

Mekong Migration Network

Social Protection Across Borders - Policy Brief October 2019



Prospective migrants attend a pre-departure orientation provided by a recruitment agency in Yangon, Myanmar. Photo: MMN

INTRODUCTION

Migrant workers from Cambodia, Myanmar and Vietnam are increasingly filling gaps in the labour markets of a growing number of Asia-Pacific economies.¹ Arriving as adults and often leaving before retirement, these migrant workers make significant contributions to social protection schemes both at home and abroad,² yet remain insufficiently protected in terms of their life cycle needs. Precarious work and migration policies based on temporary residence generally impede access to the benefits of social protection, while the absence of bilateral portability agreements makes it difficult for

migrants to ever see the fruits of their contributions. In light of such problems, the Mekong Migration Network (MMN) has sought to focus attention on this aspect of the labour migration process as a way of improving the quality of life and well-being of migrant workers. During 2018 and 2019 MMN carried out a study focusing on the roles played by countries of origin in enabling their citizens to benefit from social protection schemes while abroad and upon return. This culminated in the publication of *Social Protection Across Borders: Roles of Countries of Origin in Protecting Migrants' Rights*,³ which was launched at the 2nd Policy Dialogue on Roles of Countries of Origin, held in Phnom Penh, Cambodia, on 16-17 September 2019.

- 1 For example, according to a study by the ILO and OECD, migrants were responsible for 4.3 - 6.6 per cent of Thailand's GDP in 2010, cited in ILO, "TRIANGLE in ASEAN Quarterly Briefing Note", April - June 2019, accessible at https://www.ilo.org/wcmsp5/groups/public/---asia/--robangkok/documents/genericdocument/wcms_614383.pdf.
- 2 While the term social protection refers to a wide-ranging basket of actions designed to alleviate poverty, for the purpose of this brief MMN limits its focus to formal government policies and programmes.
- 3 MMN, "Social Protection Across Borders: Roles of Countries of Origin in Protecting Migrants' Rights", September 2019, accessible at http://www.mekongmigration.org/wp-content/uploads/2019/09/Book_Social-Protection-Across-Borders_for-Web.pdf.

MMN, therefore, welcomes the outcome of the 3rd Ministerial Conference on Labour Cooperation among Cambodia, Lao PDR, Myanmar, Thailand and Vietnam (CLMTV), that a mechanism to facilitate the portability of social security for migrant workers between CLMTV countries will be put in place.⁴ This builds on initiatives taking place at the Association of Southeast Asian Nations (ASEAN), who have adopted the Declaration on Strengthening Social Protection at the 23rd ASEAN Summit in 2013. The Declaration includes an acknowledgement that all people, including migrant workers, are entitled to equal access to social protection as a fundamental human right.⁵ The need to extend social protection for migrant workers and work towards the portability of social security of migrant workers in ASEAN was reiterated during the 9th ASEAN Forum on Migrant Labour (AFML) held in Vientiane in 2016.⁶

This policy brief aims to inform the development of this mechanism and add the voice of migrants to the wider policy debate by setting out insights generated from MMN's latest research,⁷ and subsequent Policy Dialogue where our research findings were discussed in a multi-stakeholder setting.⁸ The sections below highlight country of origin specific policy gaps based on the experiences of migrant workers and provide some workable recommendations to governments and recruitment agencies.

POLICY GAPS

Cambodia

Under Cambodia's framework for labour migration governance, private recruitment agencies play the leading role in ensuring that migrants have access to social protection programmes in destination countries.⁹ The actions of recruitment agencies are, in this regard, subject to regulation by the Ministry of Labour and Vocational Training (MOLVT), who are also responsible for negotiating with government counterparts in destination countries to ensure that Cambodian



Migrant Workers study the laws, lifestyle and culture of Japan at a pre-departure orientation for Japan-bound workers at the Ministry of Labour and Vocational Training in Phnom Penh, Cambodia. Photo: MMN

migrant workers receive the social protection that they are entitled to.¹⁰ In the course of MMN's research to better understand the practicalities of these arrangements, Cambodian migrant returnees from Japan and Thailand, generally reported receiving very little information from recruitment agencies regarding social protection programmes in destination countries. As one migrant interviewee remarked:

