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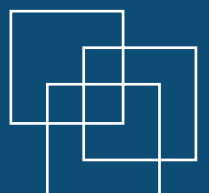


International  
Labour  
Organization

**Human trafficking vulnerabilities in Asia**

# **What's the incentive?**

**Comparing regular and irregular  
migrant work experiences from the  
Lao People's Democratic Republic  
to Thailand**



Human trafficking vulnerabilities in Asia

## What's the incentive?

Comparing regular and irregular migrant work experiences from the Lao People's Democratic Republic to Thailand

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October 2018

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# Acronyms

ASEAN	Association of Southeast Asian Nations
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
DLSW	Department of Labour and Social Welfare, Lao People’s Democratic Republic
GMS	Greater Mekong Sub-region
ILO	International Labour Organization
IOM	International Organization for Migration
LPA	Labour Protection Act
MLSW	Ministry of Labour and Social Welfare, Lao People’s Democratic Republic
MOFA	Ministry of Foreign Affairs
MOL	Ministry of Labour, Thailand
MOU	Memorandum of Understanding
MRC	Migrant Worker Resource Centre
N	sample size
NPA	National Plan of Action
NV	Nationality Verification
PDLWS	Provincial Department of Labour and Social Welfare, Lao People’s Democratic Republic
PDTC	Pre-Departure Training Curriculum
PEO	Provincial Employment Office, Thailand
PMO	Prime Minister’s Office
SDGs	Sustainable Development Goals
SPA	Sub-regional Plan of Action
THB	Thai Baht
UN-ACT	United Nations Action for Cooperation against Trafficking in Persons
UNDP	United Nations Development Programme
UNIAP	United Nations Inter-Agency Project on Human Trafficking

# Executive summary

Formal labour migration procedures are assumed to be beneficial to migrant workers in various ways, including by reducing vulnerability to abuse and exploitation. Little empirical work, however, has been conducted comparing the experiences of regular and irregular migrant workers, and assessing the outcomes of these different migration models. The report contributes to filling this gap in the study of migrant work, with a focus on the migration corridor between the Lao People's Democratic Republic and Thailand.

The analysis is informed by two surveys; the main survey captures the voices of 131 returned migrant workers from Luang Prabang and Champassack in the Lao People's Democratic Republic – 76 men and 56 women – that enlisted the services of recruitment agencies to take up work in Thailand, in line with a Memorandum of Understanding on Employment Cooperation between the two countries. This data was collected between July-August 2015. Where feasible and relevant, their experiences are compared to those of 128 irregular Lao migrant workers – 67 men and 61 women, and mostly from Champassack and Saravan – who were deported from Thailand across the Wang Tao-Chong Mek international border, with interviews conducted from March-July 2013.

The report provides a synthesised outline of the regulatory framework for labour migration between the two countries, evaluates that against the recruitment, work and life experiences reported by regular migrant workers, and compares these with the conditions faced by irregular migrant workers. It is divided into four sections, covering respondents' background information and pre-departure conditions; the recruitment process; the working and living conditions in Thailand; and the end of their work and the return to the Lao People's Democratic Republic.

The study concludes that, overall, regular labour migration has yielded more positive migrant work outcomes than irregular channels in the sample. For instance, whilst monthly average salaries in Thailand were between 6,600 and 6,900 Thai Baht (THB) across both cohorts – almost four times higher than the regular migrant workers' mean income in the Lao People's Democratic Republic prior to migrating – irregular migrant workers had to work significantly more for similar wages. Indeed, whereas 95 per cent of the regular migrants reported working eight hours per day and 99 per cent six days per week, more than 60 per cent of their irregular counterparts suggested to have worked nine or more hours, every day of the week.

Further, regular migrant workers, on a scale from 1 'very bad' (or equivalent) to 5 'very good' (or equivalent), scored all of seven employment-related conditions included in both surveys better than the irregular migrant workers. These covered assessments of weekly working time, treatment by boss/supervisor, freedom of movement, physical violence at the workplace, food/water supplies, safety at work and holiday/sick leave provision. In addition, regular migrant workers rated their quality of life in Thailand better than their irregular counterparts, and both classified their quality of life in Thailand better than in the Lao People's Democratic Republic.

