

The image features a photograph of a bus with passengers, overlaid with a silhouette of a person working on a building at sunset. The bus is the central focus, with several people sitting on the seats. A license plate with the number '9B-6276' is visible on the front. The background shows a cityscape with buildings and a bright sky, suggesting a sunset or sunrise. The overall tone is warm and golden.

# Permanently Temporary:

## Examining the Impact of Social Exclusion on Mekong Migrants

Mekong Migration Network (MMN)

October 2016

Supported by the Toyota Foundation



The background of the top half of the page features a grayscale silhouette of a construction site. Two workers are visible: one on the left wearing a hard hat and another in the center using a long-handled tool, possibly a shovel or pry bar, on a structure. The scene is set against a light, hazy background.

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Mekong Migration Network  
October 2016

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# Acronyms

AEC	ASEAN Economic Community
ARV	Antiretroviral Drugs
ASEAN	Association of Southeast Asian Nations
CBO	Community-based Organisation
CSO	Civil Society Organisation
EU	European Union
GDP	Gross Domestic Product
GMS	Greater Mekong Sub-region
HEF	Health Equality Fund
HIV	Human Immunodeficiency Virus
IGO	Inter-governmental Organisation
ILO	International Labour Organization
IOM	International Organization for Migration
JITCO	Japan International Training Cooperation Organization
MIC	Multi-language Information Centre
MMN	Mekong Migration Network
MOLVT	Ministry of Labour and Vocational Training
MOU	Memorandum of Understanding
NAP	National Action Plan
NGO	Non-governmental Organisation
NSSA	National Skills Standard Authority
SHARE	Services for the Health in Asian & African Regions
THB	Thai Baht
TITP	Technical Intern Training Program
UK	United Kingdom
US	United States
USD	US Dollar
YWCAAPT	Young Women's Christian Association-Asian People Together

# INTRODUCTION & BACKGROUND

## 1.1 Introduction

Migrant workers make a significant contribution to the socio-economic development of the Mekong Sub-region and beyond. They work in jobs that local workers are unable or unwilling to take and add immeasurably to the cultural fabric of the countries where they reside. However, despite the crucial role migrants play in the functioning of the economy, governments of popular destination countries in Asia appear content to formulate law and policy based on the notion that migration is a purely temporary phenomenon.<sup>1</sup> As a result, regulations governing labour migration are typically ad hoc in nature, exclude any prospect of family unification, restrict migrants to “unskilled” sectors, and preclude any possibility of acquiring permanent residence or naturalising as citizens.

These issues are of longstanding concern to the Mekong Migration Network (MMN).<sup>2</sup> We have witnessed through work over a number of years how temporary migration policies contribute to the social exclusion of migrants by trapping them in a “spiral of disadvantage”,<sup>3</sup> where they are forced to live a precarious existence, vulnerable to labour exploitation and at perpetual risk of removal. Given the reality that migrants often live for many years and establish families in destination countries, policies based on a “myth of migrant return” raise a number of unanswered questions regarding the politics of identity and belonging, not least: How long is temporary?<sup>4</sup> How long is it acceptable for migrants to be treated as permanent outsiders in the place where they have made their home? And how should the children of migrants, who have spent the best part of their lives outside their parents’ country of origin, be treated by the state in which they reside as well as that of which they are nationals?

These questions were the object of lively debate at MMN’s recent Mekong Symposiums on Migration,<sup>5</sup> where representatives of Community-based Organisations (CBOs), International Non-governmental Organisations (NGOs), Inter-governmental Organisations (IGOs), academics, and government officials met to develop strategies to further social inclusion and achieve a better understanding of multiculturalism in Mekong society. At these events it became evident that much of the insecurity described by migrants stems from their precarious immigration status. What’s more, policies of temporary migration appear to have a ripple effect, in the sense that they are becoming the new norm in countries of destination, as well as contribute to the social exclusion of migrant returnees and the family members of migrants who remain in countries of origin.

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<sup>1</sup> This is sometimes referred to as the “myth of temporary migration” or “myth of return”. See Stephen Castles, *The Challenge of Multiculturalism: Global Changes and Australian Experiences*, University of Wollongong, Working Paper 19, 1992, p. 25, available at <http://ro.uow.edu.au/cmsworkpapers/17>; Mohammed Anwar, *The Myth of Return: Pakistanis in Britain* (London, Heinemann Educational Books: 1979).

<sup>2</sup> Mekong Migration Network (MMN) is a sub-regional network of civil society organisations working towards the protection and promotion of migrants’ rights in the Mekong Sub-region, which includes Thailand, Laos, Cambodia, Myanmar, Vietnam, and southern China. See among others, MMN, *The Precarious Status of Migrants in Thailand: Reflections on the Exodus of Cambodian Migrants and Lessons Learnt* (December 2014), available at [http://www.mekongmigration.org/?page\\_id=2923](http://www.mekongmigration.org/?page_id=2923).

<sup>3</sup> Department of Social Security, *Opportunity for All: Tackling Poverty and Social Exclusion* (September 1999), p. 23, available at <http://www.bristol.ac.uk/poverty/downloads/keyofficialdocuments/Opportunity%20for%20All%201999%20Full%20Report.pdf>.

<sup>4</sup> Quoting Jackie Pollock in MMN, *Proceedings of the Mekong Symposium on Migration: Migrants from the Mekong Neighbourhood “Living Together: Seeking Effective Responses to Enable Integration and Social Cohesion”* (September 2013), p. 14, available at [http://www.mekongmigration.org/Symposium%20Proceedings\\_Final.pdf](http://www.mekongmigration.org/Symposium%20Proceedings_Final.pdf).

<sup>5</sup> *Ibid.*; MMN, *Proceedings of The Mekong Symposium on Migration: “Embracing Diversity”: Seeking Multicultural Values and Mutual Understanding* (October 2014), available at [http://www.mekongmigration.org/?attachment\\_id=2972](http://www.mekongmigration.org/?attachment_id=2972).

With these issues in mind, MMN has sought to achieve greater understanding of social exclusion that occurs within the Mekong migration experience. As such, this paper provides a critical analysis of the issue as experienced by Mekong migrants in two popular destination countries (Thailand and Japan), and migrant returnees and family members left behind in two important countries of origin (Myanmar and Cambodia). Country chapters begin with an overview of the present migration situation set out in a box article. Thailand and Japan were selected as the destination sites of investigation as they exemplify contrasting patterns of labour migration in East Asia. Thailand's long porous land bordering Myanmar, Cambodia, and Laos has enabled significant levels of spontaneous migration. The Thai government has responded to this challenge by way of periodic amnesty-type registration schemes that semi-regularise the status of large numbers of undocumented migrants for short periods of time.<sup>6</sup>

In contrast, Japan as an island nation is largely closed to migration. That said, its rapidly aging population has seen the country come to rely on migrant labour in ever increasing numbers. While Japan has recently been keen to attract "highly skilled foreign professionals",<sup>7</sup> it does not officially permit "unskilled" workers to enter the country. Nonetheless, a growing number of foreign nationals are employed in various low-paid sectors under a range of visa schemes, notably the Technical Intern Training Program (TITP). This three-year scheme permits migrants to undertake temporary work and training across a range of occupational sectors, including agriculture and manufacturing. It currently attracts many thousands of applicants from countries in the Mekong Sub-region.<sup>8</sup>

In order to provide perspective as to the impact that Thailand and Japan's short-term migration policies are having in countries of origin, this paper also examines the issue of social exclusion amongst migrant returnees and family members who remain in Myanmar and Cambodia. These two Mekong countries are currently a major source of migrant labour in Thailand and an emerging source to Japan. The governments of Cambodia and Myanmar are also in the process of formulating formal emigration mechanisms to feed into temporary migration models such as those presently operating in Thailand and Japan. Under these circumstances, now is a timely opportunity to examine the way social exclusion is experienced amongst migrant returnees and family members in countries of origin. In so doing, MMN seeks to contribute a set of policy recommendations that may lead to better outcomes for these groups under any new mechanisms that emerge.

## 1.2 Project background

This advocacy paper is part of a wider project supported by the Toyota Foundation entitled, "Beyond 'Tolerance': Working Hand-in-Hand to Promote the Social Inclusion of Migrants and Their Families". The other major components of the project involved country visits to the four countries concerned, the production of a multimedia presentation, including photographs and interviews, and a series of talks and exhibitions in Bangkok, Yangon, and Phnom Penh. The primary objective of the project is to raise awareness of the various types of social exclusion experienced by migrants and their family members in destination countries, and returnees in source countries. This paper draws on the interviews and narratives collected during the four separate country visits to Cambodia, Thailand, Myanmar, and Japan conducted between March and July 2016. Representatives from MMN project partners, all of whom work with migrants on a day-to-day basis and have a wealth of expertise on migration issues, collectively visited migrant communities and workplaces in several localities within these countries. MMN conducted interviews with migrants and migrant returnees about their experiences of social exclusion, and meetings and forums were held with various civil society organisations (CSOs) in order to exchange views and understand the local context. On each country visit, MMN project partners collectively identified the symptoms of social exclusion and what initiatives might be implemented to promote greater social inclusion. The interviews, observations, and discussions held during the country visits inform the analysis and recommendations presented in this paper.

The remainder of this introductory chapter examines the concept of social exclusion used as the frame of analysis and provides a brief overview of the country chapters that follow.

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<sup>6</sup> For a history and overview of Thailand's policies on migrants from Cambodia, Myanmar, and Laos see "Chapter One: The Social Exclusion and Inclusion of Migrants in Thailand" in this paper; and MMN, *The Precarious Status of Migrants in Thailand: Reflections on the Exodus of Cambodian Migrants and Lessons Learnt* (December 2014), p. 10, available at [http://www.mekongmigration.org/?page\\_id=2923](http://www.mekongmigration.org/?page_id=2923).

<sup>7</sup> See Immigration Bureau of Japan, *Points Based Preferential Treatment for Highly Skilled Foreign Professionals* (2015), available at [http://www.immi-moj.go.jp/newimmiaact\\_3/en/preferential/index.html](http://www.immi-moj.go.jp/newimmiaact_3/en/preferential/index.html).

<sup>8</sup> For a breakdown of countries of origin and overview of the Technical Intern Training Program see this paper's "Chapter Two: The Social Exclusion and Inclusion of Migrants in Japan", including Table 2.



## 1.3 Unpacking the concept of social exclusion

Calls to tackle social exclusion have become a common feature of the social policy debate in many parts of the world, including Asia. Given the relatively recent development of this discourse, together with the linguistic and conceptual versatility in which the term “social exclusion” is employed, it is worth elaborating briefly on its origins and clarifying exactly what we mean by the term for the purpose of this paper.

### 1.3.1 Origins and development

The conceptual roots of what we refer to today as social exclusion can be traced to, among others, the work of sociologist Max Weber and economist Adam Smith. In particular, Weber’s theoretical writing on “social closure”,<sup>9</sup> and Smith’s often overlooked ideas relating to poverty’s non-material dimensions, such as “not being able to appear in public without shame”.<sup>10</sup> However, in the modern context the notion of “social exclusion” first came to prominence in France during the 1970s, where the politician and social policy analyst René Lenoir coined the term to explain the situation of individuals who had been side-lined from full participation in mainstream society.<sup>11</sup>

According to Lenoir’s pioneering research, as much as 10 percent of the French population at that time could be classed as socially excluded, based on the fact that they were left unprotected by the then government’s social insurance safety net. Those excluded, *les exclus*, comprised some of the most vulnerable members of society, including the physically and mentally disabled, “suicidal people, aged invalids, abused children, substance abusers, delinquents, single parents, multi-problem households, marginal, asocial persons, and other social ‘misfits’”.<sup>12</sup> Lenoir’s analysis was particularly striking as it emphasised the state’s role in excluding particular individuals from the social fabric. As Robin Peace points out, “If you wanted to be included amongst those who had access to social insurance you found a job, or you got married to someone who had a job. This was inclusion and exclusion in a definable sense”.<sup>13</sup>

Lenoir’s notion of social exclusion was thus much more than a simple synonym for poverty. As Beth Epstein explains, the term describes “a new condition created by forces of contemporary social and economic change”.<sup>14</sup> In this respect, it is a broad and dynamic concept that steers away from moralistic explanations of poverty, such as those that put blame on an individual’s lack of ambition and poor personal choices.<sup>15</sup> Lenoir’s social exclusion analysis stresses the structural and “*relational*” aspects of poverty and their consequences, which place poor people outside the life of the community and outside full democratic participation in society”.<sup>16</sup>

Following Lenoir, the concept of social exclusion rapidly expanded its reach, both geographically and conceptually. During the 1990s various governments, notably those in France, the United Kingdom (UK), Australia, and Canada made the concept central to their national policy-making agendas.<sup>17</sup> Meanwhile at the European Union (EU) level, combating social exclusion and promoting an inclusive society became strategic policy goals formally enshrined within the EU constitution.<sup>18</sup> However, the concept has, for various reasons, gained less traction in other parts of the world. The Association of South East Asian Nations (ASEAN), for instance, has failed to acknowledge the need for member states to tackle social exclusion and build inclusive societies.<sup>19</sup>

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<sup>9</sup> By social closure, Weber was referring to the “process by which various groups attempt to improve their lot by restricting access to rewards and privileges to a limited circle”. See Frank Parkin, *Max Weber* (London & New York, Routledge: 2002), p. 100.

<sup>10</sup> Smith’s point being that as social creatures, anything that inhibits our interaction with others, such as shame, can serve as a deprivation in itself. See discussion in Peter P. Rogers, Kazi Jalal and John Boyd, *Introduction to Sustainable Development* (London, Earthscan: 2008), p. 245; Amartya Sen, *Social Exclusion: Concept, Application and Scrutiny*, Social Development Papers No. 1, Office of Environment and Social Development Asian Development Bank (June 2000), p. 3-4, available at [www.adb.org/sites/default/files/publication/29778/social-exclusion.pdf](http://www.adb.org/sites/default/files/publication/29778/social-exclusion.pdf) (accessed on 1 June 2016).

<sup>11</sup> René Lenoir, *Les Exclus: Un Français sur Dix* (Paris, Le Seuil: 1974).

<sup>12</sup> Quoted in Amartya Sen, *Social Exclusion: Concept, Application and Scrutiny*, Social Development Papers No. 1, Office of Environment and Social Development Asian Development Bank (June 2000), p. 1.

<sup>13</sup> Robin Peace, “Social Exclusion: A Concept in Need of Definition?” *Social Policy Journal of New Zealand*, 16 (2001), p. 20.

<sup>14</sup> Beth Epstein, *Collective Terms: Race, Culture, and Community in a State-Planned City in France* (New York & Oxford, Berghahn: 2011), p. 77.

<sup>15</sup> This is sometimes referred to in the literature as the moral-underclass-discourse.

<sup>16</sup> Laura Smith, *Psychology, Poverty, and the End of Social Exclusion: Putting our Practice to Work* (New York and London, Teachers College Press: 2010), p. 128 [emphasis in the original].

<sup>17</sup> For details see Patricia Kennedy, *Key Themes in Social Policy* (London and New York, Routledge: 2013), p. 137.

<sup>18</sup> Treaty of Amsterdam Amending the Treaty of the European Union (1997), Arts 136 and 137.

<sup>19</sup> See report of the MMN Workshop: “Living Together: Integration or Social Exclusion of Migrants in the ASEAN?” (23 April 2015), available at <http://www.mekongmigration.org/?p=3258>.

The potential benefits of applying the concept of social exclusion to the Asian context are, however, well developed in the literature. Amartya Sen, for instance, points out that it can make an “important suggestive contribution”, given the “gains to be made from greater integration of social investigations across regional boundaries, and from examining shared as well as disparate problems faced in different regions of the world”.<sup>20</sup> In this spirit, IGOs, such as the International Labour Organization (ILO) and the World Bank, have made efforts to popularise the social exclusion paradigm in countries of the developing world. In particular, the ILO has commissioned studies in various Asian, African, and Latin American countries that link the concept of social exclusion to the development and globalisation debates.<sup>21</sup>

More recent research has also placed a strong emphasis on aspects of social exclusion that exist beyond our understanding of poverty and economic marginalisation. This has come about in recognition of the fact that specific groups, who may or may not experience material poverty, are nevertheless excluded, and/or exclude themselves, from mainstream society on account of their race, ethnicity, religious beliefs, immigration status, gender, sexuality or other social identity.<sup>22</sup> This widening in the discourse, sometimes referred to as “a *new* social exclusion perspective”,<sup>23</sup> is also the upshot of growing public concern surrounding entrenched forms of discrimination within diverse multicultural societies. This paper aims to build on this literature by examining the social exclusion experienced by migrant workers, migrant returnees and their families within four Asian countries where MMN has significant expertise and where, to date, there has been limited analysis of this kind.