"I did not receive the information about the insurance schemes nor the benefit for migrant workers... If I received that information it would be useful for me and I could get more benefits".¹¹

Given that very few ordinary Cambodian citizens have experience of government social protection schemes, the majority of migrant workers interviewed said they often only understood their significance once in destination countries. In some cases, migrants were completely unaware of the protection schemes they were paying into and the various benefits they were entitled to:

4 See Press Release from the Cambodian Ministry of Labour and Vocational Training dated 17 September 2019, available on file with MMN.

5 ASEAN, "ASEAN Declaration on Strengthening Social Protection and Regional Framework and Action Plan to Implement the ASEAN Declaration on Strengthening Social Protection", p. 3 (principle 1), accessible at <https://asean.org/storage/2019/01/26.-November-2018-ASEAN-Declaration-on-Strengthening-Social-Protection-1st-Print.pdf>.

6 ASEAN, "Recommendations from the 9th ASEAN Forum on Migrant Labour", 9-10 November 2016, accessible at <https://asean.org/storage/2012/05/Recommendations-of-the-9th-AFML-9-10-November-2016-Vientiane-Lao-PDR.pdf>.

7 See, MMN, "Social Protection Across Borders", above.

8 For details see MMN webpage entitled, "MMN Holds the Second Policy Dialogue on Roles of Countries of Origin to Launch "Social Protection Across Borders", accessible at <http://www.mekongmigration.org/?p=7583>.

9 See Sub-decree 190 on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies, 2011, Article 33, which states that "recruitment agencies shall be responsible for making arrangements to ensure that workers who are sent abroad will receive appropriate social security regimes in accordance with the applicable laws and regulations of the receiving country". An English translation of the text is accessible at <http://www.mekongmigration.org/wp-content/uploads/2008/05/PDF49.2KB.pdf>.

10 Ibid., Article 34.

11 See MMN, "Social Protection Across Borders", p. 36, above.



A Cambodian migrant worker repairs a fishing net in Rayong, Thailand. Photo: MMN/ John Hulme

“While I was working in Japan, I did not receive any information about insurance schemes in Japan either. My employer or recruitment agency never mentioned it. Also, I did not know if I had enrolled in the insurance programmes or not, but I think I did. Every month, the employer deducted my salary. However, I was not clear what kind of programme I had contributed towards. The employer never told me about it.”¹²

The limited understanding among migrants indicate that Cambodian recruitment agencies need to do more to emphasise the importance of social protection schemes and provide necessary assistance. At the same time, greater information outreach by Cambodian labour counsellors stationed at embassies and consulates in destination countries would improve the current situation. Cambodian migrant returnees interviewed by MMN were receptive to the idea that labour counsellors play a more active role:

“I think that the Cambodian embassy in Japan and the MOLVT can help me enrol in insurance programmes in Japan and receive benefits because they are authorised to help migrant workers and have connections with the Japanese government.”

In terms of access to social protection upon return, migrant returnees from Thailand and Japan interviewed by MMN were generally unfamiliar with Cambodia’s developing social security system. Currently, migrant

workers are not eligible to participate in the country’s social security system, although there are plans to extend membership to them and establish a Migrant Welfare Fund.¹³ Regarding the transfer of social security benefits accrued abroad, many migrant returnees from Thailand did not know that in certain circumstances they were entitled to withdraw a lump sum for their contributions paid into Thailand’s pension scheme. Those who were aware were at a loss as to how to go about retrieving entitlements since no portability procedures are currently in place. It is hoped that the planned mechanism to facilitate the portability of social security for migrant workers between CLMVT countries will remedy this situation and encourage the development of social security systems in Cambodia and other countries of origin.