Finally, a higher proportion of regular compared to irregular migrant workers (94 as against 78 per cent) reported sending remittances back to the Lao People's Democratic Republic. Among the former, average amounts per person and year ranked at THB45,666, more than twice what they were able to earn back home. Coupled with longer average stays in Thailand than for irregular migrant workers (23 months compared to 11 months), the economic argument for regular labour migration was evident, although other factors including migration costs need further consideration.

Still, both regular and irregular migrant workers reported various challenges as part of their migrant work experiences in Thailand. For example, 96 per cent of the regular migrant workers had their passports confiscated by their employers/supervisors, and 35 per cent indicated that they had no access to their documents even if wanted. In addition, 15 per cent of the regular migrant workers, in fact, noted that they felt constrained or unable to quit their jobs. Document retention is considered an important indicator of forced labour and human trafficking.

Further, for many employment-related variables, 10 per cent or more of the respondents, irrespective of their immigration status, described negative or very negative conditions. Some of these relate to fundamental human rights enshrined in international law (for example, freedom of movement); others including payment terms, working time, physical violence or forms of harassment, where experienced very negatively, may be indicators of coercion or exploitation in the context of human trafficking and forced labour.

Whilst 63 per cent of the regular migrant workers noted that there were opportunities to raise concerns about employment conditions if wanted, more than a third either did not have access to complaints mechanisms or were not aware of their existence (comparable data was not available for irregular migrant workers). Moreover, almost all opportunities provided were through staff representatives or directly with supervisors and/or employers. Labour inspectors, other authorities, trade unions, civil society organizations or recruitment agencies played no significant role in this context.

At the recruitment stage, the regular migrant workers reported diverse experiences with the services and practices of recruitment agencies. For example, 41 per cent had to make payments directly to their recruitment companies, ranging from THB600 to 30,000, and covering various items such as passports, visas and/or work permits, pre-departure training packages, transport costs to destination, and others. The costing and payment terms, at least partially, were in contradiction to regulations in the Lao People's Democratic Republic as well as the ILO's Private Employment Agencies Convention, 1997 (No. 181).

Moreover, 89 per cent of the regular migrant workers stated that they signed a contract with their recruitment agency, and two-thirds among these did not fully or at all understand that agreement. Respondents provided various reasons for the lack of comprehension, the two most important ones being the complicated terminology (43 per cent) and that they did not read the contract (36 per cent). The latter may, in some cases, point to literacy challenges but also raises important questions about the perceived and/or actual importance of written contracts in the Lao and possibly Thai contexts.

Further, only 40 per cent of the regular migrant workers who had contracts with their recruitment agency received a copy, and none signed an agreement with their employer upon arriving in Thailand. Whilst, at the time, this was not in contradiction to national legislation in the two countries or their bilateral Memorandum of Understanding (MOU) on Employment Cooperation, the enforceability of working conditions in the destination country as agreed in the country of origin remains questionable under current regulations.

The mean standby time among regular migrant workers for the journey to Thailand to begin following an agreement with their recruitment agency was four months (122 days), but there were noteworthy variations at an individual level. 20 per cent reported waiting six months or longer – in seven cases from one to almost two years. These periods were significantly longer than the official estimates of 55 days for the Lao People's Democratic Republic-Thailand migration corridor, and are likely to be an important factor in undermining wider use of regular channels.

Wherever feasible and relevant, the analysis of regular migrant work is disaggregated by gender, province of residence in the Lao People's Democratic Republic and the two most predominant sectors of employment in Thailand (wood factories or food, including seafood, factories), providing a nuanced picture of migrant work experiences across various variables. The report concludes with 11 key recommendations geared towards strengthening regular labour migration systems and providing incentives for more migrant workers to choose regular channels.





