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# Cambodian Seasonal Migrant Workers in Thailand Research Report

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# EXECUTIVE SUMMARY

## 1.1 This Report

This research report seeks to explore the current policies and practices regarding Cambodian seasonal migrant workers in Thailand. 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.

## 1.2 Methodology

The research project undertakes a qualitative methodology, consisting of an initial desk review followed by qualitative primary research. Desk review was undertaken to review policy frameworks, descriptive statistics and existing research. Qualitative research undertaken for this study includes field visits, in-depth interviews with migrant workers, and key informant interviews with government officials, employers, and civil society actors. In total, 110 SMWs were interviewed using semi-structured in-depth interviews across three Thai border provinces (Chanthaburi, Sa Kaeo, Trat) and Poipet in Cambodia. A total of 19 key informant interviews were held with 3 government officials, 6 employers, and 10 Civil Society Organizations (CSOs). Further consultation was undertaken with government officials and CSO stakeholders in the form of two validation workshops presenting preliminary findings and seeking stakeholder input.

## 1.3 Policy Framework

According to official policy there is one specific channel aimed at regulating SMWs, known as the seasonal migrant "Border Pass". The Border Pass scheme is regulated by Section 64 of Thailand's *Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561*. As discussed within this report, this provision entitles workers to only partial access to fundamental rights and welfare. Freedom of movement is restricted to border provinces, and workers have limited eligibility to register for Thailand's national social welfare system because their employment duration and Work Permits are short term, for only 90 days at a time.

## 1.4 Key Findings

Seasonal workers near the Cambodia-Thai border are commonly found in the agricultural sector, seafood processing, fisheries, market sellers, construction sector and among factories in border areas. There are also instances of workers engaging in the scheme on an independent or "freelance" basis, seeking work as they find it.

In practice, nearly all SMWs rely on a broker or middleman to secure their Seasonal Work Permit, and they are charged significant extra costs to do so. Workers must also pay a broker to have their visa stamp renewed monthly. Seasonal work is not limited to workers from Cambodia's border provinces, as it is easily accessible to all Cambodians with the assistance of a broker.

Seasonal work is preferred by specific types of workers for a variety of reasons, such as being a member of a border community that has established links with border area employers; cross-border market sellers; those who are unable to afford the MoU process; and those who lack networks to secure other job opportunities. In other cases, the Seasonal Work Permit is preferred by the employer, seemingly for the purpose of avoiding welfare contributions and other legal obligations required under an ongoing employment arrangement.

In addition to the border pass, several alternative local arrangements have emerged in border areas to facilitate seasonal work in situations where the s64 Border Pass is considered impractical. These schemes indicate the possibility that local authorities can cooperate to devise alternate arrangements that suit local market conditions.

Some of the key advantages of the s64 Border Pass scheme are as follows:

- It is administratively easier for workers than the MoU process
- It is easier to change employers than the MoU process
- Workers can return to Cambodia easily
- The scheme is cheaper for workers
- For both employers and workers, the system is more responsive to local needs and market conditions

Some of the key drawbacks of the scheme are:

- The Seasonal Work Permit lasts only 90 days while the seasonal harvest period can last up to 5 months

- It is costly for workers to renew the visa stamp every 30 days
- The scheme secures limited access to rights and benefits for workers
- The scheme is used as a loophole by some employers to exploit workers
- The scheme relies on brokers and middlemen to comply with the administrative burden

## 1.5 Key Recommendations

The following recommendations are 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;
- 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 NSSF to all categories of migrant workers;
- Amend legal provisions to ensure SMWs Workers have full access to legal rights and benefits under the Labour Relations Act, regardless of work arrangement and industry;
- Provide a mechanism to decentralise the management of Border Pass arrangements, thereby allowing local arrangements to be agreed by local authorities, provided they are upholding designated minimum national standards;
- Include worker voice and input into policy development, by ensuring relevant migrant workers and their representatives can attend policy development discussions;
- Increase labour inspections in border areas, with clear guidelines for inspectors to identify forced labour indicators, debt bondage indicators and child labour; and
- Grant all migrant workers full rights to lead and establish unions.

The following recommendations are for CSOs supporting SMWs:

- 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 on both sides of

the border who recruit SMWs to increase their knowledge about safe migration and 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 labour 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.

The following recommendations are for industry actors to ensure that their whole supply chain employs SMWs ethically:

- 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;
- Pressure suppliers to uphold labour 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 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;
- Provide equal opportunities to men and women in terms of work tasks and pay;
- Assist SMWs you employ to find other employment when you are not able to offer work, or when their short term employment ends;
- Ensure child labour is not being used, and that adequate childcare is provided to children who accompany SMWs to Thailand.

# INTRODUCTION

## 2.1 Background

The report seeks to explore the current policies and practices regarding Cambodian seasonal migrant workers (**SMWs**) in Thailand.

Thai Policy seeks to regulate SMWs primarily through the operation of Section 64 of Thailand's *Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561*. This provision entitles eligible workers to work in Thailand for up to 90 days at a time in specified border areas.

Yet the Section 64 scheme only grants SMWs partial rights and welfare as compared with other migrant workers. Freedom of movement is restricted to border provinces, and it is difficult for workers to qualify for Thailand's national social welfare system and workers compensation entitlements. Meanwhile, administrative requirements attached to the scheme are repetitive and burdensome for workers, adding additional expense, risk, and reliance on brokers. For much of the pandemic, Thailand and Cambodia's shared border crossings were closed to migrant workers, disrupting migration patterns. This only further complicates the situation, as many SMWs were able to remain in Thailand in compliance with the conditions of various Ministerial Orders, in many cases by changing their migration channel altogether. From what we do know, migrant workers in general commonly suffer widespread labour violations with basic working conditions rarely upheld. They also face significant vulnerabilities in navigating the migration process, including the risk of human trafficking, forced labour or debt bondage.<sup>1</sup>

Given this situation, this research project is aimed at understanding the situation of SMWs in particular, taking into account various dimensions of specific vulnerability they face. This can inform an analysis of the legal frameworks for SMWs, identify areas of attention for policy makers, and suggest measures for programmatic interventions.

## 2.2 Definitions

For clarity, the following definitions are used for this study and throughout this report:

- Seasonal migrant worker (SMW) – SMWs are migrants who work in Thailand's border provinces in a broadly seasonal manner (episodic, and non-continuous), but not limited to a specific work sector, legal status or length of stay. This category is designed to be an expansive

category that captures all workers of interest to this study.

- Border Pass Worker (BPW) – BPWs refer to migrant workers who have migrated in legal compliance with Section 64 of Thailand's Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561, hold a Border Pass and Seasonal Work Permit, and comply with the relevant legal requirements. BPWs are thus a subset of SMWs.
- Seasonal Work Permit - This migration document is provided by Thai authorities to eligible migrant workers under the Royal Ordinance on Foreign Workers Administration Act (No.2) BE 2561 to work for a period of up to 90 days in border areas. This can also sometimes be referred to as a Section 64 Work Permit or Border Pass Work Permit.
- Border Pass – This migration document is provided to migrant workers by Cambodian authorities. It is a small booklet which functions similarly to a passport in that workers receive Visa stamps in the booklet from immigration officials when crossing the border to Thailand. This can also sometimes be referred to as a Section 64 Border Pass.

# RESEARCH METHODOLOGY

## 3.1 Research objectives

This research sought to focus on the current situation faced by Cambodian SMWs in Thailand, with a particular emphasis on sourcing information that could guide programmatic interventions to support SMWs by Winrock and other CSOs.

In particular, this study was guided by a set of overarching questions, as follows:

- What is the current use of the seasonal worker migration visa in Thailand?
- How does the SMW visa work in theory versus how it works in practice?
- What are the risks faced by Cambodian SMWs in Thailand under current SMW policies and practices?
- What specific risks and vulnerabilities are faced by women SMWs and other social groups?
- What assistance and support services do workers want and need? Where do workers currently go to receive support?
- Why do SMWs choose this work arrangement

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

over other options?

- Why do some employers choose to hire SMWs and what support do business need to better uphold SMWs rights?

## 3.2 Methodology

The study has employed a qualitative approach, consisting of (i) Desk review, (ii) Key Informant Interviews and (iii) Semi-structured in-depth Interviews.

### DESK REVIEW

At the outset, desk research was conducted to gain an overview of policies, laws, regulations, and a general understanding of border employment. Further desk research was conducted prior to each fieldwork mission and upon the process of data analysis which allowed the research team to have better understanding of the gaps between policy and reality.

### KEY INFORMANT INTERVIEWS (KIIS)

KIIs were then held with stakeholders from government, civil society and the private sector. In particular: (i) CSO stakeholders focusing on migrant worker policy in Bangkok, (ii) CSOs working with migrants within border provinces, (iii) provincial authorities in border provinces, and (iv) industry actors employing SMWs.

### SEMI-STRUCTURED IN-DEPTH INTERVIEWS (IDIS)

All interviews with migrant workers followed an IDI format. The IDIs were designed to understand individual worker's migration journeys, work history and decision-making processes. The IDI format was favoured given the focus on personal trajectories. Nonetheless, interviews were sometimes also held among a small group of workers who preferred to be interviewed together, for practical reasons or by preference. In these circumstances the research questions were slightly adapted to be less structured to ensure effective communication and were reasonably adapted to a Focus Group Discussion (FGD) format.

## 3.3 Data collection

Fieldwork was carried out from May to July 2022 and took place in Trat, Sa Kaeo, and Chanthaburi Provinces in Thailand, and Poi Pet, Banteay Meanchey Provinces in Cambodia. These provinces were selected for their relatively large concentrations of SMWs and being close to commonly used international border

crossing points.

Number of Border Pass holders by Thai province, December 2019 <sup>2</sup>	
Chantaburi	20,222
Sa Kaeo	13,301
Trat	5,086
Surin	1,215
Si Sa Ket	82

Data collection during fieldwork comprised of a specifically selected sample of 110 Cambodian migrant workers in various sectors including agriculture, fisheries, service, factory, construction, domestic work and other general employment. This research also conducted interviews with three government officers, 10 civil society organizations, six employers, and three worker leaders.

Fieldwork included face-to-face interviews and group discussions among small groups. Interview guides in the form of semi-structured open-ended questions were developed, covering themes suited to the research objectives. Interview guides can be found in Annex Two: Data Collection Tools. Face-to-face interviews and small group discussions of between 20 and 40 minutes were conducted by two researchers (one from Thailand, the other from Cambodia) using the semi-structured open-ended questions of the interview guide as well as closed follow-up questions.

Ethical protocols were formulated for this study and followed by the research team. The protocols were based on leading international standards for human trafficking research methodology,<sup>3</sup> and several topics were outlined: taking a "do no harm" approach; identifying risks specific to this study; voluntary participation and informed consent procedures; privacy, confidentiality and data handling protocols; a statement on addressing bias; Covid-19 safety requirements; gender mainstreaming and addressing various subject positions in data collection and analysis. Interviewees were informed about the background and purpose of the research and consent was sought prior to beginning interview. Interviewees were made aware that they were to participate on a voluntary basis, that they were free to ask questions, to not answer questions and to leave the conversation at any point if they felt uncomfortable. To gain trust and to create an informal environment between the research team and key-informants, no recordings were taken

2 [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/c33cea75dc3c81eb7497c3eb809327e9.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/c33cea75dc3c81eb7497c3eb809327e9.pdf)

3 Bruner, J (2018), 'Getting to Good Human Trafficking Data: Everyday Guidelines for Frontline Practitioners in Southeast Asia', Stanford University HANDA Center for Human Rights and International Justice



during the interview and discussion. Consent was required before taking any photographs. All applicable Covid-19 health measures were followed.

### 3.4 Data Sampling

Prior to fieldwork, a basic survey was taken by a Cambodian researcher to gain an overview of the situation on the ground and to find key-informants. This basic survey also helped introduce the research team to worker communities, and interviewees were found on a snowball basis through local informers.

Workers were selected for interview if they were currently working as an SMW in Thailand, or had been a SMW in the past. Workers who had used the Border Pass for any purpose were also of interest and interviewed. SMWs were interviewed regardless of migration status or sector of work, although specific efforts were made to ensure this research included a focus on agricultural industry workers, knowing this is a sector in which seasonal work is considered to be common. The researchers also aimed to include an even mix of genders in order to be able to disaggregate findings, which was generally achieved.

### 3.5 Validation Workshops

Prior to finalization of the report, preliminary findings were presented at 2 validation workshops attended by government authorities, CSOs and other stakeholders. One workshop was held in person in Cambodia in September 2022, and the other as an on-line workshop with Thai stakeholders in October 2022. These workshops were an opportunity to disseminate findings and source feedback from stakeholders and participants.

### 3.6 Research Limitations

This first limitation encountered in this research project was the challenge of securing participation from employers. There are several reasons for this. Firstly, some employers are not familiar with migrant worker research studies, and are not comfortable participating in the research process. Secondly, social research about migrant workers does not always include the perspective of employers, and so some employers do not trust that they will be portrayed positively and choose to not participate. Thirdly, the research team lacked a network of employers in border provinces which would facilitate a linkage with appropriate employers. It was also found to be difficult to motivate employers participation. Reasons

for this include: employers don't see the benefit of improving employment standards as most of them hire workers occasionally<sup>6</sup> or that the interview might uncover questionable practices undertaken by the border employer such as failing to provide basic labour rights to workers. For example, one employer who ran a mangosteen factory, initially accepted an invitation to be interviewed and welcomed the research team to interview their employees at the workers' dorm. Then, just a day before the appointment, the employer changed their mind, refusing to be interviewed and refusing the research team to interview their workers.

The second limitation of this research is related to the disrupted migration patterns as a result of border closures in response to Covid-19. At the time of fieldwork, the numbers of SMWs had been greatly diminished as many workers who usually engaged in seasonal work needed to take other work options, including remaining in Thailand as verified workers, or remaining in Cambodia and finding other livelihood options. Without the full restoration of pre-Covid-19 migration patterns, there is likely to be some aspects of this research that will not be representative of SMW conditions once SMW migration patterns are restored to a new post-Covid-19 dynamic.



# POLICY FRAMEWORK

## 4.1 Legislative basis for the Section 64 Border Pass

The movement of migrant workers between Cambodia and Thailand is regulated pursuant to the MoU agreement signed between the respective governments in 2015, which covers border crossing procedures and the management of migrant workers.

<sup>5</sup> The MoU sets out the basis for Thailand and Cambodia to co-operate on the sending and receiving of workers from one country to the other for the purposes of work, and to agree on legislation and regulations required for the governance of that process. The 2015 MoU superseded the prior MoU agreement of 2003 which had addressed these topics.

Pursuant to the MoU, two official channels for regular migration to Thailand have been established. The first, and much more commonly used method, is via the recruitment channel set up pursuant to the MoU, commonly known as the MoU process, which enables Cambodians to work in Thailand for two-year periods governed by a Work Permit and a MoU contract that binds an employer, worker and recruitment agency.