MMN delegates pay a home visit to Cambodian migrant workers in Kanagawa, Japan. Photo: MMN

Myanmar

While no specific regulations require the authorities or private recruitment agencies in Myanmar to support migrant workers’ access to social protection, a voluntary code of conduct encourages good practice in this regard.¹⁴ Information is therefore included within the pre-departure training curriculum delivered to migrant workers bound for Thailand under formal MOU procedures and to Japan as technical intern trainees. Where such information is imparted, MMN found that it was often incomplete:

“I knew I had to pay into the [Japanese] pension scheme, health insurance and employment insurance, but I did not know how much.”¹⁵

¹² Ibid.

¹³ The Royal Government of the Kingdom Cambodia, “Draft Policy on Labour Migration for Cambodia 2019-2023 (Unofficial Translation)”, 2019, p. 41 (Policy Goal 11.1).

¹⁴ For instance, para D (2) states that recruitment agents “With the supervision of MOLIP [Ministry of Labour, Immigration and Population] and in coordination with ILO and civil society groups ensure that all migrants receive pre-departure training which includes at a minimum: details of employment contract, labour laws and labour rights, complaint mechanisms, social security, health care and access to health systems...” See Code of Conduct for the Members of the Myanmar Overseas Employment Agencies Federation, 2016, p. 14, accessible at https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/genericdocument/wcms_622961.pdf

¹⁵ See MMN, “Social Protection Across Borders”, p. 60, above.



Migrant workers from Myanmar attend an International Women's Day event in Chiang Mai, Thailand. Photo: MMN

Similarly, MMN interviews with migrant workers and returnees from Thailand, found that they were often unaware of social protection programmes available in Thailand before leaving.

"I only learnt of it [the Thai social security system] after I received the social security card and noticed contributions were deducted from my salary".¹⁶

Migrants who have had their nationality verified by the Myanmar authorities in Thailand lamented an opportunity missed, as the contact provided an ideal opportunity to impart information on social protection matters. Furthermore, a lack of clarity as to the roles and responsibilities of labour attachés may explain why many migrants do not approach embassies for assistance when encountering problems in accessing social protection programmes. As one migrant worker remarked:

"I did not try to ask for support from the embassy when claiming benefits in Thailand. I thought I couldn't ask for help because I never finished my contract".¹⁷

Migrant workers from Myanmar face other challenges accessing social protection schemes in Thailand. For instance, MMN's research found that migrant workers who switch immigration status face particular difficulties. In the Thai border town of Mae Sot, migrants stated that they became ineligible for social security after changing immigration status to become seasonal workers under the border pass scheme. One migrant worker in this situation expressed concerns about losing the benefits she originally enjoyed:

"I was previously enrolled in the social security system and contributed for six years while I had my temporary passport. After that, my factory manager changed my temporary passport to the border pass... so I lost many of my benefits under the system. With the border pass, I could only buy a three-month insurance plan from the Mae Sot Hospital... Before, I received a lot of benefits under the Social Security System. I used my social security for surgery at the hospital and did not need to pay anything".¹⁸

¹⁶ Ibid., p. 58.

¹⁷ Ibid., p. 64.

¹⁸ Ibid., p. 75.



A migrant worker at a small-scale furniture factory in Mae Sot, Thailand. Photo: MMN/John Hulme

Upon return to Myanmar, the majority of interviewees stated that they had not enrolled in the country's nascent social protection programmes. This was primarily down to a lack of knowledge regarding the provision of domestic schemes:

"I did not know anything about social security in Myanmar. No one was collecting contributions from me and no one told me about it".¹⁹

Other migrant returnees had raised expectations having worked abroad:

"If the Myanmar government provided social security and health insurance like they do in Thailand, workers would be much more happy and healthy".²⁰

Regarding returnees' access to benefits accrued in destination countries, the Myanmar government has yet to establish portability mechanisms to facilitate

such transfers. Most migrant returnees from Japan negotiate the process of retrieving lump sum pension payments unaided, while others seek assistance from recruitment agencies or third parties. The only returnee interviewed by MMN who was assisted by a recruitment agency in Myanmar recounted a positive experience:

"I did not have to ask for assistance to apply for the lump sum. My recruitment agency processed all the documents for me and I did not have to pay anything".²¹

However, another migrant returnee reported being approached by a company offering to help claim the pension lump sum in exchange for a 15,000 to 20,000 Kyat (USD 10-13) commission.²² As with their Cambodian counterparts, the majority of Myanmar migrant returnees from Thailand also reported being unaware of the possibility of withdrawing contributions made towards Thailand's pension scheme. The few who were aware of the possibility had more or less given up hope of recovering any money:

¹⁹ Ibid., p. 76.