### 1.3.2 Defining social exclusion

Bearing in mind the disparities in economic development and contrasting socio-political circumstances between Thailand, Japan, Myanmar, and Cambodia, settling on a working definition of “social exclusion” has been a challenge from the outset of this project. This was in no small part because there is no definitive definition for social exclusion within literature or among states. Indeed, it remains a contested term that is used in an array of situations, sometimes inappropriately as a catch-all expression. As Hilary Silver remarks, definitions of social exclusion

“vary by national context and sociological paradigm. Some scholars refer to an inability to exercise the social rights of citizenship, including the right to a decent standard of living. These approaches see social exclusion as synonymous with poverty and deprivation, and thus as an aspect of social stratification. Other approaches, especially in Britain, emphasize the importance of individual choice, for a person cannot be excluded if inclusion is accessible, but undesired. These perspectives emphasize exclusion from opportunities and thus conceive of the concept as one similar to discrimination. However, the original meaning of social exclusion stresses social distance, marginalization, and inadequate integration”.<sup>24</sup>

Given these debates and in recognition that formulating a new all-encompassing definition is beyond the scope of this project, if not a questionable endeavour in itself, MMN has sought to work towards a shared understanding of the concept to ensure consistency in approach and clarity in advocacy. With this objective in mind, MMN conducted a round of consultation with project partners to identify common elements in our understanding, taking into account partners’ experience in the field and the multiple definitions present in the social policy literature, including those set out in the Appendix at the end of this paper.

With reference to these definitions and our observations, MMN collaboratively identified the following factors that cumulatively characterise social exclusion, as experienced by migrants in the Asian countries examined. These include:

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<sup>20</sup> Amartya Sen, *Social Exclusion: Concept, Application and Scrutiny*, Social Development Papers No. 1, Office of Environment and Social Development Asian Development Bank (June 2000), p. 26-27.

<sup>21</sup> See ILO, *Social exclusion: An ILO Perspective* (7 December 1998); for context also see David Gordon, “History and Development of Social Exclusion and Policy” in Dominic Abrams, Julie Christian and David Gordon (eds.), *Multidisciplinary Handbook of Social Exclusion Research* (Chichester, John Wiley & Sons: 2007), p. 204-205.

<sup>22</sup> See Laura Smith, *Psychology, Poverty, and the End of Social Exclusion: Putting our Practice to Work* (New York and London, Teachers College Press: 2010).

<sup>23</sup> Katrine Fangen, Thomas Johansson, and Nils Hammarén, “Presentation of an Analytical Framework” in Fangen *et al.* (eds.), *Young Migrants: Exclusion and Belonging in Europe* (London, Palgrave Macmillan: 2012), p. 2 [emphasis in the original].

<sup>24</sup> Hilary Silver, “Social Exclusion” in George Ritzer (ed.), *The Blackwell Encyclopedia of Sociology: SE-ST* (Oxford, Blackwell: 2006), p. 4411.

- A sense of precariousness;
- Cultural intolerance emanating from mainstream society;
- Exclusion from the political process;
- Exclusion from access to justice;
- Exclusion from access to public welfare schemes, including social security, health care, and education;
- Lack of mobility in the labour market and lack of access to decent work;
- Discrimination in the allocation of resources and other rights, goods, and services; and
- Stigmatisation, scapegoating, and criminalisation.

These issues are returned to within the context of the country chapters that follow. However, before leaving this section on conceptual issues, it is worth noting some helpful dimensions to social exclusion theory that can provide us with a more nuanced understanding of the migrant experience.

### 1.3.3 Deep, active, and passive exclusion

The first of these distinctions is what is known as “deep exclusion”. This is based on the idea that social exclusion occurs in different degrees of severity. As such, the term refers to those who experience social exclusion on multiple counts and in its severest form, leading to negative consequences for quality of life, well-being, and future life chances.<sup>25</sup> While this term was devised to describe a small minority of the most disadvantaged people in UK society, it takes on wider resonance when used in relation to the precarious situation of large populations of migrant workers in many Asian countries. This is because these groups frequently live on or below the poverty line, exist apart from mainstream society, and are amongst those with the greatest and most complex needs.

Second is the idea that individuals or groups may experience *active* social exclusion. This occurs when there has been a deliberate decision (or omission) by the authorities to exclude someone from a particular social good or opportunity.<sup>26</sup> Lenoir’s study on the lack of access to French social security discussed above highlights one such example, since it exposed a clear government policy to exclude certain classes of people from receiving a welfare benefit. Other examples of active social exclusion include denying settled migrants the right to family unification, and systems of government based on segregation, such as apartheid or where deliberate constitutional bars are placed on certain groups from voting or holding political office.

Finally, and in contrast, is the notion of *passive* social exclusion. This form of exclusion is more amorphous than active forms since it occurs not as a direct result of a law or policy decision, but is a by-product of wider social processes. The most obvious example is the social exclusion experienced as a consequence of a general downturn in the economy.<sup>27</sup>

## 1.4 Overview of the chapters

As will become apparent in the chapters that follow, millions of migrants across Asia live “side-by-side” with local communities, but rarely do they live “together” in any full sense of the word. In chapter one we explore how Thai law and policy that is meant to provide a degree of protection to migrant workers is effectively undermined by a migration regime that keeps Burmese, Cambodian, and Lao workers in a permanent state of temporariness. The chapter illustrates how migrants from neighbouring countries are excluded from accessing their rights and entitlements through a combination of selective implementation and contradictory policies. As a result, genuine social integration appears some way off. Civil society has made great efforts to counter the otherwise segregation that migrants experience in Thailand. The chapter argues that measures to promote integration must begin with immigration reforms that allow migrants to fully access their rights and entitlements.

<sup>25</sup> Ruth Levitas, Christina Pantazis, Eldin Fahmy, David Gordon, Eva Lloyd, and Demi Patsios, *The Multi-Dimensional Analysis of Social Exclusion*, Department of Sociology and School for Social Policy Townsend Centre for the International Study of Poverty and Bristol Institute for Public Affairs University of Bristol (January 2007), p. 9, 21 and 26, available at [http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/social\\_exclusion\\_task\\_force/assets/research/multidimensional.pdf](http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/social_exclusion_task_force/assets/research/multidimensional.pdf) (accessed on 11 June 2016).

<sup>26</sup> Amartya Sen, *Social Exclusion: Concept, Application and Scrutiny*, Social Development Papers No. 1, Office of Environment and Social Development Asian Development Bank (June 2000), p. 14-15.

<sup>27</sup> *Ibid.*

Chapter two begins by describing the various ways in which Japan's restrictive immigration policies lead to social exclusion. As a general point of concern, the chapter highlights the short-sightedness of current policy that treats migrants simply as a labour force and ignores wider issues of social integration. The second part of the chapter illustrates the everyday social exclusion experienced by migrants in Japan. This includes vilification on account of their limited knowledge of Japanese and disputes and disagreements that erupt as a result of banal everyday interaction such as rubbish collection and the sharing of public space. The third part of the chapter illustrates how some of these issues are being tackled by the work of various NGOs, along with the pioneering initiatives of organisations such as the Kanagawa International Foundation. The chapter ends with a set of recommendations, including the urgency for Japan to ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, reform domestic policy so that migrants are formally acknowledged and valued as a part of society, and improve the TITP so that the rights of migrant interns are properly protected.

In the second half of this paper we turn our attention to the social exclusion experienced by migrant returnees and the family members of migrants who remain in countries of origin. In chapter three, we take a closer look at the situation in Myanmar, where the impact of temporary migration policies are being felt as migrant returnees attempt to reintegrate into society. The chapter identifies deficiencies in current policies, governing access to citizenship rights, education, and health care. These barriers to reintegration are leading to the social exclusion of migrant returnees, which is reinforced by the absence of any national policies to effectively support livelihood development. The second half of the chapter is cautiously optimistic that the recently elected civilian government will revive the stalled National Action Plan (NAP) for the Management of International Labor Migration, which includes comprehensive strategies to support the return and reintegration of migrant workers. In addition to the full implementation of the NAP, the chapter recommends that the Myanmar government simplify the process for acquisition of national identity cards and that steps be taken in bilateral collaboration with destination country governments to improve the provision of education to Myanmar migrant workers and their families.

Drawing on interviews conducted with migrant returnees and secondary sources, chapter four exemplifies the way in which cross-border migrants and migrant returnees are disenfranchised from political processes and denied access to quality health care services in Cambodia. It also highlights the absence of child support mechanisms to prevent the social exclusion of the children of cross-border migrant parents who remain in the country. The chapter recommends that the Royal Government of Cambodia amend the national election laws that require citizens to vote within the borders of Cambodia and implement an absentee voting system to permit migrants to exercise their full civil and political rights. The chapter concludes by urging the government to prioritise the improvement of national health care plans and provision, conduct outreach to better inform migrant returnees of available health services, and provide support to the children of migrants living without their parents in Cambodia.



## The Social Exclusion and Inclusion of Migrants in **Thailand**



Children playing before classes begin at a migrant school.  
Rayong, Thailand, March 2016  
(Photo Credit: John Hulme/MMN)



## Overview of labour migration in Thailand

Thailand is the main destination country for migrant workers in the Greater Mekong Sub-region (GMS). Around three-quarters of migrants in the country come from Myanmar, with the next largest group originating from Cambodia, followed by Lao PDR. Migrants are predominantly employed in “low-skilled” sectors of the economy. As of March 2016, approximately 1.3 million migrants were fully documented with passports, of whom only 306,460 had arrived through formal channels established under bilateral Memorandums of Understandings (MOUs) between Thailand and its neighbouring countries.<sup>28</sup> The remainder were registered and issued with temporary passports through the Nationality Verification scheme, a form of amnesty that allowed agents to capitalise and overcharge migrants for processing fees. A further one million migrants have been partially documented and issued so-called “pink cards” or Migrant Worker Cards. These were a form of registration under the “one-stop service” policy implemented as part of an amnesty which opened after the mass exodus of migrants following the military coup in 2014.<sup>29</sup> However, very few of these migrants registered by way of the “one-stop service” received passports. These migrants were left in a virtual limbo with the pink cards, which limit migrants’ mobility to their immediate locale. After extending their status for one year, the Thai government changed its registration policy once again in 2016, simply reverting to the restrictive pink card policy, eliminating the opportunity for migrants to obtain or renew temporary passports. New migrants were prohibited from registration altogether.<sup>30</sup>

### 2.1 Introduction

Laws and policies in Thailand ensure that non-Thai migrant workers are allowed to stay only on a temporary basis with the expectation that they will come to work and make money, and return home. However, many migrants encounter situations which are much more complicated, and as a result, may end up staying longer than planned. Their immigration status does not change though, and no matter how long they stay they are always considered “temporary”. This marginalises them and increases their risk of exploitation.

Contributing to this sense of insecurity and temporariness, the Thai government’s policies on migration change frequently. Changes have included the length of time a migrant can remain in the country, and changes to the registration process itself. This leaves migrants’ immigration status certain only up until the next government policy announcement and makes them feel indefinitely uprooted.

This chapter explores the laws and policies in place which are supposed to provide social protections for migrants. It reviews fundamental rights, ranging from labour to health and education, which are enshrined in laws and policies. Yet, because migrants are expected to be temporary, they are not truly privy to these full rights. They are excluded from receiving the full benefits of these rights through selective implementation and contradictory policies. As a result, social integration seems to be superficial. Civil society, including migrant-led organisations, have made efforts to combat segregation by assisting children with access to Thai schools and promoting multicultural living. Measures to promote equity are necessary to help migrants access their full rights. This includes lifting restrictive and contradictory immigration and labour policies, and reinforcing non-discriminatory implementation of policies which promote fundamental rights.

<sup>28</sup> Office of Foreign Workers Administration, Department of Employment, Ministry of Labour, Statistics on the number of foreign workers allowed in the Kingdom, Tables 4 and 5 (March 2016).

<sup>29</sup> National Council for Peace and Order, Interim measures in solving the problem of migrant workers and human trafficking, *Announcement of the NCPO* No. 70/2557, available at <http://www.mfa.go.th/main/en/media-center/3756/47217-Announcement-of-the-National-Council-for-Peace-and.html>.

<sup>30</sup> Only migrants who had some previous documentation (One Stop registration since 2014, or Temporary passports) were allowed to register. Undocumented migrants were barred from registering and were targeted by a crackdown. See the Royal Thai Government Cabinet Resolution dated 23 February 2016.

### 2.1.1 Labour laws and policies

Over time, Thai policies have progressively granted migrants more rights and increased access to social protections. However, this is tempered by the fact that migrants are not Thai citizens, and naturalisation is effectively unattainable. In general, Thailand's previous constitutions<sup>31</sup> and laws, such as the Labour Protection Act of 1998 and the Working of Aliens Act B.E. 2551 (2008), have not imposed any explicit discriminatory provisions against migrants, with the clear exception that they are not allowed to establish labour unions.<sup>32</sup> For example, under the Labour Protection Act of 1998, basic labour rights such as minimum wage protection are provided for all workers in the country.<sup>33</sup> In practice, the stipulated minimum wage often seems to be a negotiating point rather than a non-negotiable minimum for migrant workers. For other laws and policies guaranteeing social protections, such as Social Security Act B.E. 2523 (1980) and Workmen's Compensation Act B.E. 2537 (1994), benefits are granted on paper, but in practice migrants are frequently unable to access these benefits. Migrants entering Thailand through formal channels established under the MOU may pay the full contribution to the Social Security Fund, but are unable to receive the full benefits promised, such as the retirement fund, maternity leave or unemployment support. This is in part due to a conflict with immigration laws which are linked to a migrant's employment status. A person must leave the country seven days after their employment ends, and benefits may only be claimed after the seventh day out of work. Furthermore, employers' and migrants' lack of awareness of benefits, such as the right to maternity leave, is another obstacle.

Generally, migrants feel excluded from state protections. Lack of awareness about their rights, not knowing how to file a complaint, and language barriers all contribute to migrants' feeling that they are unprotected by the law. Migrants who are undocumented often understand that they are exempt from protections under the law<sup>34</sup> as they are commonly referred to as "illegal aliens" in government terminology. Migrants who are documented also feel vulnerable. Employers are known to confiscate passports of documented migrants with impunity, thus limiting their freedom of movement.<sup>35</sup> It is difficult for migrants to file an official labour complaint. Instead, informal negotiations take place outside formal arbitration systems, sometimes even with labour protection officers facilitating the process. The outcome usually results in migrants receiving considerably less than the full amount to which they are entitled to by law.<sup>36</sup> Although this is often agreed for the sake of expediency, it is also a reflection of migrants' lack of real protections under the law.

All of this equates to a distinct lack of faith in "the system" where migrants feel that they are discriminated against because the system favours employers and authorities. Compounding this, police are associated with arrests and raids, and regularly extort payments from migrants.<sup>37</sup> At times, the police use migrants as scapegoats.<sup>38</sup> As a result, migrants generally distrust the authorities. Unsurprisingly, this lack of trust has compounded negative consequences for them, such as crimes committed against migrants going under-reported.

Excluded from the rights and benefits of mainstream society, and unable to engage official protection mechanisms, migrants are pushed into informal and ad hoc negotiations with employers and service providers. Thus, a culture has been created where everything is negotiable. Migrants will accept wages below the legal standard and often feel powerless to challenge extortion by police and immigration officials. This is in comparison

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<sup>31</sup> In August 2016, Thailand held a referendum on its 20<sup>th</sup> Constitution since 1932.

<sup>32</sup> Thailand's Labour Relations Act, B.E. 2518, Section 88 (1975), explicitly mentions that labour unions in Thailand can only be established by Thai nationals.

<sup>33</sup> Other basic labour rights stipulated under the Labour Protection Act of 1998 include the provision of: a standard working day not to exceed 8 hours with rest periods, maximum work weeks of 42 hours, stipulations regarding over-time, minimum standard days off once a week as well as holidays, payment of standard wages and over-time, prohibition on deductions, and equality of wages for men and women.