The second official channel for regular migration applies to migrant workers from border provinces (and also applies to workers from Laos and Myanmar) seeking to undertake temporary or seasonal work in Thailand. Under the Thai legislation, *Foreigners' Working Management Emergency Decree, B.E. 2560* (2017), Section 64 provides the basis for a seasonal work arrangement under a "Border Pass" scheme (**s64 Border Pass**), as detailed below. In short, Section 64 of the decree 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 Labour on Prescription of the Prohibited Occupation for Foreigners. Seasonal employment under the Section 64 Border Pass has been implemented since 2015, shortly after the MoU was signed.<sup>6</sup>

### Section 64 the Foreigners' Working Management Emergency Decree, B.E. 2560 (2017)7:

*"A foreigner who is a national of a country having a border adjacent to Thailand, in the case of entering the Kingdom with a Border Pass or an official document which has been issued to him by the country of origin and entitles his entry into the Kingdom, may be granted permission by the Registrar for working in the Kingdom temporarily for a period or a season and in a locality specified.*

*Localities, nationalities of foreigners and types or natures of work to which the provisions of paragraph one shall apply and the conditions for application thereto shall be as prescribed in the Notification of the Council of Ministers by publication in the Government Gazette.*

*The application for work permission and the issuance of a work permit under paragraph one shall be in accordance with the rules, procedures and conditions prescribed in the Ministerial Regulation.*

*The form of a work permit shall be as prescribed in the Notification of the Director-General."*

## 4.2 Policy purpose for the Section 64 Border Pass

According to stakeholders, there are two purported purposes for the Section 64 legislative provision. The first purpose is to regulate migrant work in border areas, particular in the agricultural sector. Historically, migrant workers have been relied upon to assist the agricultural industry in border areas. Specifically, farms need more workers during harvest periods and therefore seek to rely on a temporary reserve labour force, leading to seasonal fluctuations in employment numbers in the agricultural sector. Due to the proximity of farms and migrant workers in border areas, as well as long established work relationships, there was a recognition at policy level that such work arrangements were likely to continue through undocumented employment and irregular migration channels if there was not a specific policy provision for temporary work arrangements in these locations. In addition, it is recognized that the employment of

5 [https://www.doe.go.th/prd/assets/upload/files/chiangrai\\_th/6336e51661dae4c177ce875643de3afb.pdf](https://www.doe.go.th/prd/assets/upload/files/chiangrai_th/6336e51661dae4c177ce875643de3afb.pdf)

6 [https://www.doe.go.th/prd/assets/upload/files/chiangrai\\_th/6336e51661dae4c177ce875643de3afb.pdf](https://www.doe.go.th/prd/assets/upload/files/chiangrai_th/6336e51661dae4c177ce875643de3afb.pdf) (in Thai and some English) SEZs [https://dataopen-developmentmekong.net/th/laws\\_record/1-2558](https://dataopen-developmentmekong.net/th/laws_record/1-2558) (in Thai)

7 *Foreigners' Working Management Emergency Decree, B.E.2560(2017)* [https://www.doe.go.th/prd/assets/upload/files/legal\\_th/99cafe53a0d300f8fdb-877b08ec99bd6.pdf](https://www.doe.go.th/prd/assets/upload/files/legal_th/99cafe53a0d300f8fdb-877b08ec99bd6.pdf) 99cafe53a0d300f8fdb877b08ec99bd6.pdf (doe.go.th) (in English)

migrant workers is key to the financial viability of many farms, who would otherwise struggle to find workers who are willing to work in a low paid sector on a short-term basis.

The second ostensible purpose of the s64 Border Pass is to supply a labour force to Thailand's special economic zones (**SEZs**). In 2015, Thailand commenced the establishment of 10 special economic zones located across 10 of Thailand's border provinces (encompassing 90 sub-districts of 23 districts). Linking SEZ development to Thailand's *20-Year National Strategy (2018-2037)* and Thailand's *13th National Economic and Social Development Plan*, these industrial parks are designated sites for regional economic development by attracting foreign direct investment through various tax-breaks, incentives and access.<sup>8</sup> For the SEZs bordering Cambodia, this means growing border trade between the two neighbouring countries and potentially also linking up with Eastern Economic Corridor development plans for Thailand's Eastern provinces.

However as can be seen from the strategic border locations of SEZs and noted by scholars, a core principle of SEZ competitiveness is facilitating access to a cheap, manageable migrant workforce.<sup>9</sup> According to the Office of the NESDC, between October 2017 and 25 November 2019, 423,066 workers worked across the 10 SEZs, 350,488 of whom worked on a temporary or seasonal basis.<sup>10</sup> So far, only a small portion of these workers would be Cambodian because of the 10 SEZs, only Sa Kaeo and Trat SEZs share a border with Cambodia, and neither are significantly developed. In practice, only a small number of the 10 SEZs are currently developed to employ a significant amount of Border Pass Workers, such as in Tak SEZ which borders with Mae Sot in Myanmar.<sup>11</sup>

Investment in Thailand's SEZs to date <sup>12</sup>			
SEZ Name	Operational Projects / Industries	No. Projects	Value of Projects (M. THB)
Tak	Ready-to-wear clothes/Plastic product/ Automotive & parts/ Electronics	15	9,116
Songkhla	Virgin Coconut oil/ Ceramic Dipping Former/ Rubber Gloves/ Plastic Strip/ Block Rubber	29	3,296
Sa Kaeo**	Plastic package/ Animal Feed/ Metal Parts/Layer Cake	8	2,641
Mukdahan	Plastic product/Instant preserved food/Construction tools	5	2,002
Kanchanaburi	Animal Feed/ Cosmetic/ Dietary supplement	4	727
Nong Khai	Block Rubber/ Solar power/ Refuse Derived Fuel	3	320
Chiang Rai	Crepe rubber/Hospital/ Oil massage/ Solar power	4	132
Nakhon Phanom	Solar power	1	>500
Narathiwat	Power plant/ Hospital	2	>500
Trat**	Plans to be an international tourism center, food safety hub and international trade system services	2	296
Total		73	18,495

\* estimate; \*\* bordering Cambodia

8 <https://thailand.acclime.com/guides/special-economic-zones/>

9 Arnold, D., & Pickles, J. (2011). Global work, surplus labour, and the precarious economies of the border. *Antipode*, 43(5), 1598-1624 at DOI:10.1111/j.1467-8330.2011.00899.x

10 [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/cfd5266a7529106b9fdd751603d77d31.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/cfd5266a7529106b9fdd751603d77d31.pdf)

11 A detailed update on the progress of Thailand's SEZs can be found at the Office of the National Economic and Social Development Council (NESDC) (November 2022) *Special Economic Zones (SEZs) Development Progress*, accessed November 2022 at [https://www.nesdc.go.th/ewt\\_dl\\_link.php?nid=5195](https://www.nesdc.go.th/ewt_dl_link.php?nid=5195)

12 [https://www.nesdc.go.th/ewt\\_dl\\_link.php?nid=5195](https://www.nesdc.go.th/ewt_dl_link.php?nid=5195) and <https://data.opendatacommons.org/en/dataset/border-special-economic-zones-development-policy/resource/d51f8065-b85d-45a5-a9b5-d069f9fc5b78>

### Locations of SEZs in Thailand



### 4.3 Regulations governing the Section 64 Border Pass

Section 64 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 Council of Ministers by publication in the Government Gazette*. This means that the Section 64 Border Pass comes with several conditions. For example, the *Notification of the Ministry of Labour on Prescription of the Prohibited Occupation for Foreigners* of 21 April 2020, sets out which occupations are allowed for foreigners.<sup>13</sup>

Further conditions for temporary stay within Thailand are set out in the *Immigration Act B.E. 2522 (1979)*<sup>14</sup>, which makes citizens of neighboring countries who are allowed to enter Thailand without a passport subject to agreement between the countries, such as through the MoU.

<sup>13</sup> [https://www.doe.go.th/prd/assets/upload/files/alien\\_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf)

<sup>14</sup> Section 13. The following aliens shall be exempted from requirements to have a passport or travel document: ... (2) A citizen of a country with its boundaries adjacent to Thailand making a temporary journey across the border in compliance with the agreement between the Government of Thailand and the Government of that country. *Microsoft Word - Immigration Act B.E. 2522 - ENG by CTLS.doc (krisdika.go.th) (in English)*



A summary of conditions is outlined below.

The Section 64 border-temporary employment or seasonal employment conditions are as follows:		
A. Geographical eligibility and mobility restrictions		
1	Border province residency requirement	A Cambodian citizen must be a resident of a permitted province located in a border area of Cambodia <sup>15</sup>
2	Border province work requirement	Border Pass entry and s64 Work Permits only apply to work in designated Thai border districts and provinces. <sup>16</sup>
3	Designated points of entry	A foreigner with a Border Pass who wishes to work under Section 64 has to enter the country through the international point of entry or the border area point of entry.
4	Restrictions on movement	Border Pass Workers are not allowed to travel freely in Thailand. Their freedom of movement is limited to the provinces identified in their border pass, which is in most cases only in the province that they entered Thailand to work. <sup>17</sup> Migrant workers who hold border passes but leave those designated areas can be imprisoned for up to two years or fined up to 20,000 baht (approx. USD 643) or both. <sup>18</sup>
B. Border Pass		
3	Border Pass issued from Cambodia	A Cambodian citizen must have a Border Pass or any personal documents issued by their country of origin. Workers can apply for the Border Pass at the provincial administration office or district office in border areas.
4	Border Pass time period	The Border Pass allows multiple entries and in the case of Cambodia the length of validity can be one or two years.
7	Visa validity	A worker entering Thailand on a Border Pass is provided with a visa permitting entry into Thailand which is valid for up to 30 days. However, a Work Permit has a period of 90 days, and so the migrant worker is required to report themselves at an immigration office every 30 day to renew their visa stamp.
8	Fees	The fee for a Border Pass is set by the country of origin.
C. Employment, Work Permit and Rights		
9	Industry	According to the <i>Notification of the Ministry of Labour on Prescription of the Prohibited Occupation for Foreigners</i> <sup>19</sup> , Border Pass workers can do any "labour" jobs or "shop-front sales" jobs. Domestic work is also allowed. These provisions apply equally to MOU migrant workers and s64 Border Pass workers alike.
10	Work permit	A non-Thai citizen needs to use a Border Pass together with their employer's personal documents and a health check-up certification to apply for a Work Permit.
11	Health insurance requirement	A Border Pass worker must be registered to the National Social Security Fund (NSSF) or buy alternate health insurance.
12	Work permit validity time	A Work Permit is valid for up to 90 days. After the Work Permit expires, workers who wish to continue working in Thailand can return to their home country and apply for a new Work Permit.

15 MoU agreement and Section 13 (2) of the Immigration Act B.E. 2522 (1979)

16 MoU agreement and Section 13 (2) of the Immigration Act B.E. 2522 (1979)

17 *Notification of the Ministry of Labour on Prescription of the Prohibited Occupation for Foreigners* of 21 April 2020

18 RYT9, 'Amendment of the Agreement regarding Cross Boarding Between the Two Countries', 2 June 2015 Section 81, Immigration Act. Royal Thai Police, 'Memorandum Regarding Guidelines in Examining Foreign Migrant People', 12 November 2015 AS discussed in <https://www.icj.org/wp-content/uploads/2020/08/Thailand-SEZs-Publication-2020-ENG.pdf>

19 [https://www.doe.go.th/prd/assets/upload/files/alien\\_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf)

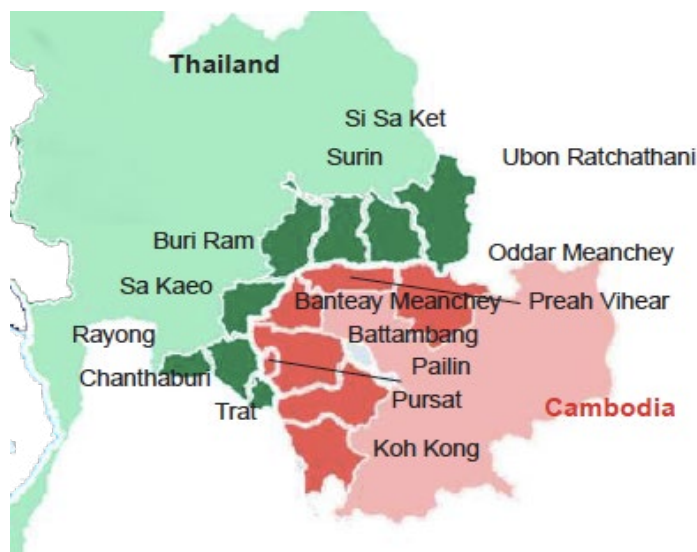
See "List 4: Prohibited occupations which foreign workers are permitted to perform under the condition of having employers and permitted to enter Thailand by Immigration Law under MoUs or Agreement between Thai Government and Foreign Government: (1) 'Labour', defined as manual work and usually simple work which requires physical strength; 'Shop front sales', defined as selling goods at a wholesale or retail establishment as well as selling goods at stalls or shops located in markets or at the roadside."

## 4.4 Geographical Eligibility and Mobility restrictions

According to agreement between the Thailand government and Cambodia and Section 13 (2) of the *Immigration Act B.E. 2522 (1979)*, a Cambodian who is eligible to work under Section 64 must be a resident of permitted provinces in border areas and the migrant worker will get a permit to work in certain border districts or provinces.

Cambodians must thus be residents of specified border districts and border provinces in Cambodia in order to be eligible to apply for a Border Pass and the Work Permit under Section 64. In addition, the Border Pass will only provide the right to travel in the relevant corresponding border district or border province of Thailand, which is generally the one adjacent to the border crossing. These districts are set out below.

Eligible Border Districts/Provinces of Cambodia and Thailand for s 64 Border Pass		
No	Cambodia	Thailand
1	Choam, Anlong Veng District, Oddar Meanchey	Chong Sa-ngam, Phu Sing District, Sisaket Province
2	O Smach, Samraong Municipality, Oddar Meanchey	Chong Chom, Kap Choeng District, Surin Province
3	Poipet, Poipet Municipality, Banteay Meanchey	Ban Klong Luk, Aranyaprathet District, Sa Kaew Province
4	Phnom Dei, Sampov Loun District, Battambang	Ban Khao Din, Khlong Hat District, Sa Kaew Province
5	Daung, Kamrieng District, Battambang	Ban Laem, Pong Nam Ron District, Chanthaburi Province
6	Phsar Prum, Sala Krau District, Pailin	Ban Phak Kad, Pong Nam Ron District, Chanthaburi Province
7	Cham Yeam, Mondol Seima District, Koh Kong	Ban Hat Lek, Khlong Yai District, Trat Province



Under the MOU, the Border Pass scheme is limited in its application to major border crossings identified as “international” points of entry. Since the Cambodia–Thailand border crossings located in Buri Ram and Ubon Ratchathani Provinces are not considered international points of entry, Cambodians who enter Thailand via the Buri Ram and Ubon Ratchathani borders are not eligible to apply for a Work Permit under s64.

## 4.5 Border Pass, Work Permit and Fees

To work in Thailand under s64, a SMW needs both a Border Pass and Work Permit. The former grants entry into Thailand under immigration law, while the latter grants permission to work.

The Border Pass document comes in the form of a booklet for recording visa stamps – similar to a passport – with a validity of two years. A Cambodian resident of an eligible province can apply for a Border Pass booklet at

the provincial administration office or district office in border areas. The fee for a Border Pass is set by Cambodian authorities at 20,000 KHR which is approximately 180–200 THB or USD \$4.75-5.00.<sup>20</sup>

While a Border Pass booklet with a visa inside (stamped at the border) grants access to Thailand, a temporary Work Permit is required in order to work. Thus, a worker will enter Thailand under the Border Pass and then use this document to obtain a Work Permit. To obtain a Work Permit a worker must also have a job arrangement in place, undergo a health check, and be covered for health insurance.

Expenses for applying for a Work Permit include: Work Permit (225 THB); government document/procedure fee (100 THB); health check-up (500 THB); and three months health insurance (500 THB). If the workers are registered to the National Social Security Fund (NSSF), they do not need to buy the health insurance after working for three months. The health check-up is valid for one year. A worker who wishes to continue to renew their worker permit within one year has no need to do a health check-up again.