# 1. Introduction

The Lao People's Democratic Republic and Thailand share a long history of cross-border labour migration due to geographical proximity, cultural and linguistic similarities, and significant differences in socio-economic development including salary levels<sup>1</sup> and employment opportunities. Complicated, costly and time-consuming procedures for regular labour migration, as outlined by a Memorandum of Understanding (MOU) between the two countries, however, have resulted in such movement occurring predominately through irregular channels.

Thai authorities have on several occasions offered opportunities to regularise the status of many irregular Lao – and indeed other – migrant workers in Thailand through a process known as Nationality Verification (NV). In 2017, the Thai Ministry of Labour reported that there were 182,462 documented Lao people in the country,<sup>2</sup> with some remaining Pink Card<sup>3</sup> holders who enjoy only temporary permissions to stay and work in Thailand.<sup>4</sup>

Moreover, the number of Lao people registered through regular migration channels for work in Thailand has increased modestly in recent years reaching 44,677 by January 2017.<sup>5</sup> They had all been recruited by one of currently 21 recruitment agencies in the Lao People's Democratic Republic.<sup>6</sup>

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1 The current monthly minimum wage in the Lao People's Democratic Republic is about US\$110, or 900,000 Lao Kip, with the Thai equivalent ranking at approximately twice the amount (International Labour Organization (ILO): *TRIANGLE in ASEAN Quarterly Briefing Note: Lao PDR (Oct.-Dec. 2017)* (Bangkok, 2017)).

2 Ministry of Labour (MOL): *Operation on tackling labour trafficking issues* (Bangkok, 2017).

3 The Pink Card was introduced by Thailand's current military Government as an interim measure to grant irregular migrant workers in the country time to apply for regular documents including passports, work permits and visas. Pink Card holders are not entitled to the same benefits as regular migrant workers in Thailand (Nyan Lynn Aung: 'Workers in Thailand told to re-register for pink card' *Myanmar Times* (Yangon, 01 March 2016) <<https://www.mmtimes.com/national-news/19233-workers-in-thailand-told-to-re-register-for-pink-cards.html>> [accessed 20 Oct. 2016]).

4 International Organization for Migration (IOM): *Thailand migration profile* (Bangkok, 2016).

5 Ministry of Labour (MOL): *Operation on tackling labour trafficking issues* (Bangkok, 2017).

6 Ministry of Labour and Social Welfare (MLSW): *List of oversea employment enterprises in Laos* (Vientiane, 2017). At the time of data collection, there were only 16 recruitment agencies in the Lao People's Democratic Republic; 14 recruited workers for both the domestic and the Thai labour market, whereas the remaining two were only licensed to operate domestically. Thailand remains the only destination country for officially sanctioned labour migration from the Lao People's Democratic Republic. Limited numbers of Lao migrants are also sent to Japan and the Republic of South Korea every year, but these programmes do not work through recruitment agencies and generally have somewhat different purposes.

It is usually assumed that implementing such formal recruitment procedures is beneficial to migrant workers in various ways, including by reducing vulnerabilities to exploitation and human trafficking. In practice, however, little is known about Lao migrants formally recruited to work in Thailand, in terms of how policies, procedures and costs unfold in reality, or about their experiences working and staying abroad.

This study offers insights into the lives of these migrant workers (whose data was collected from July-August 2015) and draws comparisons with the experiences of irregular workers from the Lao People's Democratic Republic in Thailand (with their data collected from March-July 2013). It is structured around four key sections, covering: (1) background information and pre-departure conditions of respondents; (2) the recruitment and migration process; (3) living and working conditions at destination; and (4) termination of work and the return to the Lao People's Democratic Republic.

The objectives of the report are to:

1. provide a synthesised outline of the legal and policy framework for regular labour migration from the Lao People's Democratic Republic to Thailand;
2. analyse the expected as well as actual recruitment, work and life experiences of regular Lao workers in Thailand; and
3. compare these with the conditions faced by irregular migrant workers.

The Lao and the Thai Government are members of the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) and collaborate with the ILO's TRIANGLE in ASEAN programme.

