from both Thailand and Cambodia in the form of two validation workshops presenting preliminary findings and seeking stakeholder input.

1 https://www.doe.go.th/prd/assets/upload/files/alien_th/c33cea75dc3c81eb7497c3eb809327e9.pdf

2 Comments regarding Thailand and Cambodia in recent editions of the United States Department of State's Trafficking in Persons (TIP) Reports

3 For the purpose of this research, seasonal migrant workers (SMWs), are defined as migrants who work in Thailand's border provinces in an episodic, and non-continuous manner, and is not limited to a specific work sector, legal status, migration channel or length of stay. This definition is designed to be an expansive category that seeks to capture the majority of Cambodian migrants who undertake employment in Thailand on a seasonal or short-term basis.



This policy brief highlights the key findings and suggests possible actions that stakeholders from government, non-governmental organizations, and the private sector may take to improve access to protection for workers and reduce their risk to exploitation. **The full report can be accessed using the QR code or by clicking [here](#).**



KEY FINDINGS

Section 64 of Thailand's *Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561* represents the second official channel (the first being the more commonly used "MoU process") for regular migration that applies to migrant workers from border provinces of Cambodia, Laos, and Myanmar who seek to undertake temporary or seasonal work in Thailand. Section 64 provides the basis for seasonal work arrangement under a "Border Pass" scheme (**s64 Border Pass**) and allows employers in permitted border provinces to hire migrant workers who reside in the permitted border provinces to work in compliance with the *Notification of the Ministry of Labor on Prescription of the Prohibited Occupation for Foreigners*. Seasonal employment under the Section 64 Border Pass has been implemented since 2015.

Our research found that, in practice, nearly all SMWs

rely on a broker or middleman to secure their s64 Border Pass, and they are charged significant extra costs to do so. The total cost set by both governments is between 825-1,325 THB (approximately 24-39 USD).⁴ In reality, however, we found that the majority of seasonal workers paid between 5,000-6,000 THB (~145-174 USD) to obtain their documents. A few workers interviewed paid slightly less than this amount at between 3500-4500 THB (~101-131 USD), which is still roughly three to four times the officially stipulated rates. It should be noted that within this research, we found two groups of workers whose s64 Border Passes were paid for by their employers: fishermen and permanent workers in fruit plantations.

This research also found that the use of s64 Border Pass is not limited to workers from Cambodia's border provinces, as it is easily accessible to all Cambodians with the assistance of a broker. Working conditions vary from sector to sector, and interviewees in this research reported several labor complaints which include not having work contracts, withholding of wages, withholding of migration and identification documents, pay below minimum wage, and excessive hours enforced over time. In particular, workers in seafood pre-processing consistently reported receiving pay below the minimum wage.

Further, SMWs in Thailand face difficulties with access to labor rights and healthcare as the s64 Work

4 As calculated by Oanda Currency Converter on April 17, 2023

Summary: Pros and Cons of Seasonal Work under Section 64

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Pros	
Administratively Easier	Migrants can obtain legal status more easily through the Section 64 Work Permit system because it is cheaper and less complex, with less document requirements
Easier to change employers	Workers can change employers easily as they can return and apply for a new Work Permit with the support of a new employer
Can return to Cambodia easily	Workers are close to their home and can return without needing a re-entry visa fee or traveling cost
Cheaper for workers	It is easier and cheaper for workers to obtain a personal document, a Border Pass, and the Section 64 Work Permit compared to obtaining a passport and going through the MoU process
Responsive to local need	The Section 64 Work Permit can respond to the need of local labor market, for both employers and workers
Cons	
Mismatch of time periods	While the Border Pass is valid for two years, the Work Permit is valid for 90 days, and the visa is valid only for 30 days. Thus, workers need to exit and re-enter Thailand every 30 days. As they are working almost every day and stay far from the border, they pay for an employer or middleman to do it for them, increasing cost
Limited access to rights	Workers with s64 Work Permits are not entitled to the full rights and benefits that are provided to other workers under the <i>Labour Protection Act B.E. 2541</i> . Those working in the agricultural sector are subject to further gaps in their legal protection. As migrant workers, SMWs also have limited trade union rights.
Limited access to benefits	Employers do not register the Section 64 workers to the National Social Security Fund (NSSF) so they cannot access NSSF benefits or Workmen's Compensation Fund benefits
Exploitation of s64 by some employers	Some employers use s64 as a legal loophole to exploit workers. Instead of having permanent workers and following all laws and making necessary NSSF contributions, they use Section 64 to maintain flexibility. These employers also place the burden of extra costs of consecutive visas and permit renewals on workers
Reliance on brokers	In theory, the official fee and service are reasonable at between 825-1325 THB. In practice, workers pay higher amounts through the use of brokers to navigate the migration process, most interviewees reported paying between 5,000-6,000 THB.
Limitation of movement	Workers face a limitation of movement within Thailand, as the Border Pass restricts them to specific areas. The Border Pass can also create unnecessary travel for workers who live close to their employer, but far away from an eligible international border crossing. This requirement can prevent workers from commuting regularly between home and the workplace, which would be their preference.