One key issue with this bureaucratic arrangement is that the Border Pass visa grants access to Thailand for up to 30 days, but the temporary Work Permit is valid for up to 90 days. A migrant worker must therefore travel to the border to re-enter every 30 days, which is an additional two trips to the border during the duration of a Work Permit. After the Work Permit expires, they must return to Cambodia and reapply for a new Border Pass and reenter Thailand and apply for a new Work Permit.

Table: Official fees and expenses for obtaining the Section 64 Work Permit		
	Price (THB)	Validity period
<b>1. Cambodia</b>		
Border pass	180 -200	2 years
<b>2. Thailand</b>		
Work permit	225	90 days
Government procedure fee	100	
Health check-up	500	1 year
Health insurance	500	3 months
Visa	-	30 days
<b>Total</b>		
If needing to buy health insurance	1,325	
If enrolled in NSSF <sup>21</sup>	825	

## 4.6 Employment and Rights

According to the *Notification of the Ministry of Labour on Prescription of the Prohibited Occupation for Foreigners*<sup>22</sup>, migrant workers under the Section 64 are limited to “labour jobs”, selling at stalls for an employer, and domestic work.

The *Labour Protection Act B.E. 2541* (1998) applies to 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. It also prohibits discrimination, workplace harassment and child labour.

There are however significant questions whether s64 Border Pass workers have full access to labour rights and protection under these provisions. As the Section 64 Work Permit is granted for a short period of 90 days, it is

<sup>20</sup> (Interviewed Cambodia officer on July 5, 2022).

<sup>21</sup> If employed longer than 3 months, the worker can enroll in NSSF and does not need to buy health insurance on re-entry. However they must pay a contribution into the NSSF

<sup>22</sup> [https://www.doe.go.th/prd/assets/upload/files/alien\\_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_en/6e4d2d43525d215fa74a42f2a69f3f25.pdf)

disputed whether or not the Section 64 worker is fully protected by the *Labour Protection Act B.E. 2541* (1998). This is because several conditions and protections only apply to workers who have been working for an uninterrupted period, for longer than 120 days. For example, compensation for dismissal (severance pay) will only be paid for workers who have been working for at least 120 days. Many Border Pass workers work for a period of 120 days or more, however they have to renew their Border Pass during that period. Therefore, in the case they are wrongfully dismissed, it becomes very difficult for them to claim their rights as the Border Pass is often taken as proof of non-continuous employment.

Another limitation on workers rights applies specifically to all workers in the Agricultural sector, including SMWs. According to the *Ministerial Regulation Concerning Labour Protection in Agricultural Work BE 2557 (2014)*,<sup>23</sup> many rights provided to workers under the *Labour Protection Act BE 2541 (1998)*<sup>24</sup> (and its amending act, *Labour Protection Act (No 2) BE 2551 (2008)*<sup>25</sup>) are explicitly excluded for workers who are not employed year-round.<sup>26</sup> These carve outs include the requirement for the employer to pay for expenses (section 21), the right to make complaints to the Labour Inspector (section 123), access to the Employee Welfare Fund (section 126), and several gender-specific and age-specific protections.

Finally, it is worth noting the SMWs and MOU migrant workers alike do not have full access to trade union rights, as foreigners are barred from leading and forming their own unions in Thailand under the *Labor Relations Act B.E. 2518 (1975)*.

## 4.7 Benefits and Social Security

There are multiple entitlement schemes for which a SMW can potentially be eligible. A brief overview is provided in the summary table in this section below.<sup>27</sup>

### NATIONAL SOCIAL SECURITY FUND

Firstly, the National Social Security Fund (NSSF) is the primary social insurance scheme in Thailand for both Thai and migrant workers. Established under the *Social Security Act B.E. 2533 (1990)* and its amendments (B.E. 2537, 2542, and 2558), the NSSF provides benefits to employees based on contributions from the employer, the worker, and the State. The

NSSF provides seven types of benefits: (1) medical treatment and cash compensation for non-work-related sickness and injury; (2) retirement benefits; (3) disability benefits including income replacement, medical care, and rehabilitation; (4) funeral grant and death allowance; (5) maternity benefits including medical expenses for pregnancy care and child delivery, as well as cash compensation for maternity leave; (6) child allowance; and (7) unemployment benefits.

Migrant workers aged 18- 55 years old are eligible for the NSSF if they have regular migration status such as a valid Work Permit and identity document. Therefore, section 64 Border Pass workers, except agricultural and domestic workers, are in principle eligible for the NSSF. This was not always the case however, and s64 Border Pass workers only became eligible to access the NSSF as a result of civil society lobbying, in which it was highlighted that in certain SEZs Border Pass workers were being employed on a continuous, ongoing basis, by using the Border Pass repetitively.

In practice, it is uncommon and difficult for s64 Border Pass workers to become enrolled in the NSSF and access their entitlements. Firstly, migrant workers must rely on their employer to register them in the NSSF system and make contributions on their behalf, making access subject to the will of the employer. In many cases an employer will not have motivation to undertake extra administration and make such contributions where they see little benefit to themselves. Secondly, access is limited in practice because certain provisions of the NSSF only become operative after contributions to the fund have been made for a period longer than 90 days. For example, health-care and disability benefits require three months contribution prior to being claimed; maternity benefits require five months contribution prior to being claimed; unemployment benefits require six months contribution prior to being claimed; child allowance requires twelve months contribution prior to being claimed; and the monthly pension requires 180 months (15 years) of contributions prior to being claimed.

### WORKMEN'S COMPENSATION FUND

When a worker is registered for NSSF, they will automatically be entitled to the Workmen's Compensation Fund (WCF) as well. The *Workmen's Compen-*

23 <https://auth-dlm.ilo.org/dyn/natlex/docs/ELECTRONIC/103611/125959/F-182984827/THA103611%20Eng.pdf>

24 <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/49727/125954/F-1924487677/THA49727%20Eng.pdf>

25 <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/81030/109398/F-976551947/THA81030%20Eng2.pdf>

26 These are sections 7, 8, 12, 13, 14, 15, 19, 20, 21, 37, 40, 41, 42, 43, 44, 46, 47, 49, 53, 54, 55, 70, 76, 112, 113, 114, 115, 123, 126, 127, 128, 129, 134, 136, 137, 139, 140, 142, and 143 of the 1998 Act, and sections 9, 10, 11, 11/1, 16, 17, 18, 38, 39, 51, 124, 124/1, 125, 135, and 141 of the 2014 Act.

27 For a detailed analysis of the respective schemes, see International Organization for Migration (IOM), 2021. *Thailand Social Protection Diagnostic Review: Social Protection for Migrant Workers and Their Families in Thailand*. IOM, Thailand at <https://publications.iom.int/system/files/pdf/Social-Protection-for-Migrant-Workers-in-Thailand.pdf>



sation Act B.E. 2537 (1994) and its amendment (B.E. 2561), provide workers with benefits for work-related accidents, injuries, and illness. In 2019, the WCF extended coverage to workers in the agriculture, fishery, forestry, and livestock sectors. However, domestic workers and employees of street or mobile vendors are still excluded.

Section 64 Border Pass workers face similar difficulties in accessing the WCF as they do the NSSF, with employers having little incentive to register them in the system and makes contributions on their behalf. It is unlikely that workers would be registered with the WCF and not the NSSF, as the enrollment is likely to be done in tandem.

### MIGRANT HEALTH INSURANCE SCHEME (MHIS)

Thai law states that migrant workers who are 18 – 55 years of age are required to have insurance. According to the *Health Examination and Health Insurance of Foreign Workers (No. 2) B.E. 2562 (2019)*, this means that if not signed up for the NSSF, s64 Border Pass workers need to sign up for the Migrant Health Insurance Scheme (MHIS). The MHIS is regulated by the *Ministry of Public Health's Announcement on Health Examination and Health Insurance for Migrant Workers*, on 24 May 2019 and 10 July 2020, and related Cabinet Resolutions.

The MHIS is a voluntary contributory health-care scheme for migrant workers and their dependents who are not eligible for the NSSF, or not yet cov-

ered by it because they have made less than three months' contributions to the NSSF. The MHIS provides for annual health check-ups, general medical treatment, maternity care, dental care, vaccinations for children, emergency medical treatment, communicable diseases prevention, and HIV/AIDS and TB medications.

Migrant workers must register for the MHIS at the specific hospital where they receive their health screening on arrival, and in practice the health screening and purchase of insurance is often done together. The hospital that registers the migrant worker becomes the designated service provider for that worker for the whole year. This can form an unintended barrier to healthcare access to migrant workers in the cases where they subsequently move away from that locality or change employer.

### VOLUNTARY SCHEMES

There are also some voluntary insurance schemes available to migrants, designed to fill the gap of those who are not eligible to be covered by the NSSF or MHIS. The Migrant Fund (the M-Fund) is one prominent non-profit, private-run health insurance scheme for migrant workers, regardless of their legal status. It is a contributory health insurance scheme, operating in specific locations, including Sa Kaeo province. The members of the fund pay a monthly contribution of THB 100, which provides for health-care and medical treatment at public hospitals and M-Fund partner hospitals.

**Table: Summary of benefit schemes that may apply to SMWs<sup>28</sup>**

Fund	Benefits	Access for SMWs?
<b>National Social Security Fund</b>	Seven types of benefit: <ul style="list-style-type: none"> <li>• non-work-related injury or illness</li> <li>• maternity</li> <li>• disability</li> <li>• death</li> <li>• children</li> <li>• old age (retirement pension)</li> <li>• unemployment</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, for regular migrants</li> <li>• Yes, for Border Pass holders working in permanent year-round employment.</li> <li>• No, for temporary employment, domestic work and migrants employed by street vendors.</li> <li>• No, for undocumented migrants</li> <li>• <b>Contribution:</b> migrant workers and employers each pay 5 per cent, and the government pays 2.5 per cent of wage</li> </ul>
<b>Workmen's Compensation Fund</b>	Compensation in the case of: <ul style="list-style-type: none"> <li>• work-related sickness,</li> <li>• injury,</li> <li>• permanent impairment,</li> <li>• permanent disability,</li> <li>• death,</li> <li>• disappearance.</li> </ul> Benefits include: <ul style="list-style-type: none"> <li>• medical expenses.</li> <li>• occupational rehabilitation expenses.</li> <li>• funeral expenses.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, for regular migrants</li> <li>• Yes, for Border Pass holders working in permanent year-round employment.</li> <li>• No, for temporary employment, domestic work and migrants employed by street vendors.</li> <li>• No, for undocumented migrants</li> <li>• <b>Contribution:</b> Employers pay into the fund.</li> </ul>

28 Adapted from International Organization for Migration (IOM), 2021. *Thailand Social Protection Diagnostic Review: Social Protection for Migrant Workers and Their Families in Thailand*. IOM, Thailand at <https://publications.iom.int/system/files/pdf/Social-Protection-for-Migrant-Workers-in-Thailand.pdf>

<b>Migrant Health Insurance Scheme</b>	Coverage includes: <ul style="list-style-type: none"> <li>• Annual health check-up.</li> <li>• General medical treatment, including maternity care, dental care, and vaccinations for children aged 0–15 years old.</li> <li>• Emergency medical treatment.</li> <li>• Communicable diseases prevention.</li> <li>• HIV/AIDS medication.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, for regular migrant workers not covered by the NSSF</li> <li>• Yes for Border Pass migrant workers</li> <li>• Yes, for those who are eligible for the NSSF but have contributed less than three months to the fund</li> <li>• No, for undocumented migrant workers</li> <li>• <b>Contribution:</b> Migrant workers cover the expenses, except for migrant workers in the fishery sector, for whom the employer is obliged to cover the expenses.</li> </ul>
<b>M-Fund (or other private fund)</b>	Coverage includes: <ul style="list-style-type: none"> <li>• health-care benefits</li> <li>• medical treatment</li> <li>• at public hospitals and private clinics who are M-Fund partners</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, regardless of legal status</li> <li>• Operates in two locations in Thailand: Tak and Sa Kaeo provinces</li> <li>• <b>Contribution:</b> The members of the fund pay a monthly contribution of THB 100 (USD 2.80)</li> </ul>

In a 2021 study outlining the various schemes conducted by the International Organization for Migration, several reasons were identified for why migrant workers face challenges in enrolling in the various schemes and also why they struggle to access their benefits. A summary table is provided below.

Barriers to enrollment and accessing benefits identified, IOM (2021) <sup>29</sup>	
Barriers to registration & enrollment for eligible migrant workers	Barriers to accessing benefits when registered
<ol style="list-style-type: none"> <li>1. Employers recruit migrant workers through inappropriate migration channels</li> <li>2. The cost of regular migration provides a disincentive for employers and employees to use the appropriate migration channels</li> <li>3. Lack of compliance by employers enrolling migrant workers in the context of weak enforcement of social security legislation</li> <li>4. Migrant workers are not always aware of their entitlements</li> <li>5. Language barriers</li> </ol>	<ol style="list-style-type: none"> <li>1. Employers' lack of compliance with social security legislation</li> <li>2. Long duration of verification or claims processing prevents access to benefits</li> <li>3. Administrative and time barriers in obtaining required documentation prevent migrant workers from accessing survivors' benefits, child allowance, and maternity care</li> <li>4. Inability to pay fees and other associated costs for receiving (emergency) medical services</li> <li>5. Access to unemployment benefits is challenging due to discrepancy between the length of benefits and length of time allowed to find a new employer</li> <li>6. Minimum continuous contribution periods to qualify for benefits result in lack of access</li> <li>7. Cumbersome and fragmented data management system complicates accessing social protection benefits</li> <li>8. Discriminatory behaviour by service providers prevents access</li> <li>9. Social protection benefits are not portable</li> </ol>

<sup>29</sup> For a detailed analysis of the respective schemes, see International Organization for Migration (IOM), 2021. *Thailand Social Protection Diagnostic Review: Social Protection for Migrant Workers and Their Families in Thailand*. IOM, Thailand at <https://publications.iom.int/system/files/pdf/Social-Protection-for-Migrant-Workers-in-Thailand.pdf>

# USE OF BORDER PASS AND IMPACT OF COVID-19

## 5.1 Seasonal Migration by Industry

The Section 64 workers are allowed to work legally in domestic work and labour jobs such as agriculture, fishery, construction, manufacturing, and service industry such as restaurants and hotels. Thai government data indicates that prior to Covid-19, the highest users of the s64 Border Pass across Thailand are the construction sector and the manufacturing sector, followed by the fisheries sector. The agriculture sector – widely considered to be the archetypical use of the border pass – made up only 8.3% of all s64 Border Pass workers.

Border Pass Holders by Sector, 2019 <sup>30</sup>	No. People	
Construction	21,936	33.2%
Manufacturing	18,574	28.1%
Fisheries, seafood processing and related	10,964	16.6%
Agriculture, farming and related	5,469	8.3%
Trade and services	5,055	7.7%
Food processing (not seafood)	2,223	3.4%
Other	1,770	2.7%
	65,991	100.0%

Looking at these figures however, one must note that manufacturing numbers lean heavily towards Burmese workers employed in Special Economic Zones, and therefore only a very small number of Cambodians are likely to be working in this sector under a s64 Border Pass.

## 5.2 Seasonal Fluctuation in Agricultural Sector

Despite many SMWs working outside of the agricultural sector, agricultural workers still contribute to noticeable seasonal fluctuations in the employment of SMWs. In particular, the sugar cane and fruit harvesting seasons drive peak labour demand in Trat, Sa Kaeo, and Chanthaburi Provinces, which runs annually from February to June.