<sup>34</sup> MAP Foundation, *Regular Rights – Do Documents Improve Migrants' Rights?* (18 December 2012), available at <http://www.mapfoundationcm.org/pdf/eng/regular-right-eng.pdf>.

<sup>35</sup> MAP Foundation, *Regular Rights: Second Edition – A Study on the Impact of Regularization of Migrant Workers from Myanmar in Thailand* (31 May 2015), available at [http://www.mapfoundationcm.org/pdf/eng/2\\_Regular%20Rights%20II\\_Eng%20\\_FINAL%20-OK.pdf](http://www.mapfoundationcm.org/pdf/eng/2_Regular%20Rights%20II_Eng%20_FINAL%20-OK.pdf).

<sup>36</sup> The case of Nang Noom, which occurred in 2007, is an example where a documented worker did not receive proper compensation, in part, due to interpretation of the Social Security Laws regarding Workers' Compensation. See Human Rights and Development Foundation (HRDF), "Eight Years of the Wait for Justice" (31 March 2016), available at <http://hrdfoundation.org/wp-content/uploads/2016/04/31-03-2016-HRDF-press-release-Supreme-Court-decision-case-of-migrant-workers-access-to-workmen-compensation-fund-ENG.pdf>.

<sup>37</sup> MAP Foundation, *Regular Rights: Second Edition* (2015).

<sup>38</sup> Such as the case of the Koh Tao murders; for details see John Quinley III, "Thailand's Migrant Worker Woes Exposed in Koh Tao Murder Case", *The Diplomat* (12 January 2016), available at <http://thediplomat.com/2016/01/thailands-migrant-worker-woes-exposed-in-koh-tao-murder-case/>; Recently, there was another murder case where migrants were supposedly scapegoated in Ranong; refer to Moe Myint, "Parallels Drawn Between Ranong Murder, Koh Tao Case", *The Irrawaddy* (30 May 2016), available at <http://www.irrawaddy.com/burma/parallels-drawn-between-ranong-murder-koh-tao-case.html>.

to Thai citizens who less frequently have to negotiate for basic rights such as minimum wage and who *de facto* have more access to legal redress.

*“I work at a shop as a shop assistant and I help with housework, ironing, and cleaning the bathroom.*

*At work it’s not ok. The minimum wage in Thailand is 300 Baht; I get 150 to 200 Baht per day. It’s not enough to support my family.*

*I don’t speak Thai, so I don’t understand the employer. I just have to bear it when the employer yells at me and curses me.*

*I don’t have any documents, so I’m scared of getting arrested. I asked my employer about registering me as a worker, but she did not say anything.”*

– Myanmar woman in Thailand

### 2.1.2 The double burden of being a migrant woman

Out of the 1.5 million migrants currently fully registered in Thailand, around 40 percent are women.<sup>39</sup> Migrant women experience a double burden of gender discrimination on top of nationality-based discrimination. For instance, both migrant men and women in Thailand are likely to receive less than the minimum wage, but women receive approximately 30-100 Thai Baht (THB), equivalent to approximately 1-3 US Dollars (USD), less than men when they do the same work.<sup>40</sup>

Six months after registering for Social Security, women are entitled to maternity leave benefits and child support, but it is rare for migrant women to receive these benefits. They must be well informed and assertive to claim their rights. Many migrant women may quit their jobs due to pressure from their employers, which is illegal, or choose to leave of their own accord, thinking that they do not want to be a burden and lacking understanding that they are forfeiting their rights.<sup>41</sup> When they return to work, many find their position gone, and they must start at the bottom of the wage scale again. One study found that 10 percent of respondents who were migrant women from Myanmar in Thailand had been fired because of their pregnancy, 7 percent did not have permission to take maternity leave, 6.5 percent lost their job after maternity leave, and 4.5 percent were compelled to do work that was unsafe during pregnancy.<sup>42</sup>



Cambodian migrant woman sorting squids.  
Rayong, Thailand, March 2016  
(Photo Credit: John Hulme/MMN)

Migrant women also tend to work in occupations which have isolated job sites, such as garment factories and domestic work. This can make it more difficult to stand up to their employers or managers and negotiate for their rights and better conditions. This issue is compounded in the case of domestic work, which is still considered part of the informal economy and therefore receives only partial coverage of Labour Protections as stipulated

<sup>39</sup> Office of Foreign Workers Administration, Department of Employment, Ministry of Labour, Statistics on the number of foreign workers allowed in the Kingdom, Table 2 (March 2016).

<sup>40</sup> MAP Foundation, *Regular Rights: Second Edition – A Study on the Impact of Regularization of Migrant Workers from Myanmar in Thailand* (31 May 2015), p. 9, available at [http://www.mapfoundationcm.org/pdf/eng/2\\_Regular%20Rights%20II\\_Eng%20\\_FINAL%20-OK.pdf](http://www.mapfoundationcm.org/pdf/eng/2_Regular%20Rights%20II_Eng%20_FINAL%20-OK.pdf).

<sup>41</sup> The Labour Protection Act, Sections 41-43 (1998), entitles women to 90 days of maternity leave, allows them to change to suitable work while still able to work, and protects women’s jobs from being terminated due to pregnancy.

<sup>42</sup> N. Dendoung and S. Dendoung, *Violence Against Women Migrant Worker From Myanmar in Thailand*, Raks Thai Foundation (2013), p. 127.

under the Thai Government's Ministerial Regulation, Number 14 (2012). According to this policy, women working as domestic workers in private homes<sup>43</sup> are entitled to a weekly rest day, 13 public holidays annually, sick leave, monthly payment of wages, and a minimum working age of fifteen. However, no minimum wage is specified; there are no limitations on working hours or what constitutes overtime; and no maternity leave or protection from dismissal for pregnancy is provided.<sup>44</sup> These benefits must be individually negotiated with the employer.

### 2.1.3 Migrant children

Although provided birth documents, migrant children born in Thailand do not receive Thai citizenship. This makes them at risk of various rights abuses, including child labour. The Thai government was aware of this, and in 2005, as part of the 1999 "Education for All" policy, a Cabinet Resolution declared that the children of migrants are entitled to attend public schools in Thailand free of charge.<sup>45</sup> However, there are no guidelines on how to implement the policy, and with a limited budget, administrators give preference to Thai children. As a result, the number of migrants entering the public school system remains low. Other obstacles for children accessing and staying in schooling include language and cultural barriers. This is compounded by parents' uncertainty of how long they will stay in Thailand. Usually, migrant parents want their children to learn their mother language because they do not anticipate being able to stay in Thailand long term, but they have to find NGOs providing this service separately. Migrant Learning Centers teach Burmese or Karen language and are prominent along the border in the Mae Sot area of Tak Province.

An underlying question is: What is the value of an education in Thai language for migrant children when it is not possible to stay in Thailand indefinitely? What opportunities will they have back home? Without a long-term outlook, few migrant children stay in Thai schools beyond primary level. It is estimated that around 60 percent of migrant children, or approximately 200,000 migrant children, are not in school. Out of the migrant children reportedly in Thai schools, only 3 percent are enrolled in secondary level, with 67 percent in elementary, 30 percent in kindergarten, and the remainder of less than one percent in upper secondary.<sup>46</sup> If not in school, many of these children start working at an early age.

Not knowing where to fit in is a problem for migrant children. On a site visit to Mae Sot, the MMN team met a Burmese girl in her mid-teens. She had grown up in Thailand, albeit in the border area of Mae Sot which has a Burmese migrant population that outnumbers the local Thais. She went to Thai school and was in an upper level in secondary school. She had never been to Myanmar, and her family did not have any ties back in Myanmar. Yet, this girl said she felt that Myanmar was more her home than Thailand.

### 2.1.4 Health coverage and limitations

Lastly, migrants are allowed and encouraged to receive health care services. They are not refused or prohibited from accessing public health care even if they are undocumented, however, there are obstacles. For example, in order to be eligible to receive subsidised government services, migrants must be documented with a work permit and covered under one of two health insurance systems: Social Security or "Migrant Health Insurance". Without documentation and health insurance, they will have to pay out of their own pocket.

The Migrant Health Insurance scheme had approximately 1.27 million migrants enrolled as of October 2015.<sup>47</sup> In June 2014, the Thai government announced that all migrants regardless of their documentation status were allowed to purchase this health insurance.<sup>48</sup> Although this was part of an official policy, reportedly no hospitals were willing to take a chance with "assisting" undocumented migrants, whom the government deems as "illegal aliens," in effect, nullifying the policy. Under the Migrant Health Insurance package, which includes a mandatory health exam and costs THB 2,100 per year (USD 60), long-term or chronic medical conditions

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<sup>43</sup> In 2016, there were 148,262 migrant women registered as domestic workers. The ILO estimates that there are more than 250,000 domestic workers in Thailand, of which 90 percent are migrants. See Office of Foreign Workers Administration, Department of Employment, Ministry of Labour, Statistics on the number of foreign workers allowed in the Kingdom, Tables 21 and 23 (March 2016); see also ILO, "Thailand: New Ministerial Regulation offers better protection of domestic worker's rights", *ILO Factsheet* (20 December 2012).

<sup>44</sup> *Ibid.*

<sup>45</sup> A Cabinet Resolution (dated 5 July 2005) identified non-Thai children as having the right to education as established under the 1999 Education Act, which guarantees education to all children without discrimination.

<sup>46</sup> World Education and Save the Children, *Pathways to a Better Future: A review of Education for Migrant Children in Thailand* (2014), available at <http://thailand.worlded.org/wp-content/uploads/2016/04/MESR-Full-Report.pdf>.

<sup>47</sup> IOM Thailand, *Migrant Information Note*, Issue No. 29 (March 2016), available at <http://th.iom.int/index.php/latest-news/36-migrant-information-note-no-29-march-2016>.

<sup>48</sup> Ministry of Public Health, *Announcement on Health Check Up and Health Insurance for Migrants* (26 June 2014).



and high-cost procedures are generally excluded. Although antiretroviral (ARV) medicines to treat HIV are included in the scheme, individual medical practitioners can make a determination as to whether or not to dispense ARVs to a migrant on a case-by-case basis,<sup>49</sup> with very few hospitals known to do so in practice.

While Social Security provides more comprehensive health care with fewer exceptions, only around 507,000 migrants were enrolled in the Social Security system as of February 2016.<sup>50</sup> This low enrolment rate is due to requirements that a migrant be documented with a passport, be employed in an approved sector of “formal” work (agriculture is excluded for example), and have an employer who is willing to enrol the migrant and make monthly contributions.

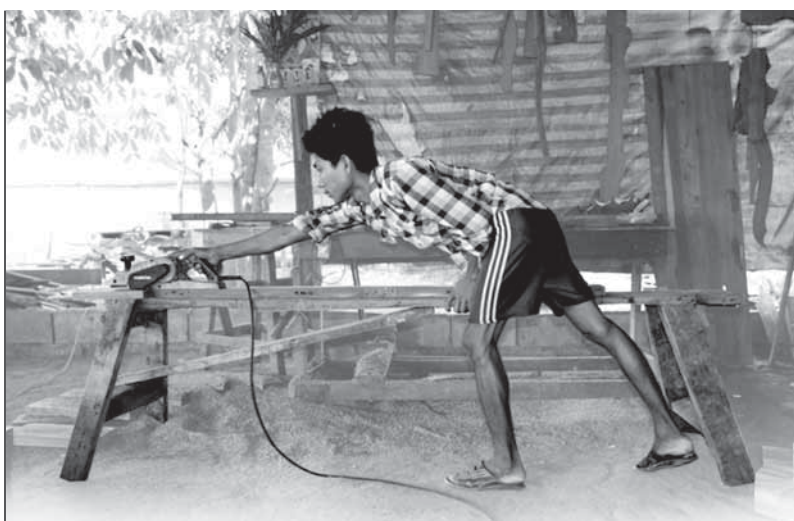
Both insurance schemes limit migrants’ choice of services to the single hospital where they registered. As employment locations may move, this hospital may be geographically distant from migrants’ accommodation or workplaces, requiring time and transportation costs to access the health care services available. Many migrants are unfamiliar with health insurance generally and tend not to know what their benefits are under these particular schemes. There are also language barriers which may compound some health providers’ negative attitude towards serving migrants as an “extra burden”.<sup>51</sup> As a result, migrants often avoid health care altogether and self-treat by going to a pharmacy or using traditional remedies as a first resort, and only go to a hospital when the condition is serious or symptoms persist or worsen.<sup>52</sup>

## 2.2 What policies reinforce social exclusion?

The Royal Thai Government’s migration policies have revolved around a premise that Thailand is for Thais, and that being Thai is based on lineage. Citizenship is primarily bestowed upon those born to a parent or parents who hold Thai nationality.<sup>53</sup> Obtaining Thai citizenship for “non-Thais” is notoriously difficult. The Thai Nationality Act is aimed at making naturalisation a rare occurrence, even though some amendments were made in 2008 to make it easier for stateless children to obtain citizenship (refer to the following sub-section). Adults who originate from neighbouring countries are only entitled to stay temporarily as workers unless they apply for a special status. The Alien Workers Act of 2008 limits the numbers of non-Thais or “aliens” who are allowed to stay in the country, and the duration of time they can stay is determined in current policies.<sup>54</sup>

Migrant-related policy has always been based on restricting migrants’ liberty and ensuring their temporariness for the sake of “national security”. An identification document and a work permit are required for official registration as a documented migrant, work permission that links the migrant to her or his employer.

The type of documentation available has changed over time, going from pink cards to temporary and full passports, and back again to pink cards.<sup>55</sup>



Burmese migrant working in a furniture workshop.  
Mae Sot, Thailand, March 2016  
(Photo Credit: John Hulme/MMN)

<sup>49</sup> *Ibid.*

<sup>50</sup> IOM Thailand, *Migrant Information Note* (2016).

<sup>51</sup> Chanvit Tharathep, Nateerat Thamroj, and Pranee Jaritake, A Study on Appropriate Health Care Financing and Health Service System for Migrants – Case Studies from Samut Sakhon and Rayong Provinces, *Raks Thai Foundation* (May 2013), available at <http://www.phamit.org/upload/public/file2/f1374831099.pdf>.

<sup>52</sup> MMN, *Self-Care and Health Care: How migrant women in the greater Mekong Subregion take care of their health* (April 2015), available at [http://www.mekongmigration.org/Self-Care%20and%20Health%20Care\\_final.pdf](http://www.mekongmigration.org/Self-Care%20and%20Health%20Care_final.pdf).

<sup>53</sup> Thailand Nationality Act, B.E. 2508, Section 7 (1965), available at [http://thailaws.com/law/t\\_laws/tlaw0474.pdf](http://thailaws.com/law/t_laws/tlaw0474.pdf).

<sup>54</sup> Section 7 states “The work that may be engaged by alien as well as working area and period shall be prescribed by the Ministerial Regulation. In the issuance of such Ministerial Regulation, regard shall be had to national security, occupation opportunity of Thais and demand for alien labour as necessary for the development of the country”, Working of Alien Act, B.E. 2551 (2008), Unofficial translation, available at [http://www.mol.go.th/sites/default/files/downloads/pdf/WORKING\\_OF\\_ALIEN\\_ACT\\_2551\\_DOE.pdf](http://www.mol.go.th/sites/default/files/downloads/pdf/WORKING_OF_ALIEN_ACT_2551_DOE.pdf).

<sup>55</sup> See sub-section “Overview of labour migration in Thailand” of this chapter.



*“After four years, the temporary passport visas were not valid. We did not know if we could get an extension. It cost us 24,000 Baht for the two-year visa extension. Then the military government came, and they created the ‘pink card’ [migrant workers’ card]. It’s very expensive. If we do not get it, we can’t stay. If we register they ask for a lot of money – it’s hard. It’s the agent fee which costs a lot. Now it costs 16,000 Baht for the pink card for my wife and me.”*

– Myanmar man in Thailand

While migrants enjoyed greater mobility and personal liberty with passports, their documentation status has consistently remained linked to an employer through their work permit. Under the MOU between Thailand and neighbouring countries, those who enter through formal channels are granted a two-year visa which can be renewed once, after which the migrant must return home before she or he can legally enter Thailand again. Although generally lacking in exact details, the MOU declares that migrants will be protected under Thailand’s domestic laws without discrimination.<sup>56</sup>

As already noted, Thai migration policy is subject to frequent change, on average every two years. Following the latest policy change implemented by the Thai military government, the liberty provided through the issuance of a passport is currently being curtailed. Recent policy states that migrants who had temporary passports or visas set to expire before 17 March 2016, or who were still awaiting nationality verification after registering under the One Stop Service in 2014, would be forced into the “pink card” system.<sup>57</sup> Visas which expired in 2016 and the accompanying temporary passports will no longer be valid. Pink cards restrict migrants’ mobility to their immediate locale, with permission by the Governor’s office required to leave the area. There are some advantages under this recent policy change though, such as not having to report to immigration every 90 days, and not having to renew documents for two years. On the other hand, there is still a lack of clarity on access to the Social Security system.