COMMIT brings together the six countries of the Greater Mekong Sub-region (GMS: Cambodia, China, Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam) in a formal alliance to jointly counter human trafficking. This is done by implementing a Subregional Plan of Action (SPA) and associated National Plans of Action (NPAs). The current, fourth SPA (SPA IV) encompasses a commitment to strengthening "migrant workers' recruitment systems ... to protect those vulnerable to trafficking in persons" including by developing recruitment guidelines; introducing complaints mechanisms for workers; and monitoring workplaces employing migrant workers.<sup>7</sup>

Further, within the TRIANGLE in ASEAN programme, strengthening the capacity of governments and recruitment agencies to protect migrant workers travelling through regular channels is a key outcome. TRIANGLE in ASEAN has also engaged with the Lao Government on ways to regulate recruitment agencies and to provide pre-departure training.

At the global level, world leaders, in 2015, adopted the 2030 Agenda for Sustainable Development including 17 Sustainable Development Goals (SDGs) and a series of associated targets and indicators. Five of the SDGs and seven of their targets<sup>8</sup> specifically relate to migration, human trafficking or linked forms of exploitation, highlighting the phenomena's cross-cutting natures but also their relevance as fundamental development considerations.

This report strengthens the evidence base to support both countries in meeting their above commitments on protecting the human rights of migrant workers. It concludes with a series of recommendations designed to address the shortcomings identified in the regular labour migration procedures between the Lao People's Democratic Republic and Thailand, and hence to make the experiences of migrant workers safer and more beneficial to the social and economic development of their communities.

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7 Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT): *COMMIT 4th Sub-Regional Plan of Action (COMMIT SPA IV 2015-2018)* (Bangkok, 2015).

8 This includes SDG 5 on gender quality; SDG 8 on decent work and economic growth; SDG 10 on reduced inequalities; SDG 16 on peace, justice and strong institutions; and SDG 17 on partnerships for the goals. Further, targets 5.2, 8.7 and 16.2 relate to the elimination of human trafficking and related forms of exploitation; target 8.8 focuses on labour rights including those of migrant workers; target 10.7 and 10.c are on implementing migration policies and reducing transaction costs for migrant workers' remittances; and target 17.18 calls for the disaggregation of data by migration status (United Nations (UN): *Transforming our world: The 2030 Agenda for Sustainable Development* (New York, 2015)).





## 2. Legal framework

In 2002, the Governments of the Lao People's Democratic Republic and Thailand signed a Memorandum of Understanding (MOU) on Employment Cooperation,<sup>9</sup> hereafter referred to as the 2002 MOU.

In the Lao People's Democratic Republic, this is supplemented by further policy documents, including the Decree on Export of Lao Workers Working Abroad No. 68/Prime Minister's Office (PMO) (2002), henceforth called the PMO Decree, and the Guideline on Implementation of Decree on Export of Lao Workers Working Abroad No. 2417/Ministry of Labour and Social Welfare (MLSW) (2002), hereafter referred to as the MLSW Guideline. The latter elaborates on the content of the PMO Decree with respect to the rights and duties of regular migrant workers as well as the recruitment agencies hiring them (summarised in table 1). In addition, Regulation No. 3824/MLSW (2002) sets various limitations for the kinds of jobs that Lao workers may be recruited for, banning those that it defines as unskilled (including cleaner, domestic worker or porter); vocations that are considered inappropriate and incompatible with Lao traditions, culture and law (for example, work in the sex sector and with narcotics, or certain political activities); and jobs that are seen as dangerous (such as open sea fishing or work involving exposure to radioactive radiation).<sup>10</sup>

In Thailand, the 1978 Employment of Aliens Law and later the 2008 Working of Alien Act laid out broad conditions, under which migrant workers were permitted to take up work in the country, including the requirement of a work permit. The latter upheld a 1979 Royal Decree on 39 professions that foreigners were prohibited to engage in, although there was some flexibility for authorities to grant exceptions.<sup>11</sup> Further, the 1998 Labour Protection Act (LPA) stipulated the rights and entitlements of workers including migrant workers, with exceptions from protections made for some sectors such as agriculture, sea fisheries and domestic work. Following the signings of bilateral MOUs on employment cooperation with neighbouring countries in the early 2000s, Thailand introduced various regulations to operationalise the agreements.<sup>12</sup> The process for labour migration along the Lao People's Democratic Republic-Thailand corridor is outlined in figure 1.