Looking at just these three provinces prior to Covid-19, we can see these trends reflected in official data. According to statistics from the Department of Employment, there are over 30,000 workers working in these three permitted provinces during peak labour demand. For example, there were 37,051 Cambodian workers in February 2018<sup>31</sup> and 36,056 in June 2018<sup>32</sup>. However, after harvesting season ends, the number decreases to below 30,000 workers. For example, in December 2018 there were 26,095 workers.<sup>33</sup>

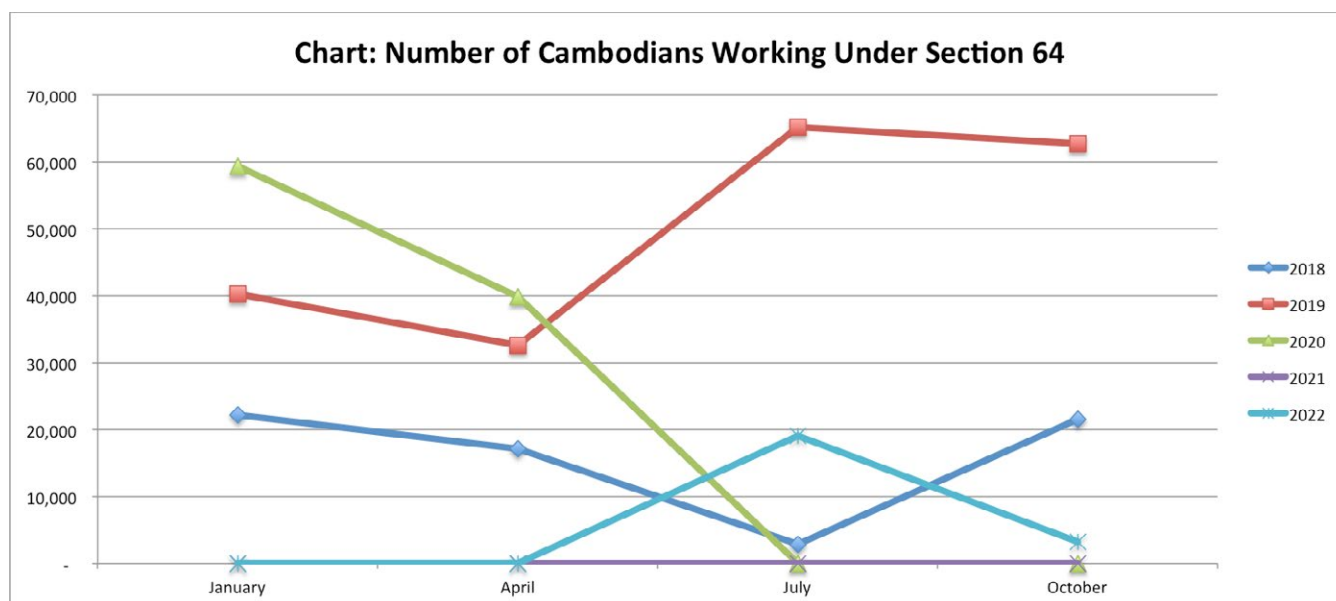
It is also worth noting that the use of the Seasonal Work Permit is roughly even among Cambodian men and women.

30 Source: Thai Department of Employment. 2019 figures are selected for being more representative of overall migration patterns, as Covid-19 trends are not considered indicative

31 [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/e954019f525cb739549300cb8a486173.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/e954019f525cb739549300cb8a486173.pdf) (th)

32 [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/a073e92fac8e42a80b8bf7e83d3f599d.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/a073e92fac8e42a80b8bf7e83d3f599d.pdf) (th)

33 [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/c33cea75dc3c81eb7497c3eb809327e9.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/c33cea75dc3c81eb7497c3eb809327e9.pdf) (th)  
[https://www.doe.go.th/prd/assets/upload/files/chiangrai\\_th/6336e51661dae4c177ce875643de3afb.pdf](https://www.doe.go.th/prd/assets/upload/files/chiangrai_th/6336e51661dae4c177ce875643de3afb.pdf)



### 5.3 Impacts of Covid-19

During much of the Covid-19 pandemic the border between Thailand and Cambodia was closed, preventing migrant workers from coming to Thailand or returning home to Cambodia via regular channels. In order to ensure that migrant workers based in Thailand could continue to do so legally, the Thai government variously introduced a series of measures that enabled migrant workers to renew their existing Work Permits and to remain in Thailand.

For s64 Border Pass holders, the Cabinet resolution of 4 August 2020, enabled these workers to extend their stay in Thailand until 31 March 2022. These workers nonetheless still had to renew their Work Permit every 3 months. These workers remained confined to border areas, but could change employer as long as they reapplied for a new Work Permit within 30 days. Thus, even though, no new SMWs could come to Thailand on a Border Pass during the pandemic, some workers were able to retain their S64 Border Pass status by renewing their permit.

After the border reopened in May 2022, workers could apply for and use a new Border Pass and the Department of Employment began to again issue the Section 64 Work Permit to workers. According to the Ministry of Labour's Office of Work Permits, as of May 2022, there were 11,082 Cambodian workers who were registered for the Section 64 Work Permit.<sup>34</sup> Unsurprisingly, the number of s64 SMWs had decreased significantly during the pandemic.

Official Number of S64 Seasonal Work Permit Holders								
	January 2018	July 2018	January 2019	July 2019	January 2020	Intervening Period <sup>35</sup>	July 2022	December 2022
<b>Total</b>	22,188	2,842	40,228	65,218	59,395	-	19,026	4,831
<b>Cambodian</b>	18,856	2,724	37,051	40,095	35,134	-	907	3,169
<b>% Male</b>	55.4%	48.6%	58.3%	56.7%	56.9%	-	58.3%	54.3%
<b>Source:</b> Monthly Statistics, Thai Office of Foreign Workers Administration Statistics, Department of Employment <sup>36</sup>								

<sup>34</sup> [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/035eeea5d104e48f189eab21201c232a.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/035eeea5d104e48f189eab21201c232a.pdf) (th)

<sup>35</sup> In 2021, borders were closed and no new Border Passes could be granted. Meanwhile the remaining Border Pass workers were allowed by the 4 August 2020 Cabinet Resolution to transfer to a pink card and be permitted to work in Thailand until 21 March 2022. Therefore there isn't a recorded number reflective of Border Pass workers at this time.

<sup>36</sup> DOE Website, <https://www.doe.go.th/prd/alien/statistic/param/site/152/cat/82/sub/0/pull/category/view/list-label>



There are several reasons for this decline in the use of s64 Border Passes and Work Permits:

- **Returning to Cambodia**

Many Cambodian workers returned home at the start of the pandemic and during outbreaks, due to health concerns, job layoffs, and inability to support themselves. The Migrant Working Group estimated as many as 700,000 migrant workers lost their job between March and June 2020 – mostly in the tourism, services, and construction industries.<sup>37</sup>

- **Changing migration status**

Many Border Pass workers regularized their migration status and extended their visa and Work Permits by changing to the Pink Card Work Permit during the pandemic. To aid migrant workers, the government extended the permission to work in Thailand for those with documents expiring on 31 March 2020. In addition, the Thai Government passed cabinet resolutions in August and December 2020 which allow undocumented migrant workers from Cambodia, Lao People's Democratic Republic, and Myanmar to register for a permit to work in the country for two years.<sup>38</sup> The Thai Government also allowed irregular migrant workers to register online to regularize their stay in January and February 2021 and obtain a two-year Work Permit.

- **Border closure and suspended issuance of Border Passes**

For a large proportion of the COVID-19 pandemic time period between late 2019 and April 2022, the Thai-Cambodia border was officially closed, preventing the regular crossing of the border for migrant workers. There were therefore no Section 64 worker permits able to be issued during the times of border closure to new workers.



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37 COVID-19: Impact on migrant workers and country response in Thailand. Briefing Note of the ILO Country Office for Thailand, July.

38 Cabinet Resolution 4 August 2020: Expiring permits for residence and working status are regularized

# CROSS BORDER MIGRATION IN PRACTICE

## 6.4 Obtaining a s64 Border Pass

Officially, a Border Pass is obtained by an eligible Cambodian worker as follows:

1. The worker applies for a Border Pass booklet at the Cambodian provincial administration office or district office in border areas, using relevant identification documents. The worker pays the fee and the booklet is issued.
2. The Border Pass booklet is used to grant access to Thailand when crossing the border. A Visa will be stamped in the booklet by immigration officials on crossing the border.

Technically, only a Cambodian who is a resident of a permitted border province is eligible to obtain a Border Pass. In reality, based on the one-on-one interviews and group discussions, key-informants said it does not matter if you are a resident of the permitted border provinces or not. In either case, when one reaches the Cambodian border area, they can easily obtain a Border Pass through a broker or middleman. In fact, outside of the agricultural sector, the majority of workers interviewed said they were not from a border province in Cambodia.

Similarly, it is not difficult for a worker to obtain a Border Pass through a broker in Thailand, in circumstances where the worker has already crossed the border irregularly. Most interviewees in this category said that when they reach the Cambodia border or cross the border to Thailand irregularly, they can seek out a broker easily to arrange the necessary Border Pass documents. Many such workers said that they had already learnt about seasonal work before traveling to Thailand and had received guidance from those that had done it before. Some get the broker's contact information from relatives or friends who have previously lived or worked in the border area. Similarly, for these workers, the employer may arrange the Border Pass and Work Permit on their behalf.

In order to get a Border Pass, as a resident of a permitted border province, one can apply at the cost of 200 THB. Non-residents of the permitted areas, however, usually pay 1,500–2,500 THB for a Border Pass, or some pay as much as 3500 THB. It may take up to five business days to process the document. If a worker wishes to get the document expedited, in say one to three days, they may be requested to pay upward of 3,000 THB. There is no fixed rate and it depends on how fast the worker requests to get it and how the worker negotiates with the broker.

While many workers do use a broker to obtain a Border Pass, this is often because it is obtained in conjunction with a Work Permit using a broker, or because they are not a resident of an eligible region. For those workers who are residents of relevant border areas, it is not exceedingly difficult or uncommon to obtain a Border Pass document themselves without a broker. This is a significant difference to the MOU channel which involves a more expensive and difficult bureaucratic process, and is therefore very rarely arranged directly by a worker themselves.

**Border Pass Booklet and stamp**



## 6.2 Obtaining a s64 Work Permit

The official steps to obtain a s64 Work Permit are as follows:

- 1 The employer files a list of worker's names together with relevant documents at the Provincial Labor Office or Thai One-Stop Service for migration.
- 2 The registrar at the Labour Office approves the list of names.
- 3 Employers and workers plan to coordinate for the workers travel to Thailand.
- 4 The Border Disease Control Checkpoint checks the workers relevant documents at the border check-point.
- 5 Immigration Police check relevant documents and provide a 30 day stamp visa stamp in the Border Pass booklet
- 6 Workers meet with the employer according to their arrangement, usually by being picked up at the border or by the workers travelling themselves to the workplace
- 7 The employer takes the workers to a local public hospital to do a health check-up for forbidden diseases (there are 6 diseases listed, and a COVID (ATK) must also be taken at present).
- 8 At the hospital, workers buy health insurance.
- 9 The employer takes workers, along with relevant documents (personal documents, health check-up certificate, health insurance, Border Pass with visa), to apply for a Work Permit and pay the fee at the Provincial Labour Office.<sup>39</sup>
- 10 The registrar at the Labour Office approves the Work Permit for a duration up to 3 months.

In theory, an employer has to be involved in bringing a foreigner to work under Section 64, by assisting with this process and providing employment information. However, an employer can authorize a broker to do it on their behalf. Most of the migrants interviewed who are working for an employer reported that they obtained their Section 64 Work Permit through a broker arranged by the employer, with only a small fraction reporting that the employer facilitated the process themselves.

Interestingly, some workers even hire a broker themselves to arrange the Work Permit, particularly those workers who work "independently". These workers are generally those who work in a seasonal job for a temporary period – such as agriculture – and then look around for various jobs for the remainder of the year. By arranging the pass themselves, they are able to work as freelancers, while having some documentation to show to relevant officials if required.

It appears to vary by employer and industry whether the employer or worker pays for the Work Permit (and associated expenses). Within this research, the Seasonal Work Permit for most fisherman and permanent workers

<sup>39</sup> The process is set out in the following official document, and was also confirmed by Provincial Labour Office officials during the research process. [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/96dd0f4c136f52018cc9700f067f0377.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/96dd0f4c136f52018cc9700f067f0377.pdf)



in fruit plantations were paid by employer. In other industries however, the majority of interviewees paid for the Work Permit themselves, at a cost of 5,000 -6,000 THB. Only a few workers paid less than this, and even then they paid 3,500-4,500 THB – much higher than the officially stipulated rates of 825 – 1,325 THB.

Moreover, all interviewees did not know about the official fees and expenses for this process and said they had never been informed about this topic. Rather, their employer and/or broker would tell them how much they are going to be charged without explanation and without providing any receipt. When a worker was required to pay, the payment methods included paying a one-off payment to the employer or broker up-front, or the employer deducted money gradually from the worker's wage.

### 6.3 Renewing the 30-day visa

An additional condition of the Section 64 Work Permit is that a worker is required to stamp their entry visa every 30 days, indicating that they have left and re-entered the country. While the Work Permit is granted for 3 months, the entry visa is granted only for 1 month, requiring multiple border crossings just to comply with this requirement. Nonetheless, a SMW can just have their visa stamped every 30 days at the immigration office without crossing the border.

In practice however, all workers prefer to not go to immigration office themselves to arrange for a re-entry visa stamp. If they go themselves in person, the worker will likely need to take a day off to travel from the location of the workplace to the border. While there is no official fee for obtaining the 30 days visa stamp itself, this travel is prohibitively expensive, and may cost 300-500 THB. In addition the worker will lose money in wages foregone for a day off work.

Thus, most employers arrange for a broker to take the workers Border Pass and have it stamped for them by border officials, without attending in person. For this service, many workers are charged 100–250 THB via their employer or broker each time they receive a visa stamp. In some industries, workers reported that it was the convention for the employer to take care of this arrangement and pay for the processing fee, in particular among fisherman and fruit plantation workers employed on an ongoing non-temporary basis.

Border Pass processing point at Khlong Yai – Trat Border Point







## 6.4 Border area employment

Although the Section 64 Work Permit is the only legal form of border / seasonal employment for Cambodian workers, this research found a mix of practices being used in the field. Nonetheless, a few general trends emerged as follows.

- **Areas close to the border -**

In areas close to the border such as in Sa Kaeo and Trat Provinces, currently, only a few workers are employed using Section 64 provisions. Instead, most of the workers are holding a Border Pass to cross the border and working without a Work Permit. In other words, they enter the country legally but are working illegally.

- **Alternate arrangements -**

The research also found that there are at least four forms of border employment or seasonal employment systems and documents at the Thailand-Cambodia border, several of which are based on unofficial local arrangements. These practices are discussed in Section 7 below. Most noticeably, the use of local arrangements in the agricultural sector in Sa Kaeo Province are a common practice (but officially illegal).

- **Agricultural sector workers -**

Most of the workers using the Section 64 permit work in the agricultural sector or fruit industry - durian, mangosteen, rambutan plantations and fruit factories in Chanthaburi and Trat Provinces. These workers can be divided into three groups: workers who migrate to work only in peak harvesting season, (March – June in Trat and Chanthaburi Provinces), with most staying on their employer's property; workers who work all year round in a farm as permanent staff and mostly live in employer's property together as a whole family; and workers who work independently during both peak labour demand and other times as general employees.