The pink card registration period was open for 120 days, from 1 April to 29 July 2016. Only those who were already in the system with documents or visas which were set to expire were eligible. This was not clear to all migrants though, and, as a result, some gave up passports to unnecessarily enter the system, while others were deceived by agents who said that they could register without any documents. Even though the process had been streamlined somewhat, many migrants still found it confusing and had to rely on the services of agents who charged inflated service fees.

Under the Labour Protection Act of 1998, all workers are entitled to the minimum wage, proper working hours, and rest days.<sup>58</sup> Migrants are not singled out for discriminatory treatment under the law. There are, however, certain sectors where migrants are predominant which do not receive full protection under the law, namely domestic work, agriculture, and fisheries.<sup>59</sup> These sectors are considered part of the “informal sector”, and therefore do not receive the full protection of the labour law including Social Security eligibility and coverage. Thailand has also not signed ILO Conventions 87 and 98,<sup>60</sup> and migrants are not allowed to form their own labour unions.<sup>61</sup> This puts migrant workers at a disadvantage. Although they are allowed to join Thai unions, there are few active Thai labour unions, and those which are active are not in the sectors where the majority of migrants work. Therefore, only negligible numbers of migrants are members of Thai unions.

<sup>56</sup> Articles XVII and XVIII under the “Protection” section states, respectively: “...workers enjoy protection in accordance with the provisions of the domestic laws in their respective country”; and “Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion”. See the Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Cooperation in the Employment of Workers, 21 May 2003; Also see the Memorandum of Understanding between The Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers, 21 June 2003.

<sup>57</sup> As stipulated in a Cabinet Resolution dated 23 February 2016.

<sup>58</sup> Thailand Labour Protection Act, B.E. 2541, Sections 23, 24, 53 (1998), available at [http://thailaws.com/law/t\\_laws/tlaw0132a.pdf](http://thailaws.com/law/t_laws/tlaw0132a.pdf).

<sup>59</sup> Thailand Labour Protection Act, B.E. 2541, Sections 22 (1998), available at [http://thailaws.com/law/t\\_laws/tlaw0132a.pdf](http://thailaws.com/law/t_laws/tlaw0132a.pdf).

<sup>60</sup> *Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)*, available at [http://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::no::P12100\\_Ilo\\_Code:C098](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::p12100_instrument_id:312232; Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</a>, available at <a href=).

<sup>61</sup> Thailand Labour Relations Act, B.E. 2518, Section 88, (1975), available at [http://www.mol.go.th/sites/default/files/images/other/labourRelation2518\\_en.pdf](http://www.mol.go.th/sites/default/files/images/other/labourRelation2518_en.pdf).

While migrants are increasingly able to access Social Security, with 507,000 enrolled as of February 2016,<sup>62</sup> they are still unable to receive the full benefits of the system. Namely, there has yet to be a viable solution to ensure that migrants receive the retirement fund which they contribute to, as they are required to leave the country while they are still of working age. Although supposedly able to receive unemployment benefits, this conflicts with their immigration status which is linked to their employment status. Further, very few migrant women report receiving paid maternity leave because they are either forced out of work or simply leave without understanding their right to leave with benefits. A migration system premised on temporary stays creates a conflict between a migrant's immigration and employment status, creating a *de facto* barrier to most Social Security benefits. The new Social Security Act (Amendment Number 4), 2558 B.E. (2015), which was published in the Government Gazette in June 2015, provides provisions to resolve some of these issues, such as allowing non-Thais to receive old-age benefits while not in the country. However, the government has yet to promulgate regulations to implement the policy changes.

### 2.3 What policies promote social inclusion?

Generally, Thai laws and policies are not exclusionary, but there are not many measures which encourage inclusion. Moreover, there are some which seemingly promote inclusion, but lack essential conditions to provide equity in order to assist marginalised groups to access the rights being granted. For example, the Labour Protection Act of 1998 does not stipulate migrant workers as being a separate category of worker or as governed by a separate set of standards. Therefore, in a sense it is inclusive. However, the supporting mechanisms of monitoring and enforcement are weak and beyond the reach of migrants. This situation of impunity allows employers to profit by paying wages below the legally stipulated rate.

The policy on Social Security encourages inclusion by allowing migrants to enrol and benefit. The problem once again lies in the fact that there is a lack of equity. There are no policies that restrict access, but there are also no mechanisms in place which enable migrants to benefit.<sup>63</sup> Similarly, while migrants are allowed to own vehicles and obtain a drivers licence, the new “pink card” policy restricts their mobility to their immediate locality, and while migrants are not restricted in where they can live, per se, the landlord must be willing to have the rental property address registered with the Thai Immigration Bureau.

Perhaps the clearest policy aimed at “integration” which also has its inherent limitations is the 1999 “Education for All” policy. This policy was enhanced by a Cabinet Resolution in 2005 which allowed all children, regardless of their nationality or legal status, to attend primary school without paying fees. While the intention of the policy is good, the problem, again, is that implementation lacks considerations of equity. Migrant children are at a disadvantage for many reasons. Language is a primary obstacle, but there are also extra costs associated with uniforms, books and supplies, as well as transportation. This is especially pronounced for migrants who earn below minimum wage or who live in rural areas. Also, Thai teachers insist that children are placed in grades according to their aptitude. As a result, many of the children who enter school late find themselves in grades with children much younger than themselves, which acts as a clear disincentive. The result, as mentioned earlier, is that few migrant children enter secondary school.

Children of migrants are often caught in-between. They want to fit in but know that their temporary status puts them at a disadvantage. This makes migrant children feel slightly apart from their Thai counterparts. Similarly, depending on their documentation type, migrants are allowed to enter vocational schools and universities, but after schooling are limited in their job opportunities. Their documentation status restricts them to “low-skilled jobs” once they graduate. In the case of Shan migrants from Myanmar, many have “10-year cards” or “highlander” cards, which provide them with some protections but do not grant them citizenship. In 2008, the Thai Nationality Act was amended with changes that made it somewhat easier for stateless children, namely those in Thai schools, to obtain Thai citizenship. Out of approximately 69,670 students who were known to be stateless, 25,357 have been able to successfully obtain Thai citizenship since the amendment was made.<sup>64</sup>

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<sup>62</sup> IOM Thailand, *Migrant Information Note*, Issue No. 29 (March 2016), available at <http://th.iom.int/index.php/latest-news/36-migrant-information-note-no-29-march-2016>.

<sup>63</sup> Social Security Act, Amendment No. 4 (2015), mentioned above, imposes penalties for employers who falsely deduct wages for Social Security but do not enrol their employees.

<sup>64</sup> Royal Thai Government, “กระทรวงมหาดไทยแก้ไขปัญหาลูกหลานชาติให้กับเด็กนักเรียนทุนพระราชทานที่ไม่มีสถานะบุคคล มีผลการดำเนินงานในปี 2558 ให้สัญชาติไทยไปแล้วกว่า 5,000 ราย”, available at <http://www.thaigov.go.th/index.php/th/news-ministry/2012-08-15-09-42-33/item/101078-id-101078> (accessed 28 August 2016).

While there are disadvantages to some policies not being implemented fully, migrants also find ways to benefit from the lack of implementation. For example, a number of long-term migrants have started their own businesses, often selling goods or food stuffs to other migrants in their community. By law this is not allowed, as migrants are supposed to have an employer and are not supposed to be self-employed. But implementation on this is not rigid, and often police will ask for small pay-offs. Usually there is no problem unless there is a conflict of interest with a Thai, or if a migrant is caught up in a periodic Immigration Bureau crackdown.

## 2.4 What initiatives by civil society organisations help reduce social exclusion and encourage social inclusion?

Over time, as a way of breaking down barriers and focusing on the positives of being different, CSOs have encouraged cultural exchange activities with dance and food provided by both migrant and local Thai communities. Cultural activities like this are an easy way to break down barriers as it gives a platform to understand each other's differences through activities which are familiar, such as cultural expression and eating. Often this goes on during holidays, such as Thai Mother's Day or on religious holidays. In some communities migrants partake in merit making ceremonies alongside Thais. However, once the festivities are over, the two groups generally go their separate ways. In some of the interviews conducted during site visits by the MMN team, it was revealed that very few migrants have Thai friends. So, when there is interaction between the two communities, it is commonly fleeting and not very deep. In a study by the ILO, it was found that four out of 10 Thai respondents have had no direct encounters with migrants at all.<sup>65</sup>



Burmese migrants discuss their migration experiences with MMN delegation. Mae Sot, Thailand, March 2016  
(Photo Credit: John Hulme/MMN)

The MAP Foundation has community radio stations in two locations – Chiang Mai and Mae Sot. The aim of the stations is to promote multiculturalism and understanding. These stations primarily broadcast in migrant languages as well as in the local Thai language. The stations rely on volunteer broadcasters from the community as well as from a variety of different organisations and cover a range of information, including updates on laws and policies, and discussion of rights and cultural issues. By having an active channel to receive information, migrants can adjust and integrate better, and the local Thai population can also be exposed to migrants' cultures.

While not allowed to form their own unions, migrants have organised through other means, including forming "social" groups and community-based organisations to provide services to the migrant community and for advocacy purposes. This is often supported or encouraged by NGOs.

## 2.5 Conclusion and recommendations

While Thailand's laws do not discriminate against migrants explicitly, there are policies which interfere with migrants' ability to access full protection under the law. Some policies may obstruct or conflict, while other policies provide little guidance, leaving gaps or selective implementation. The underlying principle of Thailand's immigration-related policy is that migrants are temporary. Similarly, policies are also short term, change frequently, and lack a long-term vision. This leaves migrants uncertain and insecure. Lacking certainty and feeling temporary, migrants become marginalised, increasing their vulnerability to exploitation. Unable to receive formal protections,

<sup>65</sup> ILO Regional Office for Asia and the Pacific and the ILO TRIANGLE Project, Public Attitudes Towards Migrant Workers (July 2011).

migrants are pushed into informal relationships where everything becomes negotiable and rights are no longer inherent or upheld according to the rule of law.

In order to promote greater social inclusion, immigration policies need to be aligned with other laws and policies with a long-term vision which sees migrants as rights holders and contributors rather than as a drain on resources and a security threat. Policies urgently need to be reformed to allow migrants and their families to remain without being linked to employers, so they are able to change jobs without threats from employers. There are many laws and policies which already guarantee rights without discrimination on the basis of migrant status. To ensure effective implementation of them, the Royal Thai Government should provide sufficient human

resources and budgets for providing services to migrants, eliminate contradictions in law which prevent access to these rights, and create mechanisms to enable migrants to receive the full benefits to which they are entitled.

Moreover, migrants in Thailand need measures to overcome practical obstacles such as language differences, which hamper access to services and information. This is where NGOs provide an essential service and should be recognised and given a greater role. As it is, the government often sees civil society as having an adversarial role, as if they are solely intent on exposing the wrongs which migrants experience. In actuality, NGOs and CBOs are simply helping to bridge the gap so that migrants can access complaint and redress mechanisms and public services to which they are entitled.

*“If possible I want both countries to agree to take care of migrant workers. In Thailand, workers should have the same rights as other workers. In Burma, the government has to take care of people well so that people can have a good life and do not need to run away from home.”*

– Myanmar woman in Thailand



## CHAPTER TWO

# The Social Exclusion and Inclusion of Migrants in Japan



Burmese migrant trainee working in a garment factory.  
Komatsu, Japan, July 2016  
(Photo Credit: John Hulme/MMN)



## Overview of labour migration in Japan

Japan's current immigration regime dates back to the post Second World War period.<sup>66</sup>

Migrants from China, and North and South Korea, who arrived before the Second World War and continued to stay, are often referred to as “old-comers”. While those from the Philippines and Thailand, who arrived during the bubble economy period from the mid-1980s to early 1990s, as well as migrants of Japanese descent from Brazil or Peru who arrived after 1991 when the Immigration Control and Refugees Recognition Act was amended, are referred to as “new-comers”.<sup>67</sup>

While Japan actively promotes the migration of skilled workers in professional and technical fields, it has always been reluctant to take in “unskilled” migrant workers. However, the demand for such workers has been growing since the 1980s. This is chiefly attributed to Japan's low fertility rate and ageing population. This has created a labour shortage, which is particularly hard felt by small and medium sized enterprises. Migrants are therefore needed to fill the gap.

Notwithstanding the strong demand for “unskilled” migrant workers, the Japanese government remains reluctant to grant them legal recognition. Currently, only skilled and professional workers are granted formal work visas, while some “unskilled” foreign workers are employed as technical trainees. As of 2014, there were 145,426 trainees according to official statistics. Most of them come from China and Vietnam.<sup>68</sup>

Due to the limited formal channels for labour migration, a considerable number of migrant workers overstay their visas and work in Japan as irregular migrants. According to the Japanese Immigration Bureau, there were around 62,009 over-stayers in Japan in 2013.<sup>69</sup>

### 3.1 Introduction

The Japanese government largely takes an instrumentalist view of migrants, in that they are allowed in strictly only when necessary and often not even then. The country faces an acute labour shortage due to an aging population, but remains relatively closed to immigration as compared to other similarly placed countries. To illustrate the Japanese government's general reluctance towards migration, one may go no further than the recent remarks of Prime Minister Shinzo Abe, who rejected criticism of his government's conservative asylum and immigration policies, by arguing that “before accepting immigrants or refugees we need to have more activities by women, by elderly people and we must raise [the] birth rate”.<sup>70</sup> Such official attitudes imply that the Japanese government regards refugees and foreign workers merely as a labour force. Japan accepted Indochina refugees in the late 1970s out of international humanitarian considerations; however, since then, very few asylum seekers have been granted recognition as refugees in Japan. Wider immigration policy has similarly followed the same trajectory. This chapter argues that social exclusion results directly from Japan's restrictionist immigration policy, coupled with a lack of measures to encourage social inclusion.

While language significantly affects migrants' ability to integrate into Japanese society, migrants can feel socially excluded and discriminated against – whether or not they speak Japanese. At times, insults and discrimination are directed at migrants who do not understand Japanese.

*“I felt alienation from Japanese society and seriously considered suicide.”*

– Woman from Thailand in Japan

<sup>66</sup> Chikako Kashiwazaki and Tsuneo Akaha, Japanese Immigration Policy: Responding to Conflicting Pressures, *Migration Policy Institute* (1 November 2006), available at <http://www.migrationpolicy.org/article/japanese-immigration-policy-responding-conflicting-pressures>.

<sup>67</sup> United Nations General Assembly, *Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante* (21 March 2011), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/121/27/PDF/G1112127.pdf?OpenElement>.

<sup>68</sup> *Ibid.*

<sup>69</sup> See a press release by the Immigration Bureau dated 27 March 2013, available at [http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04\\_00031.html](http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri04_00031.html).

<sup>70</sup> David Brunnstrom and Rodrigo Campos, “Abe says Japan must solve its own problems before accepting any Syria refugees”, *Reuters* (29 September 2015), available at <http://www.reuters.com/article/us-un-assembly-japan-syria-idUSKCN0RT2WK20150929>.

Even for those who have acquired Japanese citizenship, migrant women often feel that they are expected to do an unduly large amount of communal work on account of their having come from another country. They feel insulted because they do not understand Japanese, and also very depressed.<sup>71</sup> Others face discrimination or feel that they are not treated with respect even when they have acquired good Japanese language skills.

*“Even after I was able to communicate in Japanese, in the factory, I was called ‘GAIJIN (alien in Japanese)’. I felt discrimination against me, and that they kept an eye on me. But I tried not to care and just concentrated on my work”*

– Woman from Thailand in Japan

*“When I was overstaying and helping someone in trouble with interpretation, I was reported and sent to an immigration detention centre.”*

– Woman from Thailand in Japan

*“I did a master’s degree at a university in Japan. I can write in Japanese, and I believe I understand Japanese culture, but I feel that Japanese people do not see me as an individual. They praise me for being capable of doing something even though I am ‘GAIJIN’ (alien). But even now, people still see me as an alien – someone outside Japanese society.”*

– Man from Nepal in Japan

### 3.2 What policies reinforce social exclusion?

Interviews conducted by MMN during the field visit to Japan in July 2016 revealed several features of social exclusion as a result of Japan’s strict immigration policies.