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9 Ministry of Labour and Social Welfare (MLSW) (Lao People's Democratic Republic) and Ministry of Labour (MOL) (Thailand): *MOU between the Government of Lao People's Democratic Republic and the Government of the Kingdom of Thailand on labour co-operation* (Vientiane, 2002).

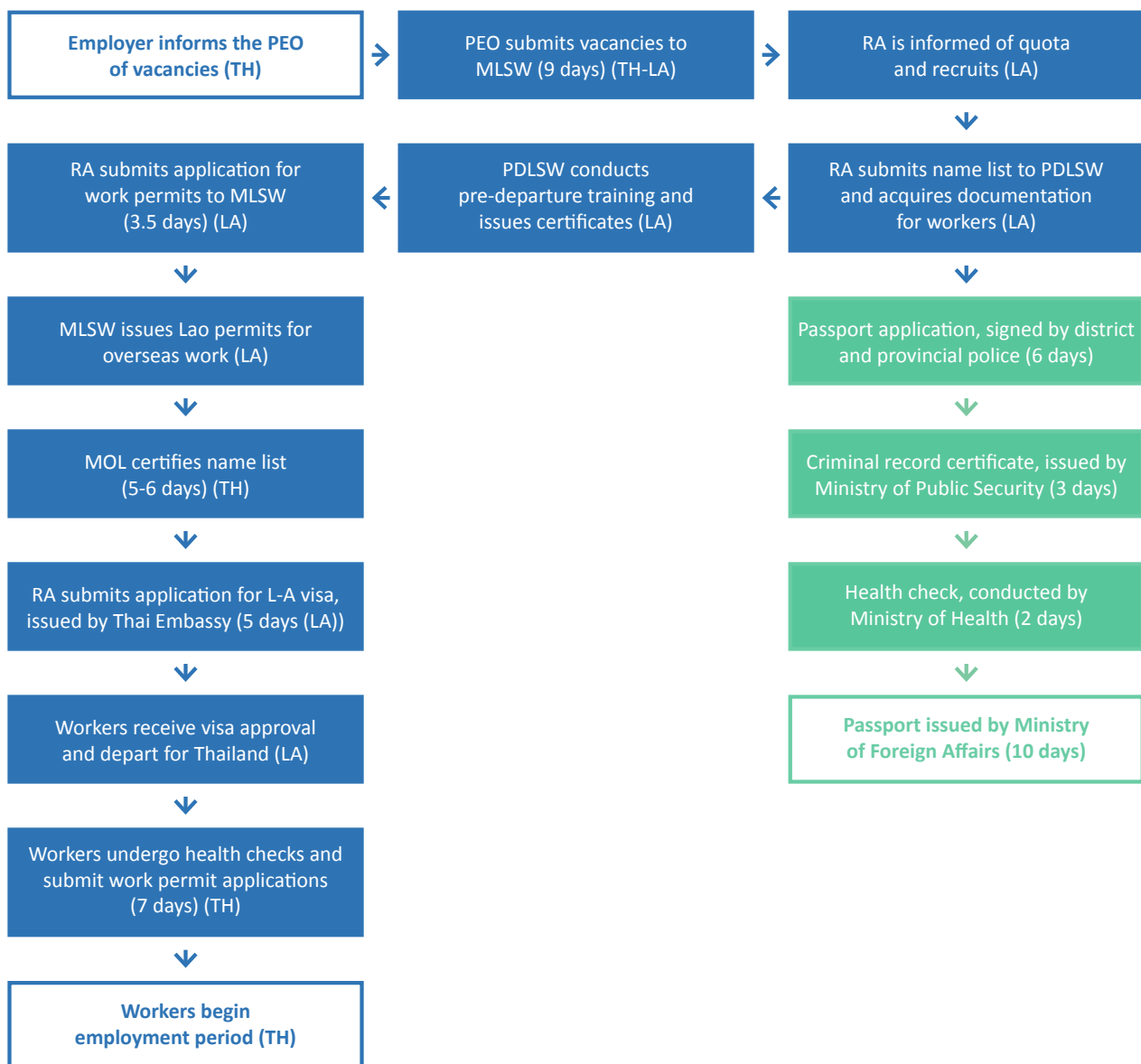
10 International Labour Organisation (ILO): *The Mekong challenge - An honest broker - Improving cross-border recruitment practices for the benefit of Government. Workers and Employers* (Bangkok, 2008).