- **Fishery sector workers -**

Many of the workers in fishery sector and some of the workers in seafood processing factories in Khlong Yai District, Trat Province said that they used to use the Section 64 Work Permit. Most of these workers reported that they changed to the Pink Card by taking up the opportunity to regularise their status and extend their stay during Covid-19 when the border was closed.

## 6.5 Recruitment practices

Seasonal workers generally obtain a job through their network of family members, relatives and friends. This is one of the key attractions for entering into seasonal work; the fact that the work uses long established networks, and that one is able to work along with people from the same community.

None of the interviewees mentioned that they had to pay a recruitment fee in order to obtain their job placement. There are three common recruitment processes that were found during data collection:

1

**Recruitment through a worker leader.** The characteristics and qualifications of leader are: a worker who has been working with the employer for quite a long time; can speak Thai; and has a wide network. Before the beginning of the harvesting season, an employer will contact a leader about the number of workers needed. The leader will then contact his network of workers who worked together in previous seasons and their family, relatives and community members in Cambodia. Mostly, leaders will recruit people who they already know in person because they trust them to follow instructions and do the work required.

2

**Recruitment through existing workers.** This process can happen in two ways. Firstly, by asking workers who already work in Thailand to help seek more workers for their workplace. The workers then contact their network to ask if anyone wants a job. The second method is if a newcomer who is seeking a job asks around their network for help to find a job. Their network will tell the jobseeker when they know of any job available, and introduce a jobseeker to an employer if they know an employer.

3

**Recruitment by employers contacting workers directly.** Normally, employers and workers who use the seasonal worker channel have known each other for a significant period of time and have worked together over several seasons. In these cases, the employer and workers who have worked together will have each other's contact details (normally phone number and Facebook). Thai phone signals are accessible in the border area and they just call or message each other when work is needed.

### Comparison: Use of s64 in SEZs along the Myanmar Border

According to CSO informants interviewed,<sup>40</sup> the situation at the Thailand–Cambodia borders is similar to the Thailand–Myanmar borders at Mae Sot District border, Tak Province. In Tak province, there are many Myanmar workers entering Thailand using the s64 Border Pass to work in factories in Thailand's SEZs.

In particular:

1. All citizens of Myanmar can obtain a Border Pass but a non-residents of the permitted border provinces pay a higher rate for Border Pass, 2,000 THB or more.
2. Most of the Section 64 workers obtain a Work Permit through a broker.
3. Factories in SEZ's in Mae Sot District, Tak Province, mostly garment factories, continually renew their Section 64 Work Permit, which in effect enables them to work as ongoing long-term employees.
4. In theory, the official fees and expenses for the Section 64 Work Permit including Border Pass fee are reasonable for a three month Work Permit; around 2,500 THB for the health insurance group and 1,500 THB for the NSSF group. But, in reality, a worker in the health insurance group from a permitted border provinces area pay 4,000–5000 THB, while non-residents of the permitted border provinces pay 6,000–8000 THB.
5. Most of the Section 64 workers are not registered to the NSSF.

Workers prefer to use the HR personnel of a factory or broker service to do a visa stamp, which costs 100–250 THB, because it's difficult for them to take a day off. They do not get paid during a day off and travelling costs are at least 100 THB.

40 Jirarat Moonsiri, a lawyer with the Labour Law Clinic (HRDF) (Interviewed 13/05/2022)

# LOCAL ARRANGEMENTS

Summary table: Migration channels for seasonal work				
No	Type of documents	Sector of employment	Migration status	Work status
1	The Section 64 Work Permit	All kind of works in the permitted border provinces	Legal	Legal
2	The security agency card - consented by local authorities in responding to the local labour market	Agriculture sector near Sa Kaew border	Officially illegal	Officially illegal
3	The immigration card - Consented by local authorities in responding to the local labour market	Daily crossing used by business owner and general worker in Rong Kluea Market	Officially illegal	Officially illegal
4	Visiting Border Pass	7 days crossing used mostly by business owner and general worker	Legal	Illegal

## 7.1 Security agency card

The Security agency card is also known by locals as the Tahan (army) Card. While not an officially legal form of work arrangement, the Security agency card represents an unofficial arrangement made between local officials to facilitate the work needs of local communities by allowing crossing of the border for work on a daily basis.



The Security agency card is primarily used by Cambodian border communities undertaking seasonal employment in Sa Kaeo Province, particularly at the sugar cane and casava plantations located in the border areas. Workers are residents of communities near the border and walk from their village to a temporary border crossing (up to 30 minutes away by foot) where the employers pick up and return workers every day.

One of the reasons for the development of this arrangement is that adoption of the s64 Border Pass scheme would impose undue barriers on workers and employers compared with their long-established preexisting work arrangements. Specifically, under the s64 Border Pass scheme, workers would have to travel to designated border crossing points which are too far away for workers to easily reach. Border communities are located relatively close to the farms in which they work and there are also many natural border crossings which makes it easy for them to cross the border to visit and work.<sup>41</sup> Under established traditional practices in the Sa Kaeo border areas, Thai farmers have been employing Cambodian workers for generations. Outsiders might see communities on the two sides of borders as neighboring countries, but locals explained that they see themselves as being part of neighbouring communities. In fact, some families explained that they had relatives on each side of the border,

41 A natural border is a border between states which is concurrent with natural formations such as rivers or mountain ranges.



and say that they are part of a continuous community. As a result, the local authorities consented to the farmers to bring workers to work on a daily basis. The security agency card thus seeks to accommodate preexisting work relationships and aims to support Thai farmers whose production relies on Cambodian workers.

**The process to obtain a security agency card and employ a Cambodian worker is as follows:**

1. A farmer who wants to employ migrant workers, needs to register with the village headman in Cambodia from where they intend to source workers. The headman will communicate with border officials and the Thai farmer will receive the security agency card.
2. Before the cultivation and harvesting seasons began, the employer needs to inform the village head man about the plantation cycle and the number of workers they need. The village headman will then communicate with other government agencies, the local military unit, administrative and security agencies. The name of the local military unit is written down on the card
3. Thai farmers have been hiring Cambodian workers for long time. Both parties know each other and understand the labour market well. Employers and worker leaders will have each other's phone numbers and before starting farm season, an employer will call the leader about when and how many workers they need. The leader will then recruit workers in their village – mostly drawing from the leader's relatives, friends, and community members. The workers are not required to provide or use any personal documents.
4. Every day, the employer is responsible for picking up workers at around 8.00am at a temporarily permitted area. The employer needs to show the security agency card to an officer of the army. The officer will record an employer's name together with the number and gender of workers. Later that day, around 4.00 pm, the employer is then responsible for dropping workers back with the same number and gender at the same permitted area.
5. During the process, no service fee is charged to either employer or worker by local officials. However in practice, a border officer may ask for a small payment from an employer on their own accord.
6. Some payment may also be made to the worker leader who facilitated recruitment. The leader may get some bonus from the employer, or the employer may deduct a small amount from workers income to pay to them. For example this could be something like 1-3% from the total of production profits, or a percentage of the total of workers income, depending on their agreement when arranging recruitment.

According to interview with local authorities, the security agency card is a practice responding to the local labour market and ensures that there is a form of regulation that prevents more irregular forms of migration. They point to the fact that this channel is still highly regulated as workers and employers need to report the number of workers crossing the border each day, and the employers are made responsible to pick up those workers and return them back each day. While authorities would like to encourage Cambodian workers to obtain the Section 64 Work Permit (for which they are eligible as residents of permitted border areas), they acknowledge that such an arrangement would not likely be workable for them and would make life more difficult, as it would mean they would have to cross the border at the international check point which is a long way from their communities and may prevent them from going back and forth every day.

## 7.2 Immigration card

The **Immigration card**, also known as a **Police Card** or **IM-Card** is an unofficial solution developed by local authorities to allow daily border crossings at the Poipet- Aranyaprathet border. In particular, the scheme has arisen to accommodate the scores of Cambodian workers who go daily to work in Thailand at the Rong Kluea Market, located near the border in Sa Kaeo Province. The Rong Kluea Market is a large and well known market for importing wholesale goods from Cambodia to Thailand, and relies on the Cambodians to bring goods with them from one side of the border to the other. Prior to the market's temporary closure during Covid-19, as many as 20,000 Cambodians crossed the border to work at the market daily. According to interviews with workers, employers and officers in Sa Kaeo Province, the immigration card is a common employment system in the area. Migrant workers enter Thailand with consent of local authorities using the immigration card, and then go to work illegally in the market.

One of the main reasons for using the immigration card is that many workers and Cambodian business owners are not eligible for any legal Work Permit. Most of the shops and businesses at the Rong Kluea Market operate

informally and the businesses aren't covered within Thailand's permitted Border Pass industries, such as second-hand shoe and clothes stores. Similarly, many of these shops are owned by Cambodians or run by self-employed retail sellers, making them ineligible to apply for the Section 64 Border Pass or any legal work permit, which requires a Thai employer. This is also a problem in turn for their employees, many of whom are working for Cambodian stalls as cart carriers, hawkers, and general workers, and are not eligible for the Border Pass under a Cambodian employer.



The immigration card has been issued under the aegis of the Thai Immigration Police. Accordingly, one can see the official emblem of the Thai Immigration Police shown on the card along with the phone number of the Sa Kaeo Immigration Police. Also, the language used on the card is mainly Thai. The charge for a six-month period is between 200 and 220 THB. The worker also needs to pay 1 THB for each day they cross the border. Prior to COVID-19, the border crossing charge was 10 THB per day, but this amount was reduced to 5 THB, and then 1 THB, as the market remained closed during the pandemic. Despite the card being issued by Thai police, the border crossing charges are kept by the officials on the Cambodian side. In addition, the card can be obtained on either side of the border.

There are two options for obtaining the immigration card:

1. Workers take their ID card to the Cambodian office or middleman, and pay a fee.
2. Workers take their ID card together with a photo to the Thailand office to get the card issued by Thai side.

In both cases middlemen are involved. In the first

case a "worker association" is working to negotiate the daily crossing fee. In the latter case the middleman is working on behalf of the authorities to procure the card, however they impose no charge to workers for the service.

According to the interview with border authorities, the immigration card is another local arrangement that responds to the needs of the local labour market, pre-existing work practices and the fact that there is no appropriate worker permit available such as a daily worker permit. The existing s64 Border Pass would not be appropriate for daily border crossings, because it would be too expensive, as workers are regularly charged 100 THB at the Thailand border and 150 THB at the Cambodian border using this pass. Moreover, a Border Pass has only 32 pages so it would be fully stamped in a week.

In light of that, the Thailand and Cambodian immigration police, Thailand local military units, provincial governor, general border committee, and businesses have discussed and designed the immigration card to find a solution to these problems. Authorities explain that by having an arrangement in place, this scheme regulates the movement across the border of migrant workers, which is necessary when more than 20,000 Cambodian workers can be expected to cross the border every day to do business and work during peak times.

### 7.3 Visiting Border Pass

The Visiting Border Pass refers to when a migrant uses the Border Pass in conjunction with a 7-day Visitors Visa, but can also apply to those who use the Border Pass with a 30 day visa but without a Work Permit. This research found that these arrangements are commonly used in both Trat and Sa Kaeo Provinces.

Under this arrangement, it is legal for a migrant to enter Thailand for 7 days, but it is illegal to work. If a migrant wants to, they can renew the visa every 7 days. A similar sort of 3-day visitors pass was made available to migrants who had to cross the border for Covid related reasons, at times during the pandemic when the border was open.

Using this method of border crossing costs 150 THB when crossing to Cambodia, then 100 THB when crossing to Thailand. This is relatively expensive when compared to other options, and also does not officially allow work, therefore it is mostly used by workers that do not have access to better options for various reasons.



In particular:

- **Non-resident of border area**

Most worker using this pass are staying with family near the border but are officially non-residents of the permitted border provinces and so ineligible for the s64 Border Pass. Nonetheless they are able to secure a Border Pass booklet and use it for the purposes of crossing the border;

- **Informal workers**

Several informal workers using this arrangement were workers at Rong Kluea Market in Sa Kaeo Province, but had not secured access to using the immigration card which is cheaper;

- **Employer-led employment arrangement**

Some employers were found to use this arrangement to bypass legal regulations. For example, the research team found that one sugar factory, which was quite far from the border, employed all its workers on an undocumented basis, and it was common practice to source new recruits using the 7-day Border Pass. Among a group discussion with workers from the factory,<sup>42</sup> all said that they were holding a Border Pass without a Work Permit since they started working for the factory. One man said that he has been working with the factory for five years without a Work Permit. Similarly, the research team also found certain seafood processing factories that were quite far from the border which also used the Visiting Border Pass as a method to obtain workers.

- **Independent workers**

In Trat Province, the research team found out that independent workers - mostly women working in seafood processing and drying - used the Visiting Border Pass. They did this because they don't have a regular employer so they cannot obtain a Work Permit.

- **Regularisation strategy**

In both cases listed above, many workers had taken advantage of the recent window of opportunity to regularise their status and obtain a pink card, under the 29 December 2020 Cabinet Resolution or the 28 September 2021 Cabinet Resolution. For these workers the decision to regularize has been caused by circumstance. For other workers however, their migration strategy is to migrate to Thailand irregularly and find a job as soon as possible, and to work as an undocumented worker until they get an option to enter the verification/regularisation process on the Thai side. Quite similarly in Trat Province, many workers were found to enter the country legally by using a Border Pass, but worked without valid documentation, mostly working in seafood processing. However on interview, this fact did not seem to be understood well by the Trat Provincial Employment Office.<sup>43</sup>



42 Interview, May 19, 2022

43 Interview, July 28, 2022



## LABOUR CONDITIONS AND BENEFITS

### 8.1 Wages and employment arrangements

The daily minimum wage for the provinces researched in this study are as follows: Sa Kaeo 320 THB; Trat 325 THB; and Chanthaburi 332 THB<sup>44</sup>. (USD \$9.20 - \$9.55). On this basis, most of the interviewees in this study confirmed that they received a minimum wage or higher, based on their average daily wage. However, some workers reported receiving less than 300 THB per day, and many received under the monthly minimum wage due to precarious work arrangements that did not guarantee regular work.

In fact, in the course of this research overall, it was found that most SMWs interviewed were paid a daily wage on a daily basis, and a significant number were similarly paid under a daily piecework arrangement. Many such SMWs described the precarious nature of their work, where they have sufficient income during the temporary period when they are employed, but the rest of the year is very uncertain and they keep looking for general work wherever they can find it. For example, in the agricultural sector, many workers have income for the 4 to 5 months of the harvesting period when they are employed, but the rest of the year is marked by insecurity and several workers independently move around the border areas of Thailand looking for whatever employment they can find, which often is only a few days at a time.

While workers on daily wages usually were found to work 8 hours per day, the working hours for SMWs working for piece-rate payments would vary depending on the amount of work to be done, and could variously be more or less than 8 hours per day.

The mode of payment and rates of pay are for the most part determined by industry as detailed in the following table.