First, the Japanese government has not formulated a comprehensive policy to facilitate the social integration of migrants with due respect to their human rights, including rights relating to work, health, housing, and education.

Further, even though Japanese industries face labour shortages and are calling for more workers including foreigners, there is no clear policy on accepting migrant workers outside of the visa categories for Japanese descendants from South America and those coming on the TITP visa.<sup>72</sup>

Japan’s TITP is a three-year programme formally introduced by the Japanese government in 1993 with the aim of transferring trade skills for human resources development in developing countries.<sup>73</sup> Under this programme, technical interns come primarily from China, as well as other Southeast Asian countries (see Table 1 below).<sup>74</sup> While the majority of technical interns have been Chinese because of China’s recent economic development, this number is decreasing. Technical interns from Vietnam are increasing, as are those from Mekong countries, such as Cambodia and Myanmar.<sup>75</sup>

<sup>71</sup> According to MMN preliminary research findings.

<sup>72</sup> “Labour policy in Korea and Taiwan and Suggestion to Labour policy in Japan”, *Keidanren Policy & Action* (21 January 2016), available at [http://www.keidanren.or.jp/journal/times/2016/0121\\_11.html](http://www.keidanren.or.jp/journal/times/2016/0121_11.html).

<sup>73</sup> Japan International Training Cooperation Organization (JITCO), *Technical Intern Training Program in Japan*, available at [http://www.jitco.or.jp/download/data/kouhou\\_pamphlet\\_en.pdf](http://www.jitco.or.jp/download/data/kouhou_pamphlet_en.pdf).

<sup>74</sup> *Ibid.*

<sup>75</sup> Ministry of Justice, *Statistics on the Foreigners Registered in Japan as of December 2015 在留外国人統計（旧登録外国人統計）在留外国人統計 月次 2015年12月*, available at <http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001150236>.

**Table 1:** Number of technical interns (December 2015)<sup>76</sup>

1	China	89,087	46.3%
2	Vietnam	57,583	29.9%
3	Philippines	17,743	9.2%
4	Indonesia	15,311	8.0%
5	Thailand	6,089	3.2%
6	Cambodia	3,112	1.6%
7	Myanmar	1,985	1.0%
8	Mongolia	632	0.3%
9	Lao PDR	330	0.2%
10	Nepal	257	0.1%
<b>TOTAL</b>		<b>192,129</b>	

Source: Ministry of Justice, *Statistics on the Foreigners Registered in Japan as of December 2015*

Technical interns are typically assigned to “3K” jobs<sup>77</sup> and often paid less than their Japanese counterparts. Some see the wage discrimination as markedly unfair and face labour exploitation and leave the internships in search of job opportunities which provide equal pay for equal work. They report that they would stay if the receiving businesses abided by labour standards and provided equal treatment. Some companies have, however, started implementing measures for improvement.

Apart from Japanese descendants from South America and technical interns, students at Japanese language schools also engage in low-wage part-time work, often working night shifts in the fast food industry.

There is an absence of social inclusion policies to assist migrant women married to Japanese nationals in relation to work, language education, childcare, and education. In particular, migrant women who live in rural areas with Japanese husbands have very limited access to social resources (such as Japanese lessons, migrants’ meetings, etc.). In addition to language barriers, some migrant women suffer from mental or psychological issues such as depression. This is because they often feel isolated, as some Japanese husbands do not like them to have outside social contacts. A doctor who has medically examined many migrant women told MMN about his research findings that heart disease is common among this community, and is likely caused by stress in their daily lives.

Furthermore, government support to facilitate migrant children’ access to social services, such as language education, higher education, and jobs, for migrant children is limited. This combines with society’s general resistance to diversity, which in some cases is the trigger for bullying. Social exclusion of migrant children does not only take the form of bullying in schools, but also in extreme cases, discrimination that ends in sexual harassment or physical violence. Examples include incidents where a Korean student’s skirt was cut by a stranger when she was on her way to a Korean school, as well as hate speech demonstrations targeting neighbourhoods where many migrants live.<sup>78</sup> This is not only a social issue, but also a problem of Japan’s current legislation. Among migrant children born to parents without regular visa status, some are deported along with their parents, while others are separated from their parents because of the government’s decision to uphold their right to study, while deporting parents. Children permitted to stay while their parents are deported are often teenagers under 18 years old, still in need of parental care as per Article 18 of the Convention of the Rights of the Child, of which Japan is a party.<sup>79</sup>

Mr. Jorge Bustamante, the then UN Special Rapporteur on the human rights of migrants, made an official visit to Japan in March 2010 to investigate the human rights situation of migrants. In his report to the UN released in March 2011, he lamented that “the integration of migrants in the society is not part of the country’s central

<sup>76</sup> *Ibid.*

<sup>77</sup> 3K refers to “Kitanai, Kiken and Kitsui,” the Japanese equivalent of “Dirty, Dangerous, and Demeaning.”

<sup>78</sup> *Asahi Shimbun*, “Chima Chogori was cut by somebody in Yokohama” (5 August 1994) (下校中、チマ ヨゴリを切られる 下校途中で・神奈川 横浜)

<sup>79</sup> Under Article 18(2) of the UN Convention on the Rights of the Child, the Japanese government is obliged to “render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities”.

Government policy”.<sup>80</sup> He also drew attention to the fact that the regularisation of undocumented migrants is only possible for migrants who are married to Japanese nationals or who raise the children of Japanese national, but that the special permission remains within the Minister of Justice’s discretion and has yet to be established as a part of the law.<sup>81</sup> As of 2016, the situation remains challenging and in some ways has become more serious.

In July 2012, the registration of foreigners was centralised under the jurisdiction of the Ministry of Justice. Before that, migrant children without regular visa status had access to social services including education and medical services subject to local municipalities’ discretion when such services were deemed necessary. However, after reform, not only did those migrant children lose access to social services, but they have also become subject to deportation proceedings, when local municipality officials report them to the Ministry of Justice.

There are many cases in which exceptional circumstances should be taken as justification of their inability to renew their visas in time. Examples include domestic violence situations in which the husband refuses to sign for the wife’s visa; and the lack of recognition of children from Japanese fathers, given the absence of legal marriage to foreigner mothers.

Immigration policy in Japan is also discriminatory on gender grounds. When foreign parents raise children under 18 years old with Japanese nationality, the parents can be granted a residential visa. This is a positive development, as many foreign women, who have divorced Japanese husbands because of domestic violence or other reasons, have access to a regularisation option. However, this can also be seen as discriminatory on gender grounds, as the assumption behind this policy is that foreign women should play roles as wives or mothers in Japan, rather than any roles based on their abilities or skills.<sup>82</sup>

### 3.3 What policies promote social inclusion?

Japan’s labour shortage is exacerbated by its rapidly aging population and low birth rate. In 2006, the Ministry of Internal Affairs and Communications announced a policy of “Multicultural Coexistence”—a top-down policy mandate to encourage local municipalities to formulate policies to promote the coexistence of different cultures.<sup>83</sup> The policy is passive in terms of promoting equality, but still a step closer to the establishment of social inclusion policies. It should be noted that the extent of implementation of this policy varies dramatically among local municipalities. For instance, Kanagawa prefecture has established quasi-government organisations to better serve the area’s growing migrant communities. Kanagawa International Foundation, for instance, promotes international exchange and cooperation in Kanagawa prefecture. The Foundation has been providing multilingual support in Japanese, English, Tagalog, Portuguese, Spanish, Thai, Vietnamese, and Khmer to convey necessary information from the national and prefectural governments to migrants on daily life and safety matters, such as education, welfare, medical services, and disaster preparedness. Furthermore, the Foundation supports migrant children and their families by providing information regarding children’s health, education, and work (such as job training for nursery care teachers). Moreover, in hope of increasing collaboration among residents and NGOs, the Foundation supports migrant communities and networks, and facilitates migrants voicing opinions on prefectural policies. This is particularly important, since the prefecture has a large population of refugees from Cambodia and Vietna.

Kanagawa prefecture also financially supports a Multi-language Information Centre (MIC) to train medical interpreters and provide medical interpretation services for migrants. Kyoto city has also put in place similar medical interpretation arrangements.

However, it must be pointed out that the above examples of good practice are exceptional. To date, only a few local municipalities have taken steps to implement the “Multicultural Coexistence” policy.

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<sup>80</sup> United Nations General Assembly, *Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante* (21 March 2011), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/121/27/PDF/G1112127.pdf?OpenElement>.

<sup>81</sup> *Ibid.* In 2008, while 39,382 undocumented migrants received an order of removal, 8,522 migrants received a special permit to stay. The majority of those granted a special permit to stay were those married to Japanese nationals.

<sup>82</sup> Although the environment is discriminatory, some migrant women choose to carry out traditional roles as wives and mothers as a strategy to migrate to Japan. If divorced women have no children with Japanese nationals, it is very difficult for them to access a regular visa status despite having a stable job, qualifications, skills, and/or good relationships and being socially integrated into Japanese society.

<sup>83</sup> Stephen Robert Nagy, *Japanese Multicultural Coexistence: Emblematic of a Liberal Democratic Society?*, Institute of Asia-Pacific Studies, Waseda University, available at [http://www.waseda-giari.jp/sysimg/rresults/456\\_report\\_1-3.pdf](http://www.waseda-giari.jp/sysimg/rresults/456_report_1-3.pdf).



### 3.4 What initiatives by civil society organisations help reduce social exclusion and encourage social inclusion?

MMN's visit to Japan included interviews with Kalabaw (Kanto region, established in 1986), Women's House SALAA (which means house for rest and relaxation in Thai) (Kanto region, established in 1992), Services for the Health in Asian & African Regions (SHARE) (Tokyo, established in 1983) and Kyoto Young Women's Christian Association-Asian People Together (YWCA APT) (Kyoto, established in 1991). Kalabaw and Kyoto YWCA APT have multilingual consultation services and Japanese language lessons for migrants. They also accompany migrants to local government offices when necessary, and coordinate with relevant agencies to help migrants solve their problems. SALAA runs a shelter for women and children and provides other necessary assistance services, such as legal assistance, while SHARE focuses on health promotion and health care provision at the grassroots level.



MMN delegates visited YWCA Kyoto to learn about social exclusion issues faced by migrants. Kyoto, Japan, July 2016  
(Photo Credit: John Hulme/MMN)

Furthermore, through the efforts of Japanese NGOs, migrants' groups were established in migrant communities. For example, SHARE helped Thai migrants set up a self-help group named TAWAN (which means "sunflower" in Thai), which focuses on sanitation and health, promotes HIV/AIDS prevention, and provides medical interpretation services. In addition to helping newcomers from Thailand with their problems and settling in, the Thai staff members at Kalabaw regularly set up Thai food stalls at Japanese community festivals to improve local appreciation of migrants' culture. Kalabaw and Kyoto YWCA APT offer Japanese language lessons. Migrants also work as service providers, for instance, teaching English at Kyoto YWCA APT. In addition, there are several other self-help groups and schools for Chinese, Korean, and Brazilian migrants, who make up the majority of the migrant population in Japan.

Though not an NGO, some businesses are aware that social inclusion is important. One company, for instance, that MMN visited during its field visit hires technical interns. This company puts effort into managing the relationships between their foreign workers and Japanese neighbours. A few years ago there were arguments in buildings where migrant workers live. Japanese neighbours generally find it disturbing when other residents make noise, leave rubbish in common areas such as the stairs, and do not follow rules about rubbish separation. After the company realised such problems, it started greeting the neighbours and teaching migrants about rubbish separation rules and about keeping common areas of buildings clean. Migrant workers also now participate in a community-organised summer festival. This company's effort is a positive example of promotion of social inclusion. More such actions should be promoted.



### 3.5 Conclusion and recommendations

Migrants are a part of Japanese society and have positive social, economic, political, and cultural impacts in Japan. Policy measures aiming at social integration in areas such as education, medical services, work, and social security should be formulated.

Currently, working visas are primarily available for Japanese descendants and those coming in on the TITP. This is extremely limiting. Firstly, MMN recommends that the bias in immigration policies (favouring Japanese descendants and considering foreign women with children as only wives or mothers) should be examined and reconsidered.

At the moment, children are sometimes left in Japan as their parents are deported. Pursuant to the United Nations Convention on the Rights of the Child, the interest of the child should be prioritised. In particular, implementation of the Immigration Act should not result in children being separated from their families, unless separation is in the best interest of those children. In cases where it is in the best interest of the child, parents of children studying in Japan should be given priority for permission to stay.

There is an urgent need for policy measures that promote migrants' social integration in areas including education, work, medical services, and social security. The "Multicultural Coexistence" policy is a welcome start and should be repositioned as a central measure to protect migrants' rights and promote social integration in local communities. A limited number of prefectures have taken effective action as a result. The Japanese government should support local municipalities, CSOs, and migrants' self-help groups. Some local municipalities provide CSOs with financial support, which contributes to training medical interpreters, and in turn ensures that migrants have access to health care. Good practices should be promoted and the government should work towards building a society that appreciates multicultural living and embraces diversity.

Many migrants report being victims of racial discrimination and xenophobia. As such, there is an urgent need for greater government intervention to prevent such acts and punish those who commit them. The 2016 enactment of the Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan – the so-called anti-hate speech law — marks a milestone. However, it has been criticised as stipulated penalties are not sufficiently punitive. Stronger binding measures are recommended.

Presently, there is an information gap between Japan (the host country) and Thailand, Cambodia, and Myanmar (the countries of origin), whereby the countries of origin have incomplete information on the issues faced by technical interns. The current procedures for sending and receiving technical interns are complicated, and the purpose of the TITP – whether it is for training or filling labour shortage – has not been made clear to job seekers. Furthermore, the rights of technical interns are not sufficiently guaranteed throughout their stay in Japan.

## CHAPTER THREE

# The Social Exclusion and Inclusion of Migrants in Myanmar

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Burmese garment worker relaxes on her day off.  
Yangon, Myanmar, June 2016  
(Photo Credit: John Hulme/MMN)

## Overview of labour migration in Myanmar

Myanmar is one of the primary countries of origin for cross-border migrants in the Greater Mekong Sub-region. The International Organization for Migration (IOM) estimates that up to 10 percent of the country's population migrates internationally.<sup>84</sup> While Myanmar's turbulent political situation was a principal driver of cross-border migration for decades, socio-economic and political challenges continue to influence migration patterns today. These challenges include limited livelihood opportunities and social protections, the loss of land from large-scale development projects and environmental degradation, and prolonged conflict in border regions. Cross-border migration to access jobs and higher wages is an important livelihood strategy for many individuals and families across the country.<sup>85</sup>

While people migrate within and beyond the borders of the region to seek employment in countries and territories such as Malaysia, Korea, Singapore, Japan, and Hong Kong,<sup>86</sup> neighbouring Thailand is the primary destination country for Myanmar migrant workers.<sup>87</sup> There were approximately 1.5 million Myanmar migrant workers registered in Thailand as of August 2016.<sup>88</sup> It is difficult to determine the exact number of migrants working in Thailand as a large number of people migrate through irregular channels. Myanmar migrant workers in Thailand are largely employed in construction, agriculture, service and hospitality industries, and fishing-related industries.<sup>89</sup>

The protection of migrant workers has been declared a national priority for the Government of Myanmar.<sup>90</sup> While channels of regular migration are available to workers migrating to various destination countries, including by means of bilateral agreements and MOUs facilitated by both government and private recruitment agencies, a significant number of individuals migrate irregularly due to excessive costs and long waiting times to receive official documentation.<sup>91</sup> Both documented and undocumented migrant workers are at risk of experiencing exploitation, a lack of legal protections, and abuse throughout the migration process.<sup>92</sup>

### 4.1 Introduction

Migrants tend to live in social exclusion while in countries of destination, an experience that for many continues upon returning to their home country. Based on information from research and interviews with Myanmar migrant returnees, MMN has highlighted the policies, or the lack of policies, which act as barriers to the inclusion of migrant returnees back in Myanmar. Elements of social exclusion faced by migrant returnees include declining political and economic participation, and limited access to documentation and social services. On the other hand, the Government of Myanmar has taken some recent steps towards social inclusion, for instance by adopting the National Action Plan (NAP) for the Management of International Labor Migration for 2013-2017, which looks at migration issues throughout the entire cycle of migration. Continued work to this effect is needed.