²⁰ Ibid., p. 77.

²¹ Ibid., p. 78.

²² Ibid.



A Burmese migrant working in a garment factory in Komatsu, Japan. Photo: MMN/ John Hulme

*“Because many of us contributed to the [Thai pension] system and didn’t get anything back, we just considered it as a donation”.*²³

Vietnam

The government of Vietnam endeavours to protect the rights of its nationals migrating abroad through wide-ranging laws and policies and by delegating responsibilities to government bodies and recruitment agencies. In terms of assisting access to overseas social protection, regulations require that recruitment agencies provide specific information on social insurance in destination countries.²⁴ The Vietnam Association of Manpower Supply (VAMAS), has adopted a Code of Conduct,²⁵ and published a series of destination specific pamphlets that include information on relevant social protection programmes.²⁶ However, MMN’s research found that the quality, method and timing of information dissemination could be strengthened. As one Vietnamese migrant returnee from Japan noted:

*“The information on health insurance, workers’ accident compensation insurance, and pension insurance I received was clear, but not very detailed. However, it only fully made sense when I experienced it there”.*²⁷

Another added that:

*“I only knew [about insurance schemes in Japan] at the time of signing the contract of employment. I was told about deductions, but I did not pay much attention. No one told me about it [insurance schemes in Japan] before, even when I was studying Japanese”.*²⁸

While abroad, migrant workers can seek assistance from labour attachés posted at certain Vietnam embassies and consulates. Vietnamese migrant returnees interviewed by MMN, however, favoured contacting recruitment agents and supervising organisations to solve problems including those related to social protection programmes.

Unlike the other countries of origin surveyed, Vietnam has a relatively well established social security system,



Prospective migrants bound for Japan attend a language training course provided by a recruitment agency in Hanoi, Vietnam. Photo: MMN



A training centre set up by a recruitment agency in Hanoi, Vietnam. Photo: MMN

²³ Ibid.

²⁴ See for example, Department of Overseas Labour, (DOLAB) Document No. 2456/QLLĐNNBCAĐNA of 21 December 2017 and DOLAB Document No.1123/LĐTBXHQLĐNN of 6 April 2016 on measures to send Vietnamese trainees to Japan. (In Vietnamese).

²⁵ VAMAS “Code of Conduct Applied to Vietnamese agencies sending workers for overseas employment”, 2018, accessible at <https://www.ilo.org/dyn/migpractice/docs/188/Text%20of%20the%20code.pdf>.

²⁶ See for example the pamphlet developed by VAMAS entitled, “Basic Knowledge and Information Material for Migrant Workers Travelling to Malaysia (in Vietnamese)”, accessible at <http://vamas.com.vn/Portals/0/Document/MaLaysia%20camnang.pdf>; and VAMAS, “Basic Knowledge and Information Material for Migrant Workers Travelling to Japan (in Vietnamese)”, accessible at <http://vamas.com.vn/Portals/0/Document/Japan.pdf>.

²⁷ See MMN, “Social Protection Across Borders”, p. 112, above.

