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Institute for Population
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Project Labor Migration MMC-JRU Social Lab Agriculture Policy Dialogue: Situation Report

ILO Project:

Strengthening policy advocacy of
migrant workers' labour rights in Thailand,
focusing on agriculture



2022

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Background

Thailand's agricultural work is a key sector that is highly under-regulated, irregular, and precarious. These challenges are further exacerbated by the COVID-19 pandemic. The absence of a coherent long-term policy for the industry has made it challenging to safeguard migrant workers' rights and provide access to a fair labor market. Areas that need improvement include: 1) exploitation by brokers, 2) complicated and costly worker registration processes, 3) uncertain social protections, and 4) low medical coverage. Along with the existence of competing interests among key stakeholders, these areas make migrant workers more susceptible to discrimination, workplace exploitation, health and safety hazards, and risks of forced labor. This situation report is

based on the day-long discussion held on 25 November 2022 at Ibis Hotel, Chiang Mai among key stakeholders including: 10 agricultural workers from the Northern Migrant Workers Federation, Thailand CSOs including Migrant Working Group, Human Rights Development Foundation Chiang Mai staff, faculty members from Humanities and Law Departments Chiang Mai University, Law Department Chiang Mai Rajabhat University, Institute for Population and Social Research Mahidol University, Chiang Mai and Nan government officials from Department of Employment, Department of Labor Protection and Welfare, Immigration Police, Betagro, and discussion sessions were co-led by ASEAN-Act, with approximately 43 in attendance.



Registration and Hiring

Problems and challenges

Thailand's policy implementation post-Covid-19 increased the registration cost and procedural difficulty. Registration procedures only allow employers to register their workers, reducing worker autonomy and the ability to control their registration costs and process. Often hiring brokers, employers pass on the additional cost to workers in the amounts of 6,000–10,000 Baht for registration. There were no workers at the meeting able to register themselves without assistance.

The current situation is not sustainable as a long-term policy. The nature of agricultural work is highly precarious, not secure full-time work, which makes workers seek employment with multiple employers to earn enough to live. The current Thai government registration system is modeled on full-time employment with one employer. The current laws and regulations are contradictory, inflexible, and unrealistic toward the realities of the sector. Furthermore, the conflict in neighboring Myanmar has left many workers without




legal documents (unprocessed or extremely backlogged), leaving many agricultural migrant workers undocumented. The meeting found that many workers were employed by multiple employers, working within one year (in the same province). And on many occasions, migrants are working for multiple employers at the same time. For example, when the registered employer's planting or harvest season is over, there is no work and no pay; hence workers will seek additional jobs nearby in other crops and tasks, or across sectors like construction.

Providing direct government services in the document and procedural assistance would reduce the grey market economy of document brokers, hence reducing real costs and debts. Furthermore, the Department of Employment demonstrates a need to both streamline and reduce documentation, as well as increase interpretation services. It is necessary to invest in translation and interpretation services (including ethnic languages) to communicate effectively with workers.

While the departmental-level regulations appear more easily remedied, national-level restrictions on trade unionism for foreign migrant workers to lead their organizations are an obstacle toward true tripartite labor practices. Migrant advocate organizations continue to play a major role in order to fill the vacuum of trade unions.

Lastly, the agricultural sector heavily involves family migration, with child dependents and elderly parents. While this is legal and allowed, many accompanying family members do not receive any social protection and are often left with no health insurance. There are four obstacles to health coverage: 1) children over 7 must pay the same amount as an adult;

2) despite many undocumented workers from Myanmar, accompanying family members may not purchase health insurance without the primary worker having documentation; 3) because agriculture is categorized as seasonal, there is no compulsory employer contribution; and 4) agricultural worker families receive such low earnings that purchasing health insurance for accompanying family members is not possible or only bought when the family member faces a life-threatening situation. Currently, migrant workers cannot even register their accompanying family members and must seek the approval of their registered employer to do so on their behalf.

Issue/ Challenge	Doing what?	Who is responsible?
 <p>Registration</p>	<ul style="list-style-type: none"> • making proposals to the government • Add employer, work area • Login to the Social Security System • Provide a language interpreter • New model such as 33/1 (4 cases of illness, disability, death, and maternity) for all forms of non-continuous agricultural workers. (Conditions the employer must agree to from the beginning) <p>* There is no time frame that it has been 6 months under Section 33/มาตรา 33.</p>	<p>Northern Labor Network is currently providing services to migrant workers to fill in the void from DOE;</p> <p>HRDF assists workers on a case-by-case basis</p>
 <p>Data registration system</p>	<p>Registered volunteers (training) workers from labor groups</p>	<p>Department of Employment</p>
 <p>Interpreter Group</p>	<p>Registered volunteers and professional interpreters needed</p>	<p>Department of Employment</p>