<sup>84</sup> IOM, Myanmar (2016), available at <https://www.iom.int/countries/myanmar>.

<sup>85</sup> MMN, *Migration in the Greater Mekong Subregion Resource Book*, Fourth Edition (2013), available at <http://www.mekongmigration.org/finalised%20BEZ%20pdf%20file.pdf>.

<sup>86</sup> In 2014, the Government of Myanmar announced a restriction on the emigration of women for domestic work to any country, closing official routes that the government had opened to Singapore and Hong Kong.

<sup>87</sup> WHO South-East Asia Regional Office, "Session 5: Health Situation and Health Systems Analysis: Cambodia, Lao PDR, Myanmar, Thailand, Vietnam", Bi-regional Meeting on Healthy Borders in the Greater Mekong Subregion (5-7 August 2013), available at [http://www.searo.who.int/thailand/news/Session\\_5\\_five\\_country\\_health\\_systems\\_profiles.pdf](http://www.searo.who.int/thailand/news/Session_5_five_country_health_systems_profiles.pdf).

<sup>88</sup> Royal Thai Government, "ข้อมูลประจำเดือนสิงหาคม 2559" (August 2016), available at <http://wp.doe.go.th/wp/images/statistic/sm/59/sm0859.pdf>.

<sup>89</sup> Office of Foreign Workers Administration, Department of Employment, Ministry of Labour (August 2016), available at <http://wp.doe.go.th/wp/images/statistic/sm/59/sm0859.pdf>.

<sup>90</sup> As stated by the Myanmar Ministry of Labour, Employment and Social Security in the *Five-Year National Plan of Action for the Management of International Labor Migration in Myanmar, 2013-2017*.

<sup>91</sup> IOM, Myanmar (2016), available at <https://www.iom.int/countries/myanmar>.

<sup>92</sup> Sarah Meyer, *Migration and Mental Health on the Thailand-Burma Border: A Mixed Methods Study*, Doctoral Dissertation (Baltimore, Johns Hopkins University: 2014), available at <https://jscholarship.library.jhu.edu/bitstream/handle/1774.2/37944/MEYER-DISSERTATION-2014.pdf>.

## 4.2 What policies reinforce social exclusion?

Upon return to their country of origin, many migrant workers are faced with substantial barriers to social inclusion. Migrant returnees' face barriers in access to citizenship rights, education, health care, and sustainable livelihood supports. While the barriers to these rights and supports have wider negative impacts on the Myanmar population at large, they impose greater restrictions on the social inclusion of migrant returnees.

### 4.2.1 Citizenship rights

Many Myanmar migrants face substantial barriers to obtaining national identification due to outdated policies and are therefore excluded from full citizenship rights. National Registration Cards, also known as Citizenship Scrutiny Cards, are issued by the Ministry of Immigration and Population's Immigration and



Burmese worker arrives for the late shift at a coffee factory in Hlaing Thar Yar Industrial Zone, Yangon, Myanmar, June 2016  
(Photo Credit: John Hulme/MMN)

National Registration Department according to the 1982 Citizenship Law.<sup>93</sup> These identification cards grant Myanmar nationals relative freedom to travel within the country, voting rights, employment opportunities in the civil service, and access to state-run secondary education.<sup>94</sup> While a significant portion to Myanmar's population is scantily documented, cross-border migrants in particular – predominantly those from ethnic minorities, rural areas and border regions, and those who fled conflict zones – often lack official documentation, such as household registration certificates, needed to apply for citizenship. There has historically been uneven access to official documentation, with those in some areas not ever having had any or a complete set of official certificates or identification. Some cross-border migrants hold mismatched documents with various or incorrect spellings of their names and addresses as listed by employers or brokers, which poses a greater challenge to obtaining valid documentation.<sup>95</sup> Migrant children born outside the borders of Myanmar also face numerous barriers to becoming Myanmar citizens. Myanmar law requires a child to be registered and issued a birth certificate within one month of birth. This birth certificate is needed to apply for household registration. However, some destination countries, including Thailand, have no official guidelines on the issuance of birth certificates to migrant children or on registration of them.<sup>96</sup> The 1982 Myanmar Citizenship Law stipulates that, with a birth certificate and household registration document, a child must apply for a National Registration Card at the age of 10 and renew it at the age of 18 at the immigration office within their township.<sup>97</sup> This creates large challenges for migrant children residing outside the country, as well as for those who have returned without a birth certificate or access to household registration.

<sup>93</sup> San Yamin Aung, "'Smarter' National ID Cards in the Pipeline", *The Irrawaddy* (20 September 2013), available at <http://www.irrawaddy.com/burma/smarter-national-id-cards-pipeline.html>.

<sup>94</sup> Saw Lindsay and Saw Mort, "National ID Scheme Met with Confusion, Indifference, Fear", *Karen News* (4 February 2014), available at <http://karennews.org/2014/02/national-id-scheme-met-with-confusion-indifference-fear.html/>; Human Rights Watch, *Discrimination in Arakan* (2000), available at [https://www.hrw.org/reports/2000/burma/burm005-02.htm#P138\\_37503](https://www.hrw.org/reports/2000/burma/burm005-02.htm#P138_37503).

<sup>95</sup> Nyan Lynn Aung, "Verification program begins but most migrants frozen out", *Myanmar Times* (23 July 2015), available at <http://www.mmtimes.com/index.php/national-news/15625-verification-program-begins-but-most-migrants-frozen-out.html>; Napier-Moore and Sheill, *High Rise, Low Pay: Experience of migrant women in the Thai construction industry* (Bangkok, ILO: 2016).

<sup>96</sup> Bryant Yuan Fu Yang, *Life and Death Away from the Golden Land: The Plight of Burmese Migrant Workers in Thailand*, *Asian-Pacific Law & Policy Journal*, 8, p. 485 (2007), available at <http://www.thailawforum.com/articles/Burmese-Migrants-in-Thailand-7.html>.

<sup>97</sup> Busarin Lertchavalitsakul, "Travelling back home", *New Mandala* (21 August 2014), available at <http://www.newmandala.org/travelling-back-home/>.



The lack of full citizenship rights means that migrant returnees face restrictions on their freedom of movement, access to education, and ability to vote in national elections. These limitations ultimately exclude migrants from fully reintegrating and participating in Myanmar society.

#### 4.2.2 Education

In addition to citizenship-related barriers migrant children face when trying to access state-run education, the government does not have a system for recognition of educational credentials received abroad.<sup>98</sup> For example, in Thailand, Myanmar migrant workers and their families primarily access education through community-based migrant schools and organisations. However, neither Thai nor Myanmar authorities systematically recognise educational achievements in these schools. In order for community-based migrant schools to receive accreditation, they need to meet Thai government requirements related to school curricula, organisation, resources, and teaching methods. These requirements are extremely challenging for organisations lacking funding and additional resources to meet.<sup>99</sup> Furthermore, while Thai state-run schools are open to migrant children, numerous migrant parents choose not to send their children to Thai state-run schools due to feelings that the curricula – which is taught in Thai and focuses on Thai national history and culture – would not adequately prepare their children for returning to Myanmar.<sup>100</sup> Given that there is currently no policy recognising educational achievements from community-based migrant schools, or appropriate alternative educational opportunities for Myanmar migrants, many migrant returnees are excluded from the possibility of continuing their studies or applying for employment in accordance with their education back at home.

#### 4.2.3 Health care

Many migrant returnees are also unable to fully integrate back into Myanmar society due to the absence of policies supporting accessible, affordable, and quality health care, including mental health care. A study on migration and mental health along the Thailand-Myanmar border revealed that aspects of migratory processes, working conditions, and safety amongst migrant workers have significant influence on levels of depression and anxiety.<sup>101</sup> Migrant workers are subject to numerous forms of exploitation, including “limitations of migrants’ mobility through direct employer control, unsafe and unsanitary working conditions that confer increased risk for disease and injury, lack of legal protections, including minimum wage and guaranteed time off work, and verbal, physical and sexual abuse by employers and authorities”.<sup>102</sup> Myanmar’s current health care system fails to adequately address the physical and mental health issues incurred by migrant workers during these experiences. The amount of government spending on health care remains one of the lowest across the ASEAN region<sup>103</sup> and out-of-pocket medical expenses are one of the main barriers to accessing health services and causes of household impoverishment.<sup>104</sup> There are also significant disparities between the extent and quality of health care services in central Myanmar and peripheral areas – such as along the border with Thailand where many migrants originate from – which fall outside the reach of the government.<sup>105</sup> During interviews with MMN member organisations, Myanmar migrant returnees expressed that they do not openly discuss their negative migration experiences with their families and that returnees are often stigmatised if they return home with a disease such as HIV. Overall, without access to adequate health services, migrant returnees will remain socially excluded from their communities, finding it extremely difficult to lead a healthy productive life.

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<sup>98</sup> BEAM Education Foundation, *Migrant Education System Thailand and Myanmar* (2012), available at <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/Submissions/BEAMEducationFoundation.pdf>.

<sup>99</sup> *Ibid.*

<sup>100</sup> *Ibid.*

<sup>101</sup> Sarah Meyer, *Migration and Mental Health on the Thailand-Burma Border: A Mixed Methods Study*, Doctoral Dissertation (Baltimore, Johns Hopkins University: 2014), available at <https://jscholarship.library.jhu.edu/bitstream/handle/1774.2/37944/MEYER-DISSERTATION-2014.pdf>.

<sup>102</sup> *Ibid.*, p. 23.

<sup>103</sup> ASEAN UP, *Overview of healthcare in Myanmar* (2013), available at <http://aseanup.com/overview-healthcare-myanmar/>.

<sup>104</sup> WHO South-East Asia Regional Office, *Myanmar Health Care System* (2012), available at [http://www.searo.who.int/myanmar/documents/HealthinMyanmar\\_2012\\_4\\_healthcaresystem.pdf](http://www.searo.who.int/myanmar/documents/HealthinMyanmar_2012_4_healthcaresystem.pdf).

<sup>105</sup> MMN, *Self-Care and Health Care: How migrant women in the greater Mekong Subregion take care of their health* (April 2015), available at [http://www.mekongmigration.org/Self-Care%20and%20Health%20Care\\_final.pdf](http://www.mekongmigration.org/Self-Care%20and%20Health%20Care_final.pdf).

#### 4.2.4 Livelihood development

Furthermore, many migrant returnees face conditions of social exclusion due to the absence of national policies effectively supporting job creation, skills verification, and access to financing, which in turn influences their decision to re-migrate. Many people migrate for work due to unemployment and low wages.

*“I worked in Thailand because there is not enough work for people in Myanmar. Most people work in traditional occupations such as farming and fishing.”*

– Myanmar man returned from work in Thailand

*“I would like to request that the government create more jobs for people in Myanmar. If there many jobs, we will not need to go other countries for work.”*

– Myanmar man returned from work in Thailand

Many people are drawn to work in other countries where there are higher incomes and greater employment opportunities, particularly in undervalued positions.<sup>106</sup> Based on interviews with migrant communities in both Myanmar and destination countries of Thailand and Japan, it is apparent that some workers aspire to return home with their savings and live with their families. However, the prevalence of insufficient job opportunities – particularly in rural areas – along with low incomes and poor working conditions contribute to decisions to re-migrate.

There is also a lack of recognition of and value ascribed to the experiences and skills attained by workers abroad. MMN member organisations learned from migrant returnees that it is extremely difficult to secure a higher-skilled job in Myanmar without possessing a certificate recognising previous work experiences and skills. Employers in destination countries generally do not provide this, nor do many workers feel they can ask for it, or indeed know that they should ask for it. Moreover, some migrants return home with aspirations of starting their own business but lack access to the financing needed to do so. While there is a growing diversity in the supply of microfinance in Myanmar today, many people in more remote areas are still only able to access informal, unregulated channels of credit, often at exceptionally high interest rates.<sup>107</sup>



Burmese man working in a metal furniture factory in South Dagon Industrial Zone, Yangon, Myanmar, June 2016  
(Photo Credit: John Hulme/MMN)

### 4.3 What policies promote social inclusion?

Although there are many policy gaps, relatively recent measures have been taken by the Government of Myanmar to modify and enact measures promoting the social inclusion of migrant workers. In 2013, the Government of Myanmar adopted a National Action Plan (NAP) for the Management of International Labor Migration for 2013-2017, which recognises the importance of introducing measures to effectively protect

<sup>106</sup> Mya Mya Thet and Piriya Pholphirul, The Perception of Myanmar Development on its Return Migrants: Implications for Burmese Migrants in Thailand, *Journal of International Migration and Integration* (June 2015), available at [https://www.researchgate.net/publication/282492932\\_The\\_Perception\\_of\\_Myanmar\\_Development\\_on\\_its\\_Return\\_Migrants\\_Implications\\_for\\_Burmese\\_Migrants\\_in\\_Thailand](https://www.researchgate.net/publication/282492932_The_Perception_of_Myanmar_Development_on_its_Return_Migrants_Implications_for_Burmese_Migrants_in_Thailand).

<sup>107</sup> Julie Earne and Marisa DeAngelis, “Manufacturing Microfinance in Myanmar”, *Myanmar Times* (4 March 2016), available at <http://www.mmmtimes.com/index.php/opinion/19326-maturing-microfinance-in-myanmar.html>.

Myanmar's migrant workers across all phases of the migration cycle.<sup>108</sup> Although the previous government did not take actions to implement a migration management system in accordance with the NAP, the current government began reviewing the plan earlier this year, which includes comprehensive strategies to support the return and reintegration of migrant workers.

In addition, in an effort to help both domestic and cross-border workers meet international standards and prepare for Myanmar's entry into the ASEAN Economic Community (AEC), the National Skills Standard Authority (NSSA) under the former Ministry of Labour, Employment and Social Security<sup>109</sup> launched a skills certification programme. In 2014, the NSSA facilitated a three-day training and national-level skills test for 157 applicants working in a range of trades, including carpenters, welders, electricians, and waiters. Successful candidates were awarded a competency certificate, which officials said would help Myanmar workers when applying for both domestic and international jobs.<sup>110</sup> Work however needs to be done to ensure that employers recognise and trust these certificates in countries of destination. Employers in Thailand, for instance, say that they start all new workers on the bottom pay scale whether they have a certificate or not, saying workers must prove that they actually have the skills they claim to have.<sup>111</sup>

Moreover, under the newly elected government's "100-day plan", internal migrants living in Bago Region for more than three years were issued household registration certificates and national identity cards.<sup>112</sup> While these migrant workers were not required to return to their original townships to apply, they were only issued documentation and granted full citizenship rights if they met the criteria stipulated in the 1982 Citizenship Law.<sup>113</sup> Hopefully this will be seen as successful enough that local governments will roll out this type of registration for all internal migrants, as well as cross-border migrants who have returned to their original township or who have returned to a new township.

#### 4.4 What initiatives by civil society organisations help reduce social exclusion and encourage social inclusion?

Today in Myanmar, there are numerous CSOs and labour rights organisations – including MMN members such as 88 Generation Peace and Open Society<sup>114</sup> – actively working to support the rights and social inclusion of migrant workers. These groups advocate to government and private recruitment agencies for the protection of migrant workers, create spaces for returnees to share their migration experiences, connect migrants with resources, and organise capacity building trainings and networking activities for community groups. While CSOs acknowledge that the situation of migrant workers in Myanmar is gradually improving, they also believe there is much more that needs to be done.

#### 4.5 Conclusion and recommendations

One major cause of social exclusion is a lack of full citizenship rights for migrant returnees, meaning they face restrictions on their freedom of movement, access to education, and ability to vote in national elections. These limitations ultimately exclude migrants from fully reintegrating and participating in Myanmar society. MMN recommends that the Government of the Republic of the Union of Myanmar simplify the requirements and process to secure national identity cards. An accelerated procedure to issue National Registration Cards and household registration certificates was carried out from 2011 to 2015 under the "Moe Pwint" Project with the aim of increasing the number of eligible voters in the 2015 general election.<sup>115</sup> It is recommended that the

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<sup>108</sup> Ministry of Labour, Employment and Social Security, *Five-Year National Plan of Action for the Management of International Labor Migration in Myanmar, 2013-2017*.