²⁸ Ibid., p. 98.

including a Compulsory Social Insurance scheme that covers sickness; maternity; work related accidents and occupational diseases; retirement and survivorship allowances. This scheme is designed for formal workers, *including* regular outbound migrant workers under fixed-term contracts.²⁹ Despite its compulsory nature, MMN's research found that enrolment rates among overseas migrants remains low. One migrant returnee from Japan explained:

"I did not participate in the Vietnamese social protection schemes, as it was not required by anyone and I really did not know how to enrol. Nobody told me about this".³⁰

Enforcement is likely to remain problematic as current legislation creates a situation whereby migrants are obliged to pay into social insurance schemes in both their home and destination country. This double payment scenario can be avoided with enhanced international cooperation between Vietnam and destination countries. As another migrant returnee interviewed by MMN noted:

"I did not enrol in social insurance scheme in Vietnam. There was no relationship between the insurance schemes in Vietnam and in Japan".³¹

Unlike Cambodia and Myanmar, Vietnam has a compulsory Overseas Employment Support Fund. The fund is used for a variety of purposes, including supporting migrant workers in the event of illness, injury, death, or other exceptional circumstances. Migrant workers, interviewed by MMN expressed a certain degree of ambivalence towards the fund, some regarded their contributions as a form of "support" or "donation", while others did not know of the benefits and were not even sure if they had contributed:

"I cannot remember if I contributed or not. However, I think that I contributed via the recruitment agency, as it might be included with other payments".³²

It has been reported that the government of Vietnam has been negotiating with a number of destination countries for bilateral social insurance agreements. However, at the time of writing, no such agreements have been put in place.



A construction worker in Hanoi, Vietnam. Photo: MMN

29 See Article 2 (1g) of Law on Social Insurance (No. 58/2014/QH13), that came into effect on 1 January 2015.

30 See MMN, "Social Protection Across Borders", p. 134.

31 Ibid.

32 Ibid., p. 137.

RECOMMENDATIONS

Based on our study *Social Protection Across Borders* and subsequent Policy Dialogue, MMN makes the following stakeholder recommendations to improve migrants' access to social protection.

To Governments of Countries of Origin:

1. **Enhance information dissemination to migrants.** This should include the proactive use of social media to disseminate information on social protection programmes of destination countries and countries of origin. Materials need to be made available in different ethnic minority languages and in a format that is easy for migrants to understand.
2. **Effectively regulate recruitment agencies** to ensure that they carry out their responsibilities towards the protection of migrant workers including access to social protection while keeping cost structures transparent.
3. **Advocate with governments of destination countries** to reduce the barriers faced by migrant workers accessing social protection. Negotiations should also aim to ensure that there is no loss of social security benefits when migrant workers change immigration status.
4. **Improve communication and cooperation between labour attachés/counsellors and civil society organisations,** to better understand the needs of migrant communities and share information, with due respect to privacy.
5. **Clarify the roles and responsibilities of labour attachés/counsellors** with respects to assisting migrant workers accessing social protection schemes in destination countries. Governments of countries of origin should provide support and oversight for effective implementation of their mandates.
6. **Develop inclusive social protection programmes** that migrants can voluntarily participate in and access when abroad.
7. **Establish flexible money transfer systems** that allow migrants to contribute to social security schemes through digital payment systems.
8. **Take steps towards establishing a welfare fund for migrants** in all countries of origin.
9. **Collectively pursue the goal of portable or transferable social security for migrant workers,** and ensure migrant workers are not subject to double payment. Lobby for the formation of a subcommittee under the ASEAN Committee on Migrant Workers to develop a framework for the mobility of social protection.

To Recruitment Agencies:

1. **Improve the consistency and quality of pre-departure training/orientation** to ensure that prospective migrant workers receive accurate and complete information before migrating abroad. This includes information relating to migrant workers' terms of employment, applicable labour law, their rights to contribute and benefit from various social protection schemes, roles and responsibilities of relevant actors in destination countries and how to seek overseas assistance via embassies and consulates in the event of problems. Moreover, providing supplementary information through on-site/ post-arrival trainings and briefings upon return may be effective in ensuring migrant workers receive timely information.
2. **Strengthen assistance provided to migrant workers,** including access to social protection programmes of destination countries while abroad and upon return.



Mekong Migration Network (MMN)

The Mekong Migration Network (MMN) is a subregional network of migrant support NGOs, migrant grassroots groups, and research institutes working together to promote and protect rights of all migrants in the GMS

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