Recommendations

- 1 Re-establish province-level One-stop service
- 2 Recategorize as a year-long agricultural work permit
- 3 Establish a new combined work permit system + health insurance card (Department of Employment)
- 4 Include social security rights to address access to health insurance
- 5 Employers can employ in every district in one province, with at least one main employer registered with the Department of Employment and Department of Labor Protection and Welfare; registering no more than four employers
- 6 Provide ethnic language interpreters for all relevant departments.
- 7 Payment in accordance with Section 39/มาตรา 39 (Continuous Employment)
- 8 Open registration all the time, reducing crowds of people and brokers dominating the reservation cues
- 9 Provide outreach to migrant workers through rights awareness training during the registration process
- 10 Need a simple self-registration online system because it is difficult to register (self-registration by the worker is not currently allowed),
- 11 Reduce the hassle of paperwork, but keep in-person services at Department of Employment
- 12 Organize old and new labor registration groups, gathered as a non-recurring system (Online)



Ensuring Labor Protections

Currently, agricultural workers are categorized as irregular workers or independent contractors, disqualified from social security programs. Furthermore, access to labor disputes and arbitration is limited due to insufficient outreach and complaint mechanisms. Often overlooked in the securing of labor and social protections is the role of locally based civil society organizations CSOs (both worker organizations and migrant worker advocates), which often aid in accessing the complaint mechanisms. According to CSOs, there is a lack of information on labor rights even among government officers and




employers. The compartmentalization of government units responsible for different aspects creates a barrier against effective and efficient labor protections in the registration process, workplace, and residential areas.

Additionally, registration, workplace, and chemical inspections are gravely needed in agriculture to address the occupational safety and hazards that extend into living quarters inside the planting/spraying areas.

Lastly, Corporate Social Responsibility CSR programs by larger businesses are increasing, but agriculture growers are still operating indirectly through

sourcing companies making responsible labor tracing difficult. Both the Thai government and large exporting companies need to consider labor responsibility as market barriers in international trade are real risks in

reducing Thailand's standing as an agricultural exporter. CSR programs may establish benchmarks for labor standards but pass on the costs of ensuring social responsibilities to growers.

Issue/ Challenge	Doing what?	Who is responsible?
 <p>Increase labor and social protections</p>	<p>Being the main agency in worker/ employer training</p> <ul style="list-style-type: none"> • Training content + outreach teaching materials • Budget (Multilingual) • Communication channels (hotline, complaints) • Extend educational transportation and access to migrant children • Extend social security for health medical care access • Extend a more active workers' compensation program for injuries/ death 	<p>Entire Ministry of Labor working with Social Security</p> <ul style="list-style-type: none"> • proactive work <p>Personnel + Technology Ministry of Education</p> <p>Corporations - CSR</p>
 <p>Lack of knowledge</p>	<p>Mechanisms for 3 levels of knowledge</p> <ul style="list-style-type: none"> • related agencies • employer • Employee/Migrant Worker <p>* Training before and after the labor permit application process</p> <p>* VDO learning media</p> <ul style="list-style-type: none"> - Wages, working hours, rights, and benefits - pre-test and post-test 	<ul style="list-style-type: none"> • Government + civil society • Local-level village volunteer groups • Farmer's cooperatives • Corporations
 <p>Lack of knowledge shared</p>	<ul style="list-style-type: none"> • Government investment • knowledge support • Council of leaders/communicators/ volunteers 	<ul style="list-style-type: none"> • Educational institutions and academics



Recommendations

1

Creation of a provincial labor working committee for labor protections and monitoring complaint mechanisms



Note: Govt. (Labor, Interior, Public Health and Immigration)

2

Allowing Employment- multiple employers within the same period

3

Include agricultural workers for social security benefits (even with multiple employers)

4

Improve complaint Mechanism (subsystems and overview) Who can complain? Increase channels for complaints, worker self-reporting on safety

5

Support knowledge, budget, and personnel (Office of the Permanent Secretary, Ministry of Labor) tasked with training to educate employers and workers directly (Rights, Welfare, Policies, and Documents)

6

Require rights awareness training like MOU workers

7

Create additional categorized as skilled agricultural workers

8

Hotline expansion, two-way communication with media production for workers

9

Wholistic approach to include social protections for accompanying family members, especially migrant children's access to health insurance and education

10

Translation/ Interpretation in a variety in ethnic languages that communicate to all groups of workers

11

Develop an infrastructure for socially responsible and fair labor tracing (DLPW, CSR-industry, and CSOs)