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44 [mol.go.th](http://mol.go.th) (in TH)

Summary of payment arrangements for SMWs in border areas by industry, as reported by SMWs interviewed		
Job	Payment and work arrangement	Wage
Fishers	Monthly payments in cash	<ul style="list-style-type: none"> <li>• 11,000 THB per month for general workers</li> <li>• up to 15,000 THB for leaders and experienced workers</li> </ul>
Seafood processing factories	Daily rate	<ul style="list-style-type: none"> <li>• 325 THB per day (Tat minimum wage)</li> </ul>
Seafood drying ("pre-processing") workers	<ul style="list-style-type: none"> <li>• Combination of piece-rate payments, hourly-rate payments, and animal-weight-rate payments.</li> <li>• Freelance employment - only some have an employer</li> <li>• Do not have a job every day because many fishing boats have stopped operation.</li> </ul>	<ul style="list-style-type: none"> <li>• Pay is unstable and dependent on productivity.</li> <li>• Generally earn less than minimum wage</li> </ul>
Construction sector	Daily rate payment However, do not have work every day.	Construction workers, who are usually men, get higher rates than general workers, who are usually women. <ul style="list-style-type: none"> <li>• Construction workers is 450-500 THB per day</li> <li>• General worker it's 350-380 THB per day</li> </ul>
Fruit industry Permanent workers, taking care of the plantation all year round.	Monthly payment	Regular workers <ul style="list-style-type: none"> <li>• Between 9,000–10,000 THB per month.</li> </ul> Worker leaders <ul style="list-style-type: none"> <li>• Some receive a commission per production period. For example, they may earn 20% of 10 million which equals to 2,000,000 THB.</li> <li>• Responsibilities include looking after the orchard for the entire cycle, recruiting workers and paying workers (the money for which is already included in the leader's incomes).</li> </ul>
Fruit industry Seasonal workers during cultivation season or pre-harvesting season	Daily payment	<ul style="list-style-type: none"> <li>• Men earn more than women by about 50 THB per day.</li> <li>• General work during cultivation season</li> <li>• Taking care of the orchard before harvesting season.</li> <li>• Employers seem to assign tasks by gender</li> <li>• Men doing the so-called hard work activities which earn more e.g. spraying chemical and watering plants.</li> <li>• Women are tasked with the so-called light work such as cutting grass and bushes.</li> </ul>
Fruit industry Seasonal workers during harvesting season	<ul style="list-style-type: none"> <li>• Piece-rate and weight-rate payments usually apply during the harvesting season.</li> <li>• Workers' income depends on productivity which is mostly higher than minimum wage.</li> </ul>	<ul style="list-style-type: none"> <li>• During peak production, the income for picking mango-steen and rambutan are around 500 -700 THB per day.</li> <li>• For durian harvesting, which requires specific skill, it is at least 900-1,000 THB per day.</li> <li>• Fruit packing factory, during the peak production, for example a mangosteen factory, workers have to work 8 to 12 hours per day and earn 15,000 – 18,000 THB per month.</li> </ul>
Shops and businesses in Rong Kluea Market	Piece-rate payment.	<ul style="list-style-type: none"> <li>• Workers' income is unstable depending on productivity.</li> <li>• However, if not accounting for COVID 19, most of the interviewees receive minimum wage and higher.</li> </ul>
Domestic workers	Monthly payments	12,000 THB per month.

A few notable aspects are worth mentioning about the practices of the agricultural industry. It is not uncommon for employers to employ one or a few worker leaders to manage the harvest period, and pay them wages or commission for the harvesting period. In these cases the worker leader is responsible for looking after the orchard for the entire harvesting cycle, including recruiting workers and paying workers. This is a valuable job because their commission can amount to a significant sum of money. One leader used the example of a harvest season which paid 10 million THB by weight, of which they were entitled to 20% (2m THB / USD \$57,000). Under this payment method, the leader is required to take full responsibility of the harvest, assuming the owner's roles in managing the farm for



the whole year, including hiring of workers. The leader must also pay the workers out of their own 20% share, meaning that their own income is significantly lower.

## 8.2 Labour Rights and Conditions

On the whole, SMWs face similar vulnerabilities at work to other migrant workers.

It is widely recorded that migrant workers across Thailand face a raft of labour abuses and vulnerabilities within their jobs. These violations are faced by migrant workers regardless of migration status, and are thus similarly issues for MoU workers, regularised workers, Border Pass workers and undocumented workers alike.

Moreover, all migrant workers face challenges in accessing their rights as a result of issues such as: poor access to grievance mechanisms, language barriers, discrimination, and reliance on employers to register workers for benefits and to comply with certain legal requirements.

There are also several labour rights that are not provided to migrant workers in Thailand, particularly the right for migrant workers to form and join their own trade unions and to undertake collective bargaining for improved working conditions and living standards. Commentators have also pointed out the restrictions on freedom of assembly in Thailand that exacerbate the situation.

Against this background, interviewees in this research reported several labour complaints, which include: not having work contracts, withholding wages, withholding migration and identification documents, paying below minimum wage, excessive hours, and forced over time.

These reports are generally consistent with reports of migrant workers across Thailand. Nonetheless, many of these violations have been normalised in workplaces that employ migrant workers, where workers have limited awareness of their legal entitlements, and also are aware that there are significant barriers to making complaints and accessing their rights.

It is also notable that child labour is not an uncommon practice in the agricultural sector. Often, children of SMWs assist with harvesting work during their school. These are usually teenagers (or even a little younger) who attend Thai school. For their harvesting work they are paid on a piece-rate or

weight-rate basis. While daily SMWs generally leave their children at home to attend school in Cambodia, it is not uncommon for SMWs who come to Thailand for the whole season to bring their children. Another example encountered during research was recounted during discussion with workers at a mangosteen factory. The research team was told that the factory used both child labourers and undocumented workers, while the employer also kept workers' personal documents to ensure they would not leave before the end of the peak production period.<sup>45</sup>

For the most part, workers interviewed lacked knowledge about their benefits and labour rights, and knew little about migrant worker laws and policies. Interviewees in and around Trat and Sa Kaeo both said that they did not know about any legal support or labour rights advice they could access in their area. They said that instead, when they do encounter CSOs, it is mostly those who focus on health issues.

Workers interviewed indicate that if they were faced with poor working conditions, they felt they would have little choice other than to leave their job. In this sense, SMWs do have a certain advantage over migrant workers with other migration status. Because they are located close to the border and have not outlaid as much money to secure migration documents (such as in the MoU process) and seem to have lower levels of debt to employers, these workers feel it is possible to return back to Cambodia more easily should they find themselves in a difficult situation.

Another advantage SMWs have over MoU workers is that recruitment is often concentrated within specific communities, particular when it comes to the agricultural sector. This ensures that there are long term relationships of trust between employers and workers, and also that workers have networks of support while they are working in Thailand. These networks contribute to workers security by sharing information and support, as well as ensuring that the employment relationship is sustainable for both parties over time.

In contrast, Border Pass and other SMWs face certain disadvantages. These include the lack of access to severance pay, even when they are practically employed on a continuous basis. Even though section 118 of the Labour Protection Act entitles a worker to severance pay when they have worked for an uninterrupted period of at least 120 days, employers reportedly use their purported "seasonal" status as a reason to not pay such benefits. Some border pass holders who have been employed as regular work-

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45 Group discussion on July 2, 2022.

ers have reported having been terminated without severance. Border Pass workers also suffer from a restriction of movement under the law, but workers reported that this is understood as a condition of this type of employment.

Another vulnerability for all SMWs is the precarious nature of seasonal work. Many SMWs work for the harvest season for one employer in which they earn the main share of their annual income. However this is, for many, not enough income for the annual livelihood. These workers are then required to find income from other sources, and several do so by remaining in Thailand as “freelancers” who seeks out short term jobs and tasks from employers in border areas. This can make them vulnerable for the reason that they are seeking work outside of trusted networks, are mobile and alone or in a small group. On the other hand, these workers do not feel bound to an employer in the way that MoU workers sometimes do, giving them more agency over their work and life choices.

On the whole, these advantages and vulnerabilities are comparable among Border Pass workers and SMWs who use schemes such as the IM-Card or Army Card. However, in the latter cases, workers are aware that because their migration documents are not officially legal, there is always a risk they may be deported for not being fully documented. Thus, there is an increased reliance on the goodwill of local officials to continue to recognize the local scheme. Workers are also aware that these local migration channel could potentially be closed at some point in the future, making their employment and livelihood more precarious.

## 8.3 Access to Healthcare and Benefits

### NATIONAL SOCIAL SECURITY FUND

Nearly all workers SMWs interviewed in this research reported that they were not registered for the NSSF. The main exception was SMWs who regularized their status during Covid-19 and obtained a pink card.

In particular this was seen among workers at seafood factories in Trat province, and potentially some fishermen in the area as well. For these workers, they had been on a s64 Border Pass but with the border being closed, their employer took the opportunity to convert their migration status in order to maintain a workforce throughout Covid-19.

These workers were eligible for benefits such as compensation for dismissal, maternity leave, child support grants, and medical treatment. Among the fish

processing workers in Trat, they were aware of their eligibility for these benefits and also reported being covered for work accident compensation under the WCF. In contrast, most fisherman reported that they also changed migration status during Covid-19, but were not sure if their employers had registered them to NSSF and bought health insurance for them, as their employer paid for all costs and kept their personal documents.

### MIGRANT HEALTH INSURANCE SCHEME

The vast majority of SMWs however were not registered for the NSSF. Both Section 64 Border Pass workers and pink card holders across all sectors in the three provinces instead said that they had bought health insurance. The reason for this was because they were made to do so when arranging their Work Permit. Upon getting their health check at the local hospital, they were told they must sign up to the MHIS, and were made to do so at that time. SMWs reported being able to access healthcare under the scheme quite easily and simply.

### M-FUND

Undocumented workers and those employed under local arrangements are still able to access healthcare under the privately run M-Fund program. In particular, the immigration card and Border Pass holders in Sa Kaeo Province can apply for the M-Fund Program. It is a health insurance program run by a non-government agency in the area. Some of the interviewees are members of the program. All workers can apply for the program for free and pay 100 THB per month for maintaining their membership. When they go to a registered hospital, these workers do not need to pay for the service. The program covers all costs, and if a service costs a higher sum, then the program will pay for the service in advance. Workers can pay for the insurance in installments. In contrast, the security agency card holders and Border Pass holders in Trat Province did not report having health insurance or access to health benefits, indicating the lack of an easily accessible health funds in the area, or at least limited knowledge among workers if one does exist.





# MIGRANT PERSPECTIVES

## 9.1 Why do Cambodians choose to be Seasonal Migrant Workers?

The underlying reasons for Cambodians migration to Thailand follow a familiar and well-recognized set of push and pull factors. For a variety of reasons, migrants do not feel they can obtain a sustainable livelihood in their hometowns in Cambodia, and seek waged work wherever possible. For many, it is more accessible to work in Thailand than domestically. Fundamentally, workers describe a lack of job and economic opportunities in Cambodia. In this sense SMWs are not dissimilar to other migrant workers across Thailand. Based on interviews with workers in this research, all workers are seeking the opportunity for employment wherever it is possible, and in most cases there are more opportunities to work in Thailand where they can also earn higher income than domestically.

There are several reasons why seasonal work in particular is chosen by Cambodian migrant workers in Thailand as opposed to other forms of employment such as ongoing employment under the MoU. Taken together, certain sets of advantages render the seasonal work s64 Border Pass arrangements a preferable option *for specific types of workers*.

Reasons for using the Border Pass / being a SMW	
Reason	Details
Easier and cheaper process than MoU	It is easier and cheaper for migrant workers to obtain a personal document, a Border Pass and the Section 64 worker permit compared to obtaining a passport and going through the MoU process. It is also easier for workers to find a job in the border areas where they do not have to pay for job recruitment, passport, and a MoU worker permit in advance.
Easier and cheaper to return home	The Border Pass does not require migrant workers to arrange a re-entry visa as is required for MoU workers.
Many documents options for seasonal work	If a worker is not eligible or cannot arrange the Section 64 worker permit, they can still easily undertake the same job using the IM card, a Border Pass, or through broker
Stay within social network	Workers rely on their social contacts for job seeking and also for providing support while working in Thailand. Many workers do not feel safe or comfortable working in Thailand in a place where they do not have any contacts.
More access to seasonal jobs among their network	Many workers source jobs within their social network. For some workers and networks, it's easier to find a job in a seasonal role.
Family caring responsibility in Cambodia	Some workers from border communities have children and elderly relatives that remain in Cambodia while they are working in Thailand. For these workers it is important to be able to return easily and regularly to care for family. Additionally, their children can access education in Cambodia easily.
Convenience and family responsibility	Residents of border areas can work during the day and go back to spend night time / short periods with their family in Cambodia. Children can still access education in Cambodia.
Cheaper living costs	Some workers who have found a job in border areas prefer to cross the border daily and reside in Cambodia. For example, one interviewee that works in Rong Kluea Market said that it is cheaper to stay on the Cambodian side and cross the border to work every day. They compared room rental on the Cambodian side (500 – 1,000 THB) with the Thailand side (1,500 THB.)

Can't afford other channels	Some workers would prefer to enter the MoU channel and undertake continuous work but cannot raise the funds to do so. For example, one worker interviewed said that she wished to migrate to Bangkok because she had seen some migrant workers in her village able to buy farmland and built houses for themselves. She sought out a broker to find her a job in Bangkok, who quoted her 40,000 THB, which was much more than she could afford. Instead she decided to migrate to the Sa Kaeo border and work seasonally, which cost her around 5,000 THB.
Can change employer easily	In practice it is difficult to change employer under the MoU, which requires registration of employment details and in practice the approval of an employer. In contrast, Border Pass workers say they can easily cross the border and apply for new documents under a different employer.

It is worth highlighting the importance that social networks play in seasonal migration. Many seasonal workers rely on their social contacts to help them find a job and host them at the border area. Similarly, workers recognize the difficulty and risk of migrating to work outside of one's social network; some workers interviewed said that they may decide to migrate to Bangkok if they had a trustworthy network in Bangkok. Similarly, migrating through a recruitment agent under the MoU can be risky for workers because they cannot choose where they will be placed for employment, and so cannot stay with their network. This also means they go to a new job without knowing about the new employer and whether they will follow the law and provide a safe environment for workers.

**Fruit processing worker, durian and mangosteen factory, Chanthaburi**  
**Role: selecting, cleaning, and packing fruit for export to China**  
**Interviewed: 3 July 2022**

"There are pros and cons (to working under Section 64). The pro is that it is the only possible opportunity for me to work in Thailand because I don't have a network in Bangkok. There is always a job available during this time. Some years I did fruit picking on a farm. Nowadays, I prefer to work for a factory because I can earn twice as much as working on a farm. But of course, the work hours are longer, and can be up to twelve hours per day depending on the amount of fruit. The con is that I do not have much freedom of movement, because my Work Permit is kept by the employer. My employer claims that because they arranged the permit for me - and also for all the other workers - that it is their right to keep it.

Another thing - I crossed the border and travelled to Chanthaburi illegally. I later obtained the Section 64 Seasonal Work Permit with the assistance of my employer. We met and talked about working conditions. Actually, it is a very common method for Cambodians to do this. Many people walk across the border to Thailand through the jungle, and then hop in a car or get picked up to travel to Chanthaburi. However, I feel worried about accidents and being arrested sometimes. Sometimes I feel insecure about what to do next if there is no job available after arriving. But I have to trust my network. I think it would be good if I could cross the border legally and even better if I could have a job guarantee before departing."

## 9.2 Which Cambodians choose to be Seasonal Migrant Workers?

Workers variously cite different reasons that they were attracted to being a SMW and using the Broder Pass, but these reasons are usually connected to the worker's specific situation. In general, there are firstly those workers who are SMWs by choice: these workers have circumstances, needs and/or preferences that are different to the majority of migrant workers, and therefore view the seasonal arrangement as being a superior option to ongoing work. Secondly, there are those workers that would prefer to be continuously employed, but are unable to access the MoU or verification channel as a result of limited funds and social networks.

It is here important to highlight the role of border communities. Workers who are long-term residents of border provinces often have distinct advantages in working in Thailand's border provinces. These workers can easily maintain links and to their home community and perform duties at home by travelling daily, already have long-term relationships between their community and employers, and also are able to work alongside other community members when they go to Thailand.

The type of workers who are attracted to seasonal work are as follows in the table below.

Typology of workers who choose to use Border Pass	
Worker characteristic	Advantage of Seasonal Work
Long term member of border community	They are a resident of the border districts/provinces so that they normally go back and forth every day, crossing the border to work during the day.
Have work in Thai border area, and choose to reside in Cambodia	Though they are not a resident of the border districts/provinces but working in the border area and using a Border Pass is easy and cheap for them to return to their home country. Because they do not have to do re-entry visa as MoU or pink card workers. Some also rent a room in Cambodia side and go back and forth every day because the living cost is cheaper than Thailand. This is particularly the case for workers at Rong Kluea Market.
Border Pass is the only accessible legal migration option / No funds for MoU	<p>For Cambodians who do not have a passport, lack money, no matter what their origin is, border employment is the most feasible opportunity for them.</p> <p>The reason given is that it is easy and not too expensive to get a Border Pass. If a person is not a resident of border permitted area, they can buy a Border Pass for about 1,500 – 3,000 THB.</p> <p>For example, one second-hand shoe shop owner and his three employees said that they want to obtain a legal status if possible. The problem is they can only do that using the help of a broker which costs 10,000 THB per person. This price is not affordable for them.<sup>46</sup></p>
No other network for getting job	For Cambodians who do not have a network, no matter where their origin is, border employment is the most possible opportunity for them.
"Freelancer"	These workers prefer to be able to change employer and the autonomy of being employed. Usually these workers are already committed to working with one employer for the harvest season, and so prefer to take their chances in the other months rather than take an ongoing employment role and forego the harvesting job.

**Worker leader, durian plantation, Trat**  
**Role: Head of workers, acting as their employer**  
**Interviewed: 29 June 2022**

"I have 7 workers. Previously, they were using the Section 64 Seasonal Work Permit, but during the pandemic they all changed to the pink card.<sup>47</sup>

The pink card fits well with our lives. We work on a farm almost every day, taking care of the trees and soil. Our children attend school in the community not far from the farm. We stay in Thailand. I have been living and working here for more than 10 years. After some time, I became a worker leader, taking care of everything for the employer.

I think the Section 64 Seasonal Work Permit fits well for newcomers who haven't had an employer before, or for those workers who come only for fruit picking season. Some workers work for more than one employer. Therefore, some workers use the Border Pass without the Work Permit (ie. traveling Border Pass). For us, we use the Section 64 Seasonal Work Permit because we have an employer. But for the whole year, it costs a lot in terms of money and time for renewing a Work Permit.

However, we now have a new problem because we have to renew the pink card. The pink card has a high cost, at 18,000 THB, because we will arrange it through a broker and we also have to have a passport. But we all agree to go with it."

<sup>46</sup> Group Discussion, May 17, 2022

<sup>47</sup> The Thai "Pink Card" is a form of official ID in Thailand for non-Thai nationals, and can be carried by foreigners within Thailand instead of a passport. When workers mention they have "changed to pink card", they indicate they have verified their migration status under Thailand's verification schemes offered during the COVID-19 pandemic.



### 9.3 Challenges identified by Cambodian Seasonal Migrant Workers

According to the views of Cambodian SMWs, there are a few challenges specific to this mode of employment.

Firstly, workers describe feeling insecure undertaking short-term precarious work. They report struggling to find work over the rest of the year. For many, there is risk in trying to find other forms of work to supplement their main seasonal work arrangement which they consider reliable.

Secondly, workers that migrate undocumented or utilise local arrangements like the Immigration Card or Security Card say they feel anxious about their legal status. They are aware that their migration status is not documented according to official legal channels.

Thirdly, workers express that it is costly for them to have to renew their 30-day visa, either by travelling to the immigration office or paying a border to obtain the stamp. Similarly, some SMWs work for a harvest season in excess of 90 days, and it is costly for them to return to Cambodia and obtain a new Work Permit.

A fourth issue for workers is that they still have to pay a significant sum to obtain their Seasonal Work Permit, because they must rely on brokers to undergo the bureaucratic process. Workers report that they cannot undergo the process themselves and the Thai authorities do not provide any administrative support to make the process accessible to them without a broker or employer representative. This is in part because the worker must provide details of their job in order to secure the permit. Thus workers pay significantly more for the Seasonal Work Permit than the official price. Moreover, they are rarely aware of the official price. While it is somewhat easier to obtain a Border Pass directly, many workers arrange for all documents in tandem through a broker, and similarly pay higher fees to secure the Border Pass as well. Workers also have little choice on how much they may get charged when crossing the border.

Finally, SMWs report they are given little information about their rights at work in Thailand and migration laws, labour rights, laws and migration policy. They report that labour rights information is not easily available and they do not know where legal support is accessible for workers. Most are not aware of CSOs working in the border areas, in part due to the rural location of many workplaces.



# CSO AND EMPLOYER PERSPECTIVES

## 10.1 Employer Perspectives

One of the challenges for this research project was contacting employers of seasonal workers. Seasonal workers themselves can be difficult to locate within the border provinces of Thailand, however even when they are found their employers were not usually keen to take part in this research or were not available to contact. Thus, the input from employers in this study is more limited than what would be desired.

Nevertheless, discussions with some employers and officials identified several reasons about why certain employers chose to hire workers on a seasonal basis, or under the Border Pass system:

- **Harvesting season in the agricultural sector**  
Harvesting season runs up to 5 months only, and employers do not want to hire workers throughout the whole year. Thus, the Border Pass offers a cheaper alternative where the MoU process would be too expensive.
- **Workplaces with inconsistent work volumes and want to pay workers on daily rate or piece-rate**  
Seafood processing (and to a lesser extent fishing) can be similar to the agricultural season in that it is seasonal by being dependent on weather patterns and seasonal conditions. For example, in rainy season, drying of seafood is not practical and there is little need for such workers, but is widely practiced in the dry season.
- **Construction sector employers who wish to sub-contract workers**  
It is common (albeit illegal) practice for builders to hire construction managers and experienced builders who in turn sub-contract more labourers for specific tasks as they are needed. The construction sector often hires migrant workers for short periods with specific roles because construction is a project-based occupation. The Border Pass arrangement is thus a simple way for migrant workers to be hired on this short-term basis and less onerous for employers.
- **Employers who wish to avoid paying into the National Social Security Fund**  
While the notable example found has been among Myanmar workers in SEZ areas, there is a practice among certain employers of ongoing continuous employment of workers but keeping them under the Border Pass worker permit as an excuse to avoid paying into the NSSF.
- **Employers who are not eligible to employ a worker under the MoU scheme**  
Some Cambodians run businesses in Thailand's border areas, and therefore are not eligible to officially hire Cambodian workers.

Among employers several key challenges with the Border Pass scheme were highlighted:

- **International border crossing points can be too far away for workers to access –**  
Most employers or their agents collected their workforce from the border and transported them to the workplace by car or van. On the Thai side therefore, it was not so difficult if they had to travel to the international border checkpoint that was further away. However workers had to make their own way from the border checkpoint to their home village, which in many cases was too far away. It was therefore too onerous to fulfil this requirement and workers had to make other arrangements with their employer to be picked up at other border points near their home villages.
- **There is not enough flexibility to suit unpredictable workflows –**  
Employers indicated that their workflows are not uniform and they need flexibility about how many workers they hire at different times. They said the administrative requirements for the Border Pass worker permit are too onerous to accommodate the variation in needs.
- **The Border Pass Work Permit is not long enough -** In the agricultural sector employers explained that the harvesting season could last up to 5 months and the Border Pass Work Permit should reflect this.



**Farm owner**  
**Sugarcane and cassava farm, Sa Kaao**  
**Interviewed: 17 May 2022**

"There are many employers of Cambodians in this area. Before COVID, there was a daily employment system available at the community level, which we called the Security Unit card. The system meets with the needs of employers and employees, and suits the nature of local employment. Workers have family back home. Their children attend school in Cambodia. So, they prefer to go back and forth every day. It is okay for me too, though I know it's illegal, but it's acknowledged by the local authority.

I want to use legal workers as well, but I have three main concerns about using the Section 64 Seasonal Work Permit.

With the Section 64 Seasonal Work Permit, workers have to cross the legal border which is located far from their villages and far from the farms. I can manage to pick them up, but I'm not sure that it's convenient for the workers to travel from their village to the designated border crossing.

The process to obtain a Work Permit is not easy. The problem is that I sometimes use 10 workers, 15 workers, or 20 workers, and workers often work for more than one farm. Which employer should respond to this situation? Also, it's too expensive for me if I have to arrange permits for all 20 workers who work during the harvesting period, while during the plantation period I need only 15 workers.

The period of work for each crop is longer than three months – sometimes its four months, but not more than five. Meanwhile the Work Permit is valid for only 3 months. I think the cost is too high if I need to renew the Work Permit in one season. I think the Work Permit period should have more flexibility to fit with the actual working conditions of the farm.

## 10.2 CSO Perspectives<sup>48</sup>

According to CSOs interviewed, employers often exploit the Section 64 provision so that workers are not fully protected under the law and are not given full access to their entitlements. By hiring workers in border provinces, these employers repeatedly renew the Seasonal Work Permit rather than employ the worker under the MOU channel which would recognize the ongoing employment relationship. As Section 64 workers, these employees are treated as short term employees despite being employed in reality on a continuous basis. The employer uses this pretense to not register the worker with the NSSF and WCF, which saves them having to pay contributions and also bypasses some protections provided under the *Labour Protection Act B.E. 2541 (1998)*. As a result, these workers can miss out on their legal entitlements such as unemployment benefits from NSSF, and compensation for medical treatment and work accidents from the WCF. These workers also have to foot the extra cost of buying their own health insurance.

CSO informants thus stressed how important it is for SMWs to be covered labour rights standards that in line with national level standards that apply to all workers. This includes having access to the NSSF, workers compensation and workers benefits.

CSOs also reported that in their experience they observed that Border Pass workers were usually paid less in wages than other migrant workers. In addition, the Border Pass workers are disadvantaged by the financial burden of renewing their Work Permit every three months and having to get a re-entry stamp every 30 days on the Border Pass,

Regarding local arrangements like the Immigration Card and the Army Card, CSOs pointed to the fact that these schemes occur in order to meet specific labour market demand at the local level. This has some advantages, and all agreed that migrant worker management should not be too centralized. Rather these schemes can be instructive examples for improving policy.

In all cases, CSOs stressed the importance of multiple stakeholders being involved in policy making at the local level, such as the local government, business sector, and workers representatives. To an extent, these existing schemes are more open to worker input and responsive to their needs, however it is essential that workers are included even more in policy discussions. Again, they stressed that while adopting labour market management at the local level had some advantages, it cannot be at the expense of national labour rights standards.

48 Adisorn Koetmongkhon (May 10, 2022), Chonticha Tangworamongkon (May 26, 2022), Roisai Wongsuban (May 25, 2022), and Satien Thunprom (May 17, 2022)

# CONCLUSION AND RECOMMENDATIONS

## 11.1 Summary of findings

This report has described the current policy setting for accommodating Seasonal Migrant Workers, and the extent to which the current policy setting corresponds to the needs of workers and employers on the ground. Given specific local conditions near the border, the available s64 Border Pass scheme has both advantages and disadvantages for use by employers and workers. By way of summary, the following items have been outlined in this report.

Summary: Pros and Cons of Seasonal Work under Section 64	
Pros	
Administratively Easier	Migrants can obtain legal status easily through the Section 64 Work Permit system
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 proximate to their home and can return without needing a re-entry visa fee and traveling cost
Cheaper for workers	It is easier and cheaper for workers to obtain a personal document, a Border Pass and the Section 64 worker permit compared to obtaining a passport and going through a MoU process
Responsive to local need	The Section 64 Work Permit can respond to the need of local labour market, for both employers and workers
Cons	
Mismatch of time periods	The Work Permit is valid for 90 days, but a 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
Limited access to rights	Workers with Seasonal 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> (1998). 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 NSSF, so they cannot access NSSF benefits or WCF benefits
Exploitation of s64 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 and keep workers precarious. 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. In practice, workers pay higher amounts through brokers
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.

## 11.2 Recommendations for Policymakers

The following recommendations are 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;
- 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 NSSF to all categories of migrant workers;

- Amend legal provisions to ensure SMWs Workers have full access to legal rights and benefits under the Labour Relations Act, regardless of work arrangement and industry;
- Provide a mechanism to decentralise the management of Border Pass arrangements, thereby allowing local arrangements to be agreed by local authorities, provided they are upholding designated minimum national standards;
- Include worker voice and input into policy development, by ensuring relevant migrant workers and their representatives can attend policy development discussions;
- Increase labour inspections in border areas, with clear guidelines for inspectors to identify forced labour indicators, debt bondage indicators and child labour; and
- Grant all migrant workers full rights to lead and establish unions.

### 11.3 Recommendations to CSOs

The following recommendations are for CSOs supporting SMWs:

- 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 about safe migration and 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 labour 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.

### 11.4 Recommendations to Industry, Retailers and International Brands

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

The following recommendations are for industry actors to ensure that their whole supply chain employs SMWs ethically:

- 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;
- Pressure suppliers to uphold labour 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 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;
- Provide equal opportunities to men and women in terms of work tasks and pay;
- Assist SMWs you employ to find other employment when you are not able to offer work, or when their short term employment ends;
- Ensure child labour is not being used, and that adequate childcare is provided to children who accompany SMWs to Thailand.





# ANNEX ONE: BORDER PASS HOLDERS BY INDUSTRY, PRE-COVID

<b>2019 Border Pass Holders by Industry<sup>49</sup></b>		
Construction	21,936	33.2%
Manufacturing and sale of garments, clothes, textiles, accessories, footwear parts	14,099	21.4%
Fishery-related	8,058	12.2%
Agriculture-related	4,182	6.3%
Wholesale and retail trade, market vendor, and general shops	2,690	4.1%
Other service activities except subcontracting	2,365	3.6%
Manufacturing and sale of food and beverages	2,223	3.4%
Fishing	2,170	3.3%
Manufacturing and sale of electronics, electrics, batteries, automobiles	1,901	2.9%
Agriculture and livestock	1,175	1.8%
Manufacturing and sale of clay products	949	1.4%
Fishery products processing	736	1.1%
Stone processing	727	1.1%
Manufacturing and sale of plastic products, chemical products, fertilisers, toys	715	1.1%
Manufacturing and sale of construction materials	484	0.7%
Recycling, waste collecting and buying, waste separation	383	0.6%
Logistics and transportation: land, water, and storage	280	0.4%
Manufacturing and sale of metal products	278	0.4%
Gas station	193	0.3%
Manufacturing and sale of paper products	148	0.2%
Livestock-related	112	0.2%
Vehicle repair and car cleaning services	106	0.2%
Education centre, foundation, association, and health-care facilities	71	0.1%
Mining and quarrying	10	0.0%
Domestic work	0	0.0%
<b>Total</b>	<b>65,991</b>	

49 Source: Office of Foreign Workers Management, December 2019. Via International Organization for Migration (IOM), 2021. Thailand Social Protection Diagnostic Review: Social Protection for Migrant Workers and Their Families in Thailand. IOM, Thailand.