11 Ibid.

12 Ibid.

According to these procedures, the recruitment process begins when the Thai employer requests a certain number of migrant workers from the Lao MLSW through a Thai Provincial Employment Office (PEO). The Lao recruitment agency is then informed of the quota, identifies workers and submits their names to the Lao Provincial Department of Labour and Social Welfare (PDLWS), whilst initiating the process to have passports issued if necessary, background checks conducted and health conditions assessed. The migrant workers undergo pre-departure training, and MLSW approves the list of names and issues work permits for overseas employment. On the Thai side, the Ministry of Labour (MOL) also receives and certifies the list of names, after which the recruitment agency submits applications for the appropriate visa, to be issued by the Thai Embassy in Vientiane. The migrant workers then depart for Thailand, where they apply for a work permit and undergo additional health checks before starting their employment period.<sup>13</sup>

Figure 1: MOU recruitment/placement process between Lao PDR and Thailand (as of 2013)<sup>14</sup>



13 See International Labour Organization (ILO): *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok, 2015); International Labour Organization (ILO), *The Mekong challenge: An honest broker – Improving cross-border recruitment practices for the benefit of Government, Workers and Employers* (Bangkok, 2008); or Ministry of Labour and Social Welfare (MLSW), Ministry of Foreign Affairs (MOFA) and Ministry of Public Security (MOPS): *Operations Manual on the Protection and the Management of Migrant Workers for three Ministries of Lao PDR* (Vientiane, 2013).

14 Adapted from International Labour Organization (ILO): *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok, 2015). Note that TH (Thailand) and LA (Lao People’s Democratic Republic) refer to the country, in which a step takes place.

As per the MLSW Guideline, the costs for recruiting migrant workers are initially to be advanced by the Lao recruitment agencies, which may then charge up to 15 per cent of the workers' monthly base wage over the period of their employment in Thailand to recover such expenses. This is contrary to the ILO Convention on Private Employment Agencies, 1997 (No. 181),<sup>15</sup> which prohibits worker-borne recruitment fees. Further, Lao migrant workers are required to sign a contract with the recruitment agency for their employment in Thailand, stipulating key working conditions such as wages.<sup>16</sup> The MLSW Guideline does not require, however, that the contract be supplemented by a contract with the employer in Thailand, raising questions about the enforceability of the migrant workers' agreed working conditions in the destination country.

In 2016, the two sides signed a revised MOU<sup>17</sup> with a mandatory employment contract for use in Thailand annexed, although the new bilateral agreement is arguably less comprehensive with respect to the procedures governing labour migration as well as the rights and entitlements of migrant workers than its predecessor. In the same year, the Thai Government also established Post-Arrival and Reintegration Centres at borders with Cambodia, the Lao People's Democratic Republic and Myanmar providing trainings and information to regular migrant workers, and opened several Migrant Worker Assistance Centers across the country to support those facing problems related to their employment.<sup>18</sup> Further, the Lao People's Democratic Republic and Thailand have introduced various relevant regulatory changes, including amended Labour Laws in 2014 (Lao People's Democratic Republic) and 2017 (Thailand), and a Royal Ordinance on the Management of Employment of Migrant Workers in 2017 (Thailand; revised in 2018).

Given that the data for this study was collected in 2015, however, the report is not in a position to analyse to what extent such amendments have influenced the experiences of Lao migrant workers in Thailand.

Table 1 summarises the articles of the 2002 MOU and the 2002 MLSW Guideline that relate to the rights and duties of Lao migrants recruited through the MOU process for work in Thailand, and the responsibilities of recruitment agencies and relevant authorities.