Permit is granted for a period of 90 days. Therefore, there is a dispute on whether this class of workers is fully protected by the *Labour Protection Act B.E. 2541*⁵ as many of the conditions and protections only begin after an interrupted period of work of more than 120 days.

Despite the short-term and episodic nature of their employment, the s64 scheme is preferred by some workers for a variety of reasons. The table below provide a summary of the pros and cons of this mode of migration.

It should be noted that while s64 Border Pass scheme is structured under a national law, it is administered by provincial authorities. Further, in addition to the offi-

cial MoU process and s64 Border Pass scheme, some local arrangements have emerged in border areas to facilitate seasonal work in situations where the s64 Border Pass is considered impractical. The main features of these arrangements are that they allow workers to cross the border daily at a natural crossing point, eliminating the needs for long distance travel to designated crossing points required under s64 Border Pass, and do not require them to pay 250 THB (7.3 USD) for each crossing, which is not feasible for workers who cross the border daily. These arrangements reflect the demand from authorities, workers, and industry alike to be responsive to local conditions and, at the same time, match the unique needs of both short-term migrant workers and the seasonal work industry

⁵ The *Labour Protection Act B.E. 2541* (1998) protects Thai and migrant workers alike and provides a raft of protections around legal minimum wage, maximum working hours, minimum rest periods, paid sick leave, annual leave, and maternity leave, prohibit discrimination, workplace harassment and child labor.

RECOMMENDATIONS

To address the findings of the research, USAID Asia CTIP, in coordination with USAID CTIP projects in Thailand and Cambodia, held validation workshops with government and CSOs representatives from each country to solicit feedback and recommendations – resulting in the recommendations below:

For policymakers:

- Extend the validity of the Seasonal Work Permit to 5 months to cover the full harvest season;
- Abolish the requirement for monthly visa stamps for workers who are using 90-day Work Permit;
- Increase administrative assistance and simplify bureaucratic processes so workers and employers can successfully arrange a Seasonal Worker Permit without the assistance of a broker;
- Extend access to National Social Security Fund (NSSF) to all categories of migrant workers;
- Amend legal provisions to ensure SMWs have full access to legal rights and benefits regardless of work arrangement and industry;
- Include inputs from provincial and district level authorities in amending seasonal migration regulations to reflect local needs;
- Include worker voice and input into policy development, by ensuring relevant migrant workers and their representatives can attend policy development discussions; and
- Increase labor inspections in border areas, with clear guidelines for inspectors to identify forced labor indicators, debt bondage indicators and child labor.

For CSOs:

- Establish a list of available health funds (such as M-fund) that can be accessed by migrant workers with information of where and how to engage these funds;
- Identify any availability gaps in health fund coverage and seek to close those gaps. Work with insurance providers to extend access to M-Fund or similar funds to all migrant workers. Work with providers to cover all border areas;
- Work with worker leaders who recruit SMWs on both sides of the border to increase their knowledge of how to obtain the migration document that is right for workers and increase their awareness of CSO support services;
- Work with government to advocate for policy changes as listed above;
- Assist SMWs to secure other employment when their regular seasonal work is not available;
- Reach out to SMW communities on both sides of the border and assist SMWs to be aware of labor laws, migration laws, support services and their legal entitlements; and
- Ensure worker input and worker voice is included in policy development, ensuring policy discussions take into account local needs for seasonal works.

For the private sector - industry, retailers, and international brands:

It can be difficult to incentivize local businesses to uphold various labor laws. One way to encourage compliance is for downstream supply chain actors – such as retailers and international brands – to ensure that all labor practices in their supply chain are ethical.

- Ask suppliers if they are employing SMWs, and ask for details of employment including work contracts, work permits, pay rates, employment periods and working conditions;
- Ensure that suppliers uphold labor rights through monitoring, capacity building, and introducing incentives for better supplier performance;
- Establish internal standards and guidelines for employing SMWs, including conditions stipulating when this mode of hiring should be used;
- If possible, do not use a broker for arranging the hire of workers. If a broker is hired ensure that all broker fees are paid by the employer and that no extra costs are passed on to workers;
- Ensure all workers are covered for healthcare under the National Social Security Fund (NSSF) if eligible, or otherwise an alternate fund at the employers' cost;
- Use work contracts and ensure all workers receive payment equal to minimum wage or higher.