# ANNEX TWO: DATA COLLECTION TOOLS

## KII INTERVIEW GUIDE: CIVIL SOCIETY / POLICY KEY INFORMANTS

*Start by reading informed consent protocol and obtaining verbal consent.*

NB: Lettered questions are potential follow up questions.

### INTRODUCTION

1. Can you please introduce yourself and your department/organisation?
  - a. What is your role and how does your role relate to Seasonal Migrant Workers (**SMWs**)?
  - b. Can you tell us about any activities you do that are aimed at or include SMWs?

### SEASONAL MIGRANT WORKER SITUATION ASSESSMENT

**Purpose:** understanding current use of the SMW visa

2. What can you tell me about the how the SMW visa is currently used in Thailand?
  - a. Why is it used instead of other visa categories? (by workers and employers)
  - b. How do workers usually use the Border Pass? (i.e. migrate with family or alone? Is it used repeatedly or seasonally?)
3. What is the general profile of workers that use the SMW visa? How do they differ from other migrant workers?
  - a. Why do they choose to use this mode of migration?
  - b. How does seasonal work fit within SMWs overall livelihood strategy? (ie. does it complement other forms of income?)
  - c. Do SMWs come from certain locations in Cambodia? Have a different debt profile?
4. What has been the impact of Covid-19 on the use of this category of visa?
  - a. What was the situation prior to the pandemic and how is that different from the situation now?

### POLICY ANALYSIS

**Purpose:** Identify policy gaps

5. What can you tell me about the intended purpose of the SMW visa in Thailand at the policy level?
  - a. Why was it first introduced into the MOU and for who's benefit? Has its use changed over time?
  - b. Is there any available data or research about SMWs?
6. How does the seasonal migrant worker visa work in theory vs how it works in practice?
  - a. Which laws are followed and which are not?
    - i. Note recruitment fees, time limits, interaction with other visas and undocumented status, labour conditions
  - b. Are there particular industries that use the SMW pass that aren't intended?
  - c. Are there any regulations or laws that are bypassed by using the visa?
  - d. Is the visa used in any ways that is not allowed or imagined by the law?
  - e. Do workers use the SMW visa in ways that aren't intended (e.g. to find job and to swap to other visa etc.)
7. What gaps currently exist in policy relating to SMWs?
  - a. In your opinion, what aspects of the policy need to be updated or improved?

### SEASONAL MIGRANT WORKER RISK ASSESSMENT

**Purpose:** To journey map the risks faced by Cambodian SMWs in Thailand

## GENDER AND SOCIAL EXCLUSION ANALYSIS

**Purpose:** Understand the specific risks faced by women, children, LGBTQ, elderly, disabled, ethnic minorities

8. What challenges/risks are faced by SMWs in particular in working in Thailand?
  - a. Do they face challenges that are different to other migrant workers?
  - b. Do these challenges differ for women, elderly, LGBTQ, minorities?
  - c. What specific risks exist at each stage of the journey from pre-departure through to return?
  - d. What challenges have SMWs in particular faced during the pandemic?
9. What are the vulnerability factors that produce risk for SMWs?
  - a. What specific risks and vulnerabilities are faced by women SMWs? And what about any other social groups?
  - b. What are the impacts of these risks on migrants' families?
  - c. What role does debt play in SMWs decision to migrate and vulnerability to risk?
10. How accessible are social protections and health services to SMWs when they work in Thailand?
  - a. If it is not possible to access under the SMW visa, what can/do SMWs do when needing to access such services?
  - b. How were these services (such as health) accessed during the pandemic?
11. What risks do SMWs face in the workplace?
  - a. What sort of labour abuses are commonly faced by SMWs?
  - b. Does their vulnerability differ to other migrants using other visas?
  - c. What are the experiences of migrant workers in trying to access grievance mechanisms?
  - d. What support can/do they seek if they face labour exploitation?

## WORKER VOICE AND WORKERS PERSPECTIVE

**Purpose:** Understand wants and needs of SMWs on their own terms, identify ways to support SMWs in ways that are meaningful to them

12. Where do SMWs currently go to receive support (e.g. CSO services, unions)? What assistance and services do SMWs need?
  - a. What barriers exist to them receiving this support?
  - b. What service gaps exist?
13. What role does technology play in supporting SMWs?
  - a. Websites, phones, chat groups etc.
  - b. CSO apps such as Winrock's Doc2Work, or Issara's Golden Dreams
14. What recommendations do workers have for improving the SMW visa and policy?

## SUPPLY CHAIN ANALYSIS

**Purpose:** Understand motivations of industry, identify types of employers who use SMWs, find supply chain leverage points

15. What type of employers use the SMW visa?
  - a. Which industries? What areas? Which supply chains?
  - b. Why do they choose to use this mode of hiring?
  - c. Is it used to the benefit of workers? (i.e. is it used to circumvent worker entitlements?)
16. What support do business need to better uphold SMWs safety and rights?
  - a. What challenges does industry face in employing SMWs?
  - b. What recommendations does business have for improving the seasonal visa?

## KII INTERVIEW GUIDE: EMPLOYERS

Start by reading informed consent protocol and obtaining verbal consent.

NB: Lettered questions are potential follow up questions. Not all will be asked.

### INTRODUCTION

1. Can you please introduce yourself, your role and your department/organisation?
  - a. What is your business activity and industrial sector?

### SEASONAL MIGRANT WORKER SITUATION ASSESSMENT

**Purpose:** understanding current use of the SMW visa

### SUPPLY CHAIN ANALYSIS

**Purpose:** Understand motivations of industry, identify types of employers who use SMWs, find supply chain leverage points

2. How does your business currently make use of Seasonal Migrant Workers (**SMWs**)?
  - a. How large is your workforce and how many SMWs are used in your business?
  - b. Are they used in some roles and not others?
3. Why do you choose to use seasonal workers?
  - a. What are advantages and disadvantages of using SMVs?
  - b. How does this compare to using workers through the MOU, regularisation or undocumented or other channels?
4. In general, what would you say is the profile of the businesses that choose to use the SMW?
  - a. Does it suit certain types of businesses, employers or industries more than others?
  - b. Which industries? What areas? Which supply chains?
  - c. Why do they choose to use this mode of hiring?
5. Can you tell us about your recruitment process for hiring workers, including SMWs?
  - a. Where do you find them?
  - b. What middlemen do you use?
  - c. Do you advertise?
  - d. What is the process for processing the workers documents?
  - e. How much does it cost to hire workers and process their documents?
  - f. Are there any loans involved? How much? How are these managed?
6. How long does the worker who holds a seasonal worker pass usually continue working for your business?
  - a. Do you regularly renew the hiring of SMWs? If the worker continues working for more than 3 months for, why don't you hire them through MOU?
7. Can you tell us about the process for renewing SMW Work Permits?
  - a. How do you help to facilitate the seasonal worker to renew their Work Permit?
  - b. What is the role of middlemen or brokers?
  - c. How much does it cost to hire workers and process their documents?
  - d. Are there any loans involved? How much? How are these managed?
8. What has been the impact of Covid-19 on the use of this category of visa?
  - a. What was the situation prior to the pandemic and how is that different from the situation now?



## POLICY ANALYSIS

**Purpose:** Identify policy gaps

9. How does the seasonal migrant worker visa work in theory vs how it works in practice?
  - a. Which laws are followed and which are not?
    - i. Note recruitment fees, time limits, interaction with other visas and undocumented status, labour conditions
  - b. Are there particular industries that use the SMW pass that aren't intended to?
  - c. Are there any regulations or laws that are bypassed by using the visa?
  - d. Is the visa used in any ways that are not allowed or imagined by the law?
  - e. Do workers use the SMW visa in ways that aren't intended (e.g. to find job and to swap to other visa etc.)
10. What gaps currently exist in policy relating to SMWs?
  - a. In your opinion, what aspects of the policy need to be updated or improved?
  - b. Do any parts of seasonal worker regulations need to be changed to fit with reality?
11. As an employer, what are the benefits that you provide to SMWs?
  - a. How does it compare to other worker types you employ?
  - b. Is it the same for other employers that you know?
  - c. What do you do if a worker needs to access healthcare or social services?
  - d. Can you think of an example in which these benefits were provided to one of your SMWs?
  - e. Do you think seasonal workers should be eligible to register for the SSO or not?

## SEASONAL MIGRANT WORKER RISK ASSESSMENT

**Purpose:** To journey map the risks faced by Cambodian SMWs in Thailand

## GENDER AND SOCIAL EXCLUSION ANALYSIS

**Purpose:** Understand the specific risks faced by women, children, LGBTQ, old, disabled, ethnic minorities

12. What do you know about the profile of workers that use the SMW visa at your business?
  - a. How does seasonal work fit within SMWs overall livelihood strategy? (ie. does it complement other forms of income?)
  - b. How do workers usually use the border pass? (ie. migrate with family or alone? Is it used repeatedly or seasonally?)
13. From your knowledge, what challenges/risks are faced by SMWs in migrating to work in Thailand, from pre-departure, living in Thailand, and through to return to Cambodia?
  - a. What challenges have SMWs in particular faced during the pandemic?
  - b. Do these challenges differ for women, elderly, LGBTQ, minorities?
  - c. What steps do you take to prevent risk for SMWs in your business?
14. What information would you like to know more about regarding SMWs and the situation of migrant workers?  
How would this information help you as an employer?
  - a. Do you know where you could find this information?
  - b. What consultation do you currently conduct with your workers? What feedback have you received?
  - c. Could technology play a role in assisting you in hiring migrant workers? What role does it play now?
15. What support do business need to better uphold SMWs safety and rights?
  - a. What challenges does industry face in employing SMWs?
  - b. What recommendations does business have for improving the seasonal visa?

## IDI INTERVIEW GUIDE: SEASONAL MIGRANT WORKERS

*Start by reading informed consent protocol and obtaining verbal consent.*

NB: Lettered questions are potential follow up questions. Not all will be asked.

This interview is to be only lightly structured, and workers are encouraged to tell their story as seems logical to them. Therefore questions are provided only to guide the interview.

### INTRODUCTION

1. Can you please introduce yourself and your home province?
  - a. How long have you lived in Thailand?

### SEASONAL MIGRANT WORKER SITUATION ASSESSMENT

**Purpose:** understanding current use of the SMW visa

2. Can you tell me about how you first came to live and work in Thailand?
  - a. What made you decide to migrate? Whose decision was it?
  - b. What were the factors that influenced your decision?
  - c. How did you find your current job?
  - d. What did you know about the job before leaving Cambodia?
3. Why did you decide to use the Seasonal Work Permit?
  - a. (for example families living near the border, don't have passports, don't have enough money to migrate to urban areas, or just working while waiting to move to urban areas)
  - b. Besides the seasonal worker permit, what do you know about other Work Permit types? Have you ever used them or considered using them?
  - c. Do you have other options to work rather than a seasonal worker pass?
  - d. Do you have another source of income as well?
  - e. Why do you choose to do this rather than work in Cambodia?
  - f. In general, why do you think some workers choose the border pass instead of other types of Work Permit?
4. Can you tell me about how you arranged your employment documents for the seasonal worker pass?
  - a. How did you know about the seasonal worker pass?
  - b. Who helped you to get the seasonal worker pass? How did you know if they were reliable or not?
  - c. How much did you pay for pass and to whom?
  - d. Do you know the required government fee?
  - e. Did you have to take a loan or owe money to pay for the documents?
  - f. Were there any risks in arranging the seasonal worker pass?
5. Can you tell me about how you manage your use of this Border Pass?
  - a. What is the process of renewal?
  - b. How many times have you renewed your seasonal worker pass?
    - i. total number since working in the border area?
    - ii. total number during your work with your current employer?
  - c. How often do you cross the border?
6. Are there any websites or apps you use when arranging your migration or for finding information or help relating to migration?

### SEASONAL MIGRANT WORKER RISK ASSESSMENT

**Purpose:** To journey map the risks faced by Cambodian SMWs in Thailand

## GENDER AND SOCIAL EXCLUSION ANALYSIS

**Purpose:** Understand the specific risks faced by women, children, LGBTQ, old, disabled, ethnic minorities

7. Can you please tell us about your daily living conditions?
  - a. Do you live alone or with family?
  - b. Do you have children, parents, or a partner to take care of?
  - c. How much do you spend for your living cost, food, dormitory, transportation etc.?
  - d. Do you have a passport and freedom of movement?
  - e. How much money do you transfer back to your family?
  - f. Do you have savings or debt? If debt, what do you spend money on?
  - g. How much free time do you have to rest after work, or during your day off? Is it enough?
8. Can you tell me more about your job and your role? What are the work conditions like?
  - a. Which sector are you working for?
  - b. How many hours do you work per day, regular hours and OT?
  - c. How many days do you work per week and month?
  - d. Do you receive piecework, work hours, daily, weekly, or monthly payment?
  - e. Do women and men get the same job and receive equal income?
  - f. Are there any jobs that refuse to hire women?
  - g. What are benefits/welfare that you receive for your employment, for example earning income when taking a sick leave or employer paying for your document fee?
9. What are the challenges you face in your job or as a migrant in Thailand?
  - a. What do you do if you get sick?
  - b. What do you do if you can't meet your expenses?
  - c. Did you face challenges during Covid?
    - i. Did your employer help you?
    - ii. Did you receive assistance from anyone else?
  - d. Are there any things at your job that you think are unfair?
10. From your perspective, what are labour rights and are they important?
  - a. Do you know about labour rights and welfare of seasonal workers?
  - b. How have you learned about labour rights?
  - c. If you want to learn more about labour rights, where would you go to find out that information? Are there any websites or apps you use to find information?
  - d. Have you ever experienced a labour rights violation?
  - e. Have you ever accessed welfare or labour rights protection?
  - f. If yes, do you have anyone help you along the process?
  - g. How do you handle a situation if you experience labour rights violation or feel not comfortable with the workplace and employment?
11. If you ever have a problem with your job or living conditions in Thailand, what options do you have to go for help?
  - a. How do you know about these options?
  - b. Are there any websites or apps you use when getting help?
  - c. Can you think of an example of a time you or someone you know needed to get help?

## POLICY ANALYSIS

**Purpose:** Identify policy gaps , identify intervention ideas

## WORKER VOICE AND WORKERS PERSPECTIVE

**Purpose:** Understand wants and needs of SMWs on their own terms, identify ways to support SMWs in ways that are meaningful to them

12. What are your plans after the seasonal pass expires and into the future?
  - a. Will you return again?
  - b. Will you keep the same employer? Will you work in the same industry?

- c. Will you use the Border Pass again? Will you swap to the MOU?
  - d. What will you do for income in Cambodia?
  - e. What are your long-term plan and goals?
13. Overall, do you think the Border Pass system works well for workers? Why or why not?
- a. How does the SMW visa work in theory vs how it works in practice?
  - b. What laws are followed and which are not?
    - i. Note recruitment fees, time limits, interaction with other visas and undocumented status, labour conditions
  - c. Is it of benefit to workers?
  - d. Are there any regulations or laws that are bypassed by using the visa?
  - e. Do workers use the SMW visa in ways that aren't intended (e.g. to find job and to swap to other visa etc)

## RECOMMENDATIONS

14. What do you think it would be helpful for employers and governments to understand better about Border Pass workers? What difference might this make?
15. If you can recommend any change to the Seasonal Worker Pass system, what would it be?
- a. How would that change help you and what impact would it have on your life?
16. What recommendations would you make to a CSO or NGO that was trying to support Season Pass workers to work safely in Thailand?
- a. What could they do to make SMWs safer when working in Thailand?





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