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15 Neither the Lao People's Democratic Republic nor Thailand have signed or ratified the convention.

16 Ministry of Labour and Social Welfare (MLSW): *Guideline on implementation of Decree on Export of Lao Workers Working Abroad No. 2417/MLSW* (Vientiane, 2002).

17 International Labour Organisation (ILO): *TRIANGLE II Quarterly Briefing Note: Lao PDR (July-Sep. 2016)* (Bangkok, 2016).

18 Ministry of Foreign Affairs (MOFA): *Press release: Thailand's Comments on Report on Labour Situation in Fishing Industry of Human Rights Watch* (Bangkok, 2018).

Table 1: Relevant articles in the 2002 MOU and the 2002 MLSW Guideline relating to the rights, responsibilities and experiences of regular Lao migrant workers in Thailand

Document	Details
MOU, Article 9	"... each worker will receive a two-year work permit. If renewal is necessary, for whatever reasons, the total term of permit shall not exceed 4 years."
MOU, Article 10	"The parties will collaborate in sending workers home."
MOU, Article 11	"Workers will contribute 15% of their salary to a deportation fund set up by the host country."
MOU, Article 12	"Workers who wish to return home can claim their contribution to the fund in full amount with interest. The request must be filed 3 months before the return date and the money will be paid to the workers within 45 days after the date their employment ends."
MOU, Article 15	"A worker will forfeit his/her right to receive his/her contribution to the deportation fund unless s/he reports him/herself to the designated authority in his/her home country upon his/her return."
MOU, Article 16	"The competent authority of the host country can use the deportation fund to cover the costs of the deportation of workers."
MOU, Article 18	"Workers will receive wages and benefits at the same rate applied to national workers based on the principles of non-discrimination and equality on the basis of gender, ethnic identity, and religious identity."
MLSW Guideline, 3.2	"Applicants who wish to work abroad should be over 18 years old ..."
MLSW Guideline, 3.3	"Applicants must have completed primary school ..."
MLSW Guideline, 4.3	"... before each individual worker goes to work abroad they have to sign a contract with an employment service enterprise."
MLSW Guideline, 4.3	"The contract shall clearly state the benefits for workers such as: the wages they will receive ..., how much will be deducted, and how it will be used and when."
MLSW Guideline, 4.3	"Each worker should be aware of these terms and sign a contract directly with the employment service enterprise that will send them to work abroad."
MLSW Guideline, 4.3	"... if workers do not receive what is stated in the contract, they have the right to claim. If they cannot claim, they have the right to appeal to the responsible authority according to the law."
MLSW Guideline, 4.3	"Before signing the contract each worker should read and understand all the terms."
MLSW Guideline, 8.3	"[The recruitment agency shall] be responsible for the benefits of Lao workers that they send to work abroad according to the terms of the contracts agreed."
MLSW Guideline, 8.5	"[The recruitment agency shall] provide training to Lao workers prior to sending them to work abroad, under the supervision of the Ministry of Labour and Social Welfare."
MLSW Guideline, 12.2	"The Ministry of Labour and Social Welfare is responsible to establish the charges and fees [for labour recruitment abroad] for each period with a maximum of not more than 15% of an individual workers' salary or wages for each month."



### 3. Methodology

The main survey for this study was conducted between July-August 2015 to determine recruitment practices and employment conditions experienced by migrant workers from the Lao People's Democratic Republic who enlisted the services of recruitment agencies to move to Thailand for employment (hereafter called the regular-migrant survey), and to contextualise these within the legal and regulatory framework governing labour migration between the two countries. It included a total of 131 returned migrant workers - 76 men and 56 women, of whom 45 resided in Luang Prabang and 86 in Champassack.<sup>19</sup> Interviews took place in their province of residence in the Lao People's Democratic Republic.

As neither MLSW nor the recruitment agencies were able to make available comprehensive records of regular migrants who had moved to Thailand for work through the bilateral MOU process, sampling was conducted through a mixture of respondent-driven and purposive methods with support from the PDLsWs. Interviews were based on