<sup>109</sup> Now referred to as the Ministry of Labour, Immigration and Population.

<sup>110</sup> Kyaw Phone Kyaw, "Workers get national-level skills certificates", *Myanmar Times* (20 February 2015), available at <http://www.mmmtimes.com/index.php/national-news/13189-workers-get-first-competency-certificates.html>.

<sup>111</sup> Napier-Moore and Sheill, *High Rise, Low Pay: Experience of migrant women in the Thai construction industry* (Bangkok, ILO: 2016).

<sup>112</sup> According to the Bago Region Department of Immigration and National Registration, as explained in "Internal Migrant Workers to Bago Region Issued with National ID Cards", *Myitmakha News Agency* (29 May 2016), available at <http://www.myitmakhamedia.info/internal-migrant-workers-to-bago-region-issued-with-national-id-cards/>.

<sup>113</sup> *Ibid.*

<sup>114</sup> Information on 88 Generation Peace and Open Society is available at <https://www.facebook.com/The88Generation/info>.

<sup>115</sup> *Mrtv*, "Moe Pwint Project – Issuing National Registration Cards" (18 January 2015), available at <https://www.youtube.com/watch?v=OO-qN30i8bE>.

Government replicate and increase the reach of such a project, particularly amongst migrant communities in remote areas.<sup>116</sup> MMN also suggests that the Government amend the 1982 Citizenship Law in accordance with recommendations from the United Nations Special Rapporteur on the situation of human rights in Myanmar.<sup>117</sup> Under the Citizenship Law, in order to become a naturalised citizen a person must provide “conclusive evidence” that their parents entered Myanmar prior to independence in 1948, speak one of the national languages, be of “good character,” and be of “sound mind”.<sup>118</sup> The UN Special Rapporteur has urged the Government of Myanmar to “abolish its over-burdensome requirements for citizens in a manner which has discriminatory effects on racial or ethnic minorities”.<sup>119</sup>

Lack of access to schooling for returnee children also remains a cause of social exclusion. It is recommended that the Myanmar Ministry of Education provide curriculum development support and accreditation to community-based migrant schools, and establish more formal and appropriate educational provisions for Myanmar migrant workers and their families in bilateral collaboration with the governments of destination countries.<sup>120</sup>

Further, accessible, affordable, quality health care remains out of reach. A robust referral system is needed between Myanmar and destination countries,<sup>121</sup> as recommended at the 7<sup>th</sup> ASEAN Forum on Migrant Labour in Nay Pyi Taw in 2014.<sup>122</sup> MMN recommends that the Government of Myanmar concurrently provide “psycho-social services to migrant workers in distress prior to their departure and after their return,” as outlined in the National Action Plan (NAP) for the Management of International Labor Migration 2013-2017.<sup>123</sup>

Lastly, in order to better support job creation, skills verification, and access to financing for migrant returnees in Myanmar, it is recommended that the Government of Myanmar establish mechanisms to implement specific strategies outlined in the National Action Plan (NAP) for the Management of International Labor Migration 2013-2017. In particular, it is recommended that the government: establish “a reliable mechanism for the efficient and fast processing of claims, insurance or loans”; provide information on the “national labour market [and] employment opportunities at [the] local level”; recognise the “qualifications and certify the skills acquired by the returned migrants in destination countries through a skills recognition system”; and negotiate “with labour-receiving countries to provide accreditation of skills to returning migrant workers”.<sup>124</sup>

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<sup>116</sup> San Yamin Aung, “‘Smarter’ National ID Cards in the Pipeline”, *The Irrawaddy* (20 September 2013), available at <http://www.irrawaddy.com/burma/smarter-national-id-cards-pipeline.html>; K. Bjorklund, “Myanmar Must Amend Citizenship Law, End Discrimination Against Rohingya Muslims” (14 January 2015), available at <http://www.freeforallblog.org/myanmar-must-amend-citizenship-law-end-discrimination-rohingya-muslims/>.

<sup>117</sup> K. Bjorklund, “Myanmar Must Amend Citizenship Law, End Discrimination Against Rohingya Muslims” (14 January 2015), available at <http://www.freeforallblog.org/myanmar-must-amend-citizenship-law-end-discrimination-rohingya-muslims/>.

<sup>118</sup> Human Rights Watch, *Discrimination in Arakan* (2000), available at [https://www.hrw.org/reports/2000/burma/burm005-02.htm#P138\\_37503](https://www.hrw.org/reports/2000/burma/burm005-02.htm#P138_37503).

<sup>119</sup> *Ibid.*

<sup>120</sup> BEAM Education Foundation, *Migrant Education System Thailand and Myanmar* (2012), available at <http://www.ohchr.org/Documents/HRBodies/CRC/Discussions/2012/Submissions/BEAMEducationFoundation.pdf>.

<sup>121</sup> MMN, *Self-Care and Health Care: How migrant women in the greater Mekong Subregion take care of their health* (April 2015), available at [http://www.mekongmigration.org/Self-Care%20and%20Health%20Care\\_final.pdf](http://www.mekongmigration.org/Self-Care%20and%20Health%20Care_final.pdf).

<sup>122</sup> ILO, *Recommendations: The 7<sup>th</sup> ASEAN Forum on Migrant Labour* (20-21 November 2014), available at [http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms\\_322400.pdf](http://ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_322400.pdf).

<sup>123</sup> Ministry of Labour, Employment and Social Security, *Five-Year National Plan of Action for the Management of International Labor Migration in Myanmar, 2013-2017*, p. 29-30.

<sup>124</sup> *Ibid.*



# The Social Exclusion and Inclusion of Migrants in Cambodia



A number of migrants cross the Cambodia-Thailand border every day. Poi Pet, Cambodia, May 2016  
(Photo Credit: John Hulme/MMN)

## Overview of labour migration in Cambodia

While Cambodia is a country of origin, transit, and destination for migrant workers in the Greater Mekong Sub-region, this paper focuses on Cambodia's role as a country of origin. Cross-border migration from Cambodia is driven primarily by poverty, unemployment, and a lack of access to education and other social services. Although the country has experienced an average annual growth of 7 percent in its Gross Domestic Product (GDP) over the last five years, socio-economic inequality remains a serious issue. Out of a total population of 15.3 million, an estimated three million people live below the poverty line,<sup>125</sup> while 8.1 million people live just above the poverty line.<sup>126</sup>

While some of the main destination countries for Cambodian migrant workers include Malaysia, South Korea, Singapore, and Japan, Thailand remains the most popular. According to the Cambodian Ministry of Labour and Vocational Training (MOLVT), 195,430 documented migrants were working in these five countries in 2015.<sup>127</sup> In addition, between 2006 and 2015, 115,417 documented migrants were reportedly working in Thailand following the establishment of an MOU between the two countries.<sup>128</sup> However, the actual number of Cambodian migrants residing in Thailand far exceeds official figures. For many, regular migration channels are inaccessible and unaffordable. Migrating to Thailand through regular channels can cost upwards of USD 700, while being smuggled into Thailand typically costs around USD 100.<sup>129</sup>

Japan has recently become a popular destination, although the total number of Cambodian migrants working in the country remains relatively small. According to a 2015 report released by MOLVT, since 2007 under the TITP, 2,335 Cambodian workers have migrated to Japan, including 1,445 female workers and 890 male workers.<sup>130</sup> According to the report, migrants pay between USD 2,000 and USD 8,000 to private recruitment agencies to secure positions in the programme.<sup>131</sup>

In an effort to manage the cross-border movement of labour and protect Cambodian migrant workers, in 2010 MOLVT adopted the country's first labour migration policy, which was revised and re-adopted in 2015.<sup>132</sup> In addition, in 2011 MOLVT adopted Sub-Decree 190 on The Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies, which stipulates conditions for the operation of recruitment agencies.<sup>133</sup> A lack of monitoring and enforcement mechanisms for regulating these agencies remains a key issue in Cambodia. Given the excessive amount of time and money required to obtain valid travel documents, many workers choose to migrate through irregular channels increasing their risk of experiencing exploitation, abuse, arrest, and deportation. However, similar to the situation in Myanmar, both documented and undocumented Cambodian migrant workers are at risk of exploitation and abuse throughout the migration process.

<sup>125</sup> In October 2015, the World Bank updated the absolute global poverty line to USD 1.90 a day, reflecting changes in the average price of the goods and services people require in 15 developing countries.

<sup>126</sup> UNICEF, *Social Inclusion and Governance*, UNICEF Country Programme 2016-2018, available at [http://www.unicef.org/cambodia/Country\\_Kit\\_SIG\\_Final\\_A4.pdf](http://www.unicef.org/cambodia/Country_Kit_SIG_Final_A4.pdf).

<sup>127</sup> Ministry of Labour and Vocational Training, Department of Employment and Manpower, Annual Report (2015).

<sup>128</sup> Ministry of Labour and Vocational Training, Department of Employment and Manpower, Data of Cambodian workers abroad.

<sup>129</sup> Max Tunon and Khleang Rim, *Cross-border labour migration in Cambodia: Considerations for the national employment policy*, ILO Asia-Pacific Working Paper Series (October 2013), available at [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_228484.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_228484.pdf).

<sup>130</sup> Ministry of Labour and Vocational Training, Department of Employment and Manpower, Annual Report (2015).

<sup>131</sup> *Ibid.*

<sup>132</sup> Ministry of Labour and Vocational Training and ILO, *Labour Migration Policy for Cambodia 2015-2018* (December 2014), available at [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_145704.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145704.pdf).

<sup>133</sup> Ministry of Labour and Vocational Training, *Sub-Decree 190 on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies* (2011), available at [http://caramcambodia.org/uploads/subdecree190%20on%20management%20of%20sending%20workers%20abroad\\_eng.pdf](http://caramcambodia.org/uploads/subdecree190%20on%20management%20of%20sending%20workers%20abroad_eng.pdf).

## 5.1 Introduction

Even though the Labour Migration Policy for Cambodia 2015-2018 requires the Cambodian Government to station labour attachés in destination countries to provide assistance to Cambodian migrant workers, the implementation of this policy has been slow. At the moment, the Cambodian Government requires private recruitment agencies to provide assistance to migrant workers. However, this only applies to documented migrant workers leaving undocumented migrant workers with no support.

Upon returning home, many migrant returnees explained that they do not share their negative migration experiences with their communities or report these experiences to local authorities due to feelings of shame.

*“The villagers laugh at me because I did not save any money in Thailand.”*

- Cambodian woman returned from work in Thailand

Based on research and interviews with migrant returnees, MMN has found that significant barriers to the social inclusion of migrant returnees in Cambodia include the exclusion of cross-border migrants from political decision-making processes, inadequate access to quality health care upon return, and absence of support to the children of migrant families. Faced with conditions of social exclusion at home, many migrant returnees choose to continue their journey by re-migrating.

## 5.2 What policies reinforce social exclusion?

### 5.2.1 Civil and political rights

Cambodian migrant workers face conditions of social exclusion due to the lack of an absentee voting system infringing on their civil and political rights. Although the Cambodian Constitution grants all citizens over the age of 18 the right to vote, there are no polling stations abroad, nor is there a system to vote by post or proxy. Under national election laws, voters are required to register in one of the Kingdom's 25 provinces.<sup>134</sup> However, many cross-border migrant workers fear that returning home to register and vote will result in the loss of their job or arrest, particularly if they migrated through irregular channels. Regardless, the National Election Committee maintains that an absentee voting system would increase the risk of voter fraud, and that it would be costly to register international voters.<sup>135</sup> The government also claims that the Kingdom's proportional representative electoral system is incompatible with absentee voting and questions which province overseas Cambodians would register in and how they would manage voting in multiple time zones.<sup>136</sup>



Undocumented migrants in destination countries live a precarious existence and are at constant risk of arrest and deportation. Poi Pet, Cambodia, May 2016

(Photo Credit: John Hulme/MMN)

<sup>134</sup> Pech Sotheary and Erin Handley, “Voting abroad impossible: PM”, *The Phnom Penh Post* (17 February 2016), available at <http://www.phnompenhpost.com/national/voting-abroad-impossible-pm>.

<sup>135</sup> Jonathan Cox, “No Voting Rights for Cambodians Abroad”, *Khmer Times* (4 October 2016), available at <http://www.khmertimeskh.com/news/16892/no-voting-rights-for-cambodians-abroad/>.

<sup>136</sup> Pech Sotheary and Erin Handley, “Voting abroad impossible: PM” (2016).

Cambodian migrant workers contribute significantly to the national economy – having reportedly sent USD 256 million home in remittances in 2012 – yet they are excluded from selecting a political party that represents their interests and excluded from influencing policies that address their concerns.<sup>137</sup> Unable to exercise their civil and political rights and voice their interests and concerns, migrant workers face substantial barriers to social inclusion both overseas and at home.

### 5.2.2 Health care

Similar to the situation in Myanmar, many migrant returnees are also unable to fully integrate back into society due to the absence of policies supporting accessible, affordable, and quality health care. Cambodia has experienced a significant improvement in the health status of its population due to economic growth over the past several years. The National Strategic Development Plan 2014-2018 outlining the government's approach to inclusive and sustainable development identifies health as a priority issue.<sup>138</sup> However, health inequalities persist particularly between rural and urban areas and among different socio-economic groups including migrant workers.<sup>139</sup> High levels of out-of-pocket medical expenses, which account for more than 60 percent of the country's total health expenditures, and poor quality of health care, particularly in remote facilities, are significant barriers to improved health statuses.<sup>140</sup> Initiatives to address financial barriers to accessing health care, including a Health Equality Fund (HEF), have been implemented with some success.<sup>141</sup> The HEF scheme provides financial support to households identified as poor according to criteria from the Ministry of Health to cover expenses such as direct medical costs, transportation for patients, and food allowances.<sup>142</sup> While the programme has generally led to improvements in access to health services, some migrant returnees informed MMN member organisations that they are unaware of the scheme or how to become officially identified as a "poor household". Overall, while the inadequate quality and access to health care has implications for the wider population of Cambodia, migrant returnees arguably experience greater impacts as they are at risk of experiencing severe physical and mental health issues during the migration process and often lack knowledge of available services due to the transitory nature of their work. Without *de facto* access to proper support, migrant returnees may be excluded from pursuing a healthy productive life back home.

### 5.2.3 Child support

In addition, some Cambodian migrants and their families face barriers to social inclusion due to a lack of policies supporting the well-being of children of migrant families. Empirical studies present conflicting findings on the relationship between migration and the welfare of migrants' children living without their parents in Cambodia.<sup>143</sup> Some studies confirm the hypothesis that remittances allow households to invest more in children's education.<sup>144</sup> Other studies reveal that migration reduces parental care, disrupts family structures, and negatively impacts children's school enrolment.<sup>145</sup> In a 2014 study on adult migration and children's well-being in Cambodia, the Cambodia Development Resource Institute found that the children of migrant families are more likely to drop out of school and participate in economic activities.<sup>146</sup>

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<sup>137</sup> Dene-Hern Chen and Khuon Narim, "No Votes for Almost 600,000 Cambodians Working Abroad", *The Cambodia Daily* (3 July 2013), available at <https://www.cambodiadaily.com/elections/no-votes-for-almost-600000-cambodians-working-abroad-33075/>.

<sup>138</sup> WHO, *Cambodia Country Cooperation Strategy* (May 2014), available at [http://www.who.int/countryfocus/cooperation\\_strategy/ccsbrief\\_khm\\_en.pdf](http://www.who.int/countryfocus/cooperation_strategy/ccsbrief_khm_en.pdf).

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> The World Bank, "Cambodia: The Rural Poor are Receiving Free Health Care in Preah Vihear", (20 August 2013), available at <http://www.worldbank.org/en/news/feature/2013/08/20/cambodia-the-rural-poor-are-receiving-free-health-care-in-preah-vihear>.

<sup>142</sup> MMN, *Self-Care and Health Care: How migrant women in the greater Mekong Subregion take care of their health* (April 2015), available at [http://www.mekongmigration.org/Self-Care%20and%20Health%20Care\\_final.pdf](http://www.mekongmigration.org/Self-Care%20and%20Health%20Care_final.pdf).

<sup>143</sup> Hing Vutha, Lun Pide, and Phann Dalis, The Impacts of Adult Migration on Children's Well-being: The Case of Cambodia, *Cambodia Development Resource Institute* (July 2014), available at [http://www.cdri.org.kh/webdata/download/otherpapers/Migration%20and%20child%20well-being\\_CDRI.pdf](http://www.cdri.org.kh/webdata/download/otherpapers/Migration%20and%20child%20well-being_CDRI.pdf).

<sup>144</sup> *Ibid.*, p. 4.

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*



Based on discussions with migrant families in Cambodia, MMN partners found that children not only leave school to contribute to household income but also to care for younger siblings and older relatives. While these findings may not be representative of the situation of all migrant families in Cambodia, it does highlight the need for greater public support for migrant families in order to allow all children to fully participate in schooling and access their right to free public education accorded by the Constitution of Cambodia.<sup>147</sup>

### 5.3 What policies promote social inclusion?

The Royal Government of Cambodia's Labour Migration Policy for Cambodia 2015-2018 is a key document that outlines actions promoting the social inclusion of migrants. Building on the previous Policy on Labour Migration for Cambodia 2010-2015, this policy aligns with the goals and timelines of other national policies. In particular, the policy introduces "measures to ensure that new job seekers can be productively employed and develop their skills to be able to work in emerging, rather than vulnerable sectors in both Cambodia and destination countries".<sup>148</sup> The policy links to the Cambodia National Employment Policy, which supports the mobility of workers and employment generation. It also aligns with the National Strategic Development Plan 2014-2018, which frames emigration as a population issue that is integrated into national development planning processes.<sup>149</sup> Employment generation is key to ensuring that migrants are included in the national economy upon return. Job creation is also necessary to provide potential migrants with livelihood options at home and thus a real choice about whether or not to migrate opposed to feeling as though migration is the only pathway to a secure livelihood. While the Labour Migration Policy is comprehensive and promotes strategies to generate employment and foster the social inclusion of migrant workers through all stages of the migration process, its implementation and effectiveness in promoting inclusion will need to be evaluated in the future.



Cambodian migrant fisherman repairing a net.  
Rayong, Thailand, March 2016  
(Photo Credit: John Hulme/MMN)

<sup>147</sup> Royal Government of Cambodia, *Education for All 2015 National Review Report: Cambodia*, available at <http://unesdoc.unesco.org/images/0022/002297/229713e.pdf>.

<sup>148</sup> Ministry of Labour and Vocational Training and ILO, *Labour Migration Policy for Cambodia 2015-2018* (December 2014), p. 5, available at [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_145704.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145704.pdf).

<sup>149</sup> *Ibid.*

## 5.4 What initiatives by civil society organisations help reduce social exclusion and encourage social inclusion?

Some CSOs and labour rights organisations in Cambodia focus on protecting and promoting the rights of migrant workers both in Cambodia and in destination countries. Some of these initiatives include providing potential migrants and migrant returnees with information on safe migration and legal aid services, lobbying government agencies to protect the rights of migrant workers, and providing support during the return and reintegration process. In terms of specifically encouraging social inclusion, some local organisations and networks of workers prioritise including the voices of migrants in discussions with the government and other stakeholders. For example, the Cambodian Domestic Workers Network, with both migrant domestic workers and migrant returnees as members, was formed in 2012 around the mission of “organizing domestic workers as one voice to advocate for improved rights, working conditions, and living conditions”.<sup>150</sup> The establishment of such groups helps to increase the representation and bargaining power of migrant workers, which in turn helps to address their concerns related to social exclusion.

## 5.5 Conclusion and recommendations

In order to better promote the social inclusion of migrant workers, MMN recommends that the Royal Government of Cambodia amend the national election laws that require citizens to vote within the borders of Cambodia and implement an absentee voting system in line with other countries – including Indonesia and many European nations – that operate under a proportional representation voting system.<sup>151</sup> It is suggested that the Government provide citizens living abroad the opportunity to cast their vote in Cambodian embassies and consulates during national elections. The government is also advised to allocate resources to establish overseas electoral monitoring systems that ensure that votes are not tampered with, confirm the identity of voters, and thus mitigate the risk of voter fraud. The implementation of an absentee voting system would grant migrants their constitutional civil and political rights and allow them to impel political parties to consider their interests and concerns.

In addition, in order to increase access to quality health care for migrants, it is recommended that the Government of Cambodia conduct outreach to better inform migrant returnees of available health services and how to qualify for subsidies as a “poor household” from initiatives such as the Health Equality Fund (HEF). It is also suggested that the Government of Cambodia continue to prioritise the improvement of national health care plans and provision.

Furthermore, MMN recommends that the Government of Cambodia provide supports to migrants’ children living without their parents in Cambodia. Such support should ensure that all children can fully participate in schooling and access their right to free public education in accordance with the Constitution of Cambodia.

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<sup>150</sup> Cambodia Domestic Workers Network, “Formed in 2012, CDWN aims to attain 1,000 members by 2017, including migrant Cambodia domestic workers in Malaysia” (28 March 2015), available at <http://www.idwfed.org/en/affiliates/asia-pacific/cambodia-domestic-workers-network-cdwn>.

<sup>151</sup> Pech Sotheary and Erin Handley, “Voting abroad impossible: PM”, *The Phnom Penh Post* (17 February 2016), available at <http://www.phnompenhpost.com/national/voting-abroad-impossible-pm>.

# CONCLUSION & RECOMMENDATIONS

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## 6.1 Conclusion

Most people migrate for work with the hope of improving their lives and the lives of their family members. While migrant workers make significant social and economic contributions to their families and communities by sending remittances and bringing new ideas and skills home, this is often at great sacrifice in terms of their own health and well-being. Migrants are typically employed in jobs that local people are unwilling to take and paid minimal wages. Governments in destination countries formulate policy on the basis that migration is temporary. This presumption gives policy makers and civil servants little incentive to ensure migrants receive due rights entitlements, much less that they are given the support needed for social inclusion. In addition to the weak enforcement of laws protecting the rights of cross-border migrants in destination countries, the governments of countries of origin do not provide adequate support to their citizens when they face rights violations abroad.

The homecoming and life on return that people hope for does not always play out in reality. Indeed, systemic and policy barriers described in this paper – such as barriers to education, health, voting, etc. – are compounded by discrimination and stigma from home communities. Further, given the barriers to accessing desired jobs and capital needed to establish sustainable and fulfilling livelihoods at home, many migrant returnees find themselves with little option but to re-migrate and thus continue to remain excluded from the social fabric of their communities.

Social inclusion should be compelling for all stakeholders in the region, as the experience of being socially excluded in one's daily life has serious detrimental effects on personal well-being.<sup>152</sup> From a psychological perspective, Hutchison *et al.* note that living in social exclusion “challenges people’s fundamental need to belong to a social unit. It causes a number of dysfunctional reactions including lowered self-esteem, greater anger, and inability to reason well, depression and anxiety, as well as self-defeating perceptions and behaviours”.<sup>153</sup> These ill effects are compounded by the impact of being excluded from access to basic public services such as education, health care, and justice mechanisms. There are further long-term consequences for societies that allow social exclusion to fester unaddressed. As Anisef and Lanphier point out, “children who experience social exclusion pose a threat to society as they grow up with little stake in the existing social order”.<sup>154</sup> On the other hand, if migrant children are raised in an inclusive society where they receive equality of opportunity in education and health care provision, they are far more likely to become an asset to and an integral participant in that society.

In part, through NGO networks, migrants in some places in the region have representatives and spokespersons who can speak out and advocate to the local and national government, employers, and international organisations. While this does not always equate to policy change, it does provide a meaningful voice for migrants to express their concerns. Some local and national governments have initiated policy measures to counter exclusions related to documentation, schooling, and social security, but these are often ad hoc or indeed trumped by an immigration policy that takes precedence and can lead to arrest and deportation, rather than access to rights entitlements.

Current attention to migration issues in Asia often stresses the poor working conditions of migrants, prioritising this over the discriminatory treatment that they often receive in other aspects of their lives in the host, or even home, society. Attention to social inclusion is urgently needed.

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<sup>152</sup> Paul Hutchison, Dominic Abrams, and Julie Christian, “The Social Psychology of Exclusion” in Dominic Abrams, Julie Christian and David Gordon (eds.), *Multidisciplinary Handbook of Social Exclusion Research* (Chichester, John Wiley & Sons: 2007), p. 29.

<sup>153</sup> *Ibid.*

<sup>154</sup> Paul Anisef and Michael Lanphier, *The World in a City* (Toronto, Toronto University Press: 2003), p. 8.

## 6.2 Recommendations

*Significant policy and practice changes are needed to transform migrants' experiences of social exclusion into experiences of social inclusion. There are promising practices from varied actors in each of the countries studied in this report. Those are an inspiration for many of the below recommendations.*

*Migrants, their families in countries of origin, and returnees also directly suggested many of the recommendations below based on their own experiences of exclusion and inclusion at home and abroad. Finally, MMN partners formulated other points based on their collective analysis.*

*MMN and all migrant and returnee participants to this paper sincerely hope that duty bearers will take heed of these suggestions and make strides toward changes that are urgently needed as we move to a more integrated region where the work and lives of all people's are appreciated, valued, and considered equal with nationals and where all are able to lead fulfilling lives within communities.*

### **Recommendations to the Royal Thai Government:**

- Develop a long-term strategic plan for migrant workers and their families in Thailand with meaningful input from migrant communities, as well as other stakeholders.
- Reform immigration policies to allow migrants and their families to remain without being linked to employers.
- Implement laws and policies which already exist without discrimination by providing sufficient human resources and budgets for providing services to migrants.
- Eliminate discriminatory policies, and create mechanisms to enable migrants to receive the full benefits to which they are entitled.
- Provide mechanisms to overcome obstacles which impede access to information and services, in part through support to and dialogue with CSOs.
- Promote migrant communities as a legitimate part of society, by providing *de facto* access to health services, social security, and education.
- Provide platforms where migrants can interact meaningfully with the surrounding communities.

### **Recommendations to the Government of Japan:**

- Formulate policy measures promoting social integration in education, health care, work, social security, and participation in community events.
- Eliminate the bias in immigration policies favouring Japanese descendents.
- Consider the abilities and skills of migrants, particularly women, when deciding whether to grant special permission to stay, eliminating the sole expectation placed on them to perform traditional roles as wives of Japanese nationals and mothers raising children with Japanese citizenship.
- Prioritise the best interest of the child as per the United Nations Convention on the Rights of the Child. Implementation of the Immigration Act should not result in children being separated from their families, unless the separation is the best interest of those children. Give priority for permission to stay to parents of children studying in Japan.
- Give greater emphasis to the Multicultural Coexistence policy as a central measure to protect migrants' rights and promote social integration in local communities.
- Support local municipalities, NGOs, private groups, and migrants' self-help groups.
- Combat racial discrimination and xenophobia against migrants with more effective enforcement of the 2016 Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan.
- Simplify current procedures regarding the recruitment and employment of technical interns on the Technical Intern Training Program. Protect the rights of technical interns throughout the process.



### **Recommendations to the Government of the Republic of the Union of Myanmar:**

- Simplify the requirements and process to secure national identity cards especially in remote areas.
- Simplify the bureaucracy surrounding application of the 1982 Citizenship Law, which has discriminatory effects on racial or ethnic minorities.
- Establish more formal and appropriate educational provisions for Myanmar migrant workers and their families in bilateral collaboration with the governments of destination countries. Provide curriculum development support and accreditation to community-based migrant schools in destination countries.
- Implement the following commitments from the National Action Plan for the Management of International Labor Migration 2013-2017:
  - Provide “psycho-social services to migrant workers in distress prior to their departure and after their return.”
  - Establish “a reliable mechanism for the efficient and fast processing of claims, insurance or loans.”
  - Provide information on the “national labour market [and] employment opportunities at [the] local level.”
  - Recognise the “qualifications and certify the skills acquired by the returned migrants in destination countries through a skills recognition system.”
  - Negotiate “with labour-receiving countries to provide accreditation of skills to returning migrant workers.”

### **Recommendations to the Royal Government of Cambodia:**

- Amend national election laws that require citizens to vote within the borders of Cambodia and implement an absentee voting system that allows citizens living abroad to cast their ballot in Cambodian embassies and consulates.
- Allocate resources to establish overseas electoral monitoring systems that ensure that votes are not tampered with and the identity of voters is confirmed.
- Conduct outreach to better inform migrant returnees of available health services and how to qualify for subsidies as a “poor household” from initiatives such as the Health Equality Fund.
- Continue to prioritise the improvement of national health care plans and provision.
- Provide support to the children of migrants living without their parents in Cambodia. Ensure that all such children can fully participate in schooling and access their right to free public education in accordance with the Constitution of Cambodia.

# Appendix

## Multiple definitions of social exclusion<sup>155</sup>

1	A shorthand term for what can happen when people or areas suffer from a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high crime environments, bad health and family breakdown. (SEU, 1997)
2	Social exclusion occurs where different factors combine to trap individuals and areas in a spiral of disadvantage. (DSS, 1999: p. 23)
3	Social exclusion is a process, which causes individuals or groups, who are geographically resident in a society, not to participate in the normal activities of citizens in that society. (Scottish Executive)
4	Poverty... is where people lack many of the opportunities that are available to the average citizen... This broad concept of poverty coincides with the emerging concept of social exclusion. (NPI, Howarth <i>et al.</i> , 1998)
5	The processes by which individuals and their communities become polarised, socially differentiated and unequal. (ESRC, 2004)
6	The dynamic process of being shut out from any of the social, economic, political and cultural systems which determine the social integration of a person in society. (Walker and Walker, 1997: p. 8)
7	A lack or denial of access to the kinds of social relations, social customs and activities in which the great majority of people in British society engage. In current usage, social exclusion is often regarded as a “process” rather than a “state”, and this helps in being constructively precise in deciding its relationship to poverty. (Gordon <i>et al.</i> , 2000: p. 73)
8	An individual is socially excluded if (a) he or she is geographically resident in a society but (b) for reasons beyond his or her control, he or she cannot participate in the normal activities of citizens in that society, and (c) he or she would like to so participate. (Burchardt <i>et al.</i> , 2002: pp. 30, 32)
9	Inadequate social participation, lack of social integration and lack of power. (Room, 1995)
10	Social exclusion is a broader concept than poverty, encompassing not only low material means but the inability to participate effectively in economic, social, political and cultural life and, in some characterisations, alienation and distance from mainstream society. (Duffy, 1995)
11	Social exclusion is a rupturing of the social bond. It is a process of declining participation, access, and solidarity. At the societal level, it reflects inadequate social cohesion or integration. At the individual level, it refers to the incapacity to participate in normatively expected social activities and to build meaningful social relations (Silver, 2006)
12	An accumulation of confluent processes with successive ruptures arising from the heart of the economy, politics and society, which gradually distances and places persons, groups, communities and territories in a position of inferiority in relation to centres of power, resources and prevailing values. (Estivill, 2003: p. 19)
13	Chronic multidimensional disadvantage resulting in a catastrophic detachment from society. (Burchardt <i>et al.</i> , 1999)
14	Social exclusion is a complex and multi-dimensional process. It involves the lack or denial of resources, rights, goods and services, and the inability to participate in the normal relationships and activities, available to the majority of people in a society, whether in economic, social, cultural or political arenas. It affects both the quality of life of individuals and the equity and cohesion of society as a whole. (Levitas <i>et al.</i> , 2007)

<sup>155</sup> Adapted from table in Ruth Levitas, Christina Pantazis, Eldin Fahmy, David Gordon, Eva Lloyd, and Demi Patsios, *The Multi-Dimensional Analysis of Social Exclusion*, Department of Sociology and School for Social Policy Townsend Centre for the International Study of Poverty and Bristol Institute for Public Affairs University of Bristol (January 2007), p. 21, available at [http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/social\\_exclusion\\_task\\_force/assets/research/multidimensional.pdf](http://webarchive.nationalarchives.gov.uk/+http://www.cabinetoffice.gov.uk/media/cabinetoffice/social_exclusion_task_force/assets/research/multidimensional.pdf) (accessed on 11 June 2016).



The Mekong Migration Network (MMN) is a subregional network of migrant support NGOs, migrant grassroots groups and research institutes. The central goal of MMN is to promote the welfare, well-being, dignity and human rights (especially labour, women's and family rights) of migrants in the GMS, and to build mutual support and solidarity among migrants and advocates within the GMS. To achieve this goal, MMN jointly carries out research, advocacy, capacity building and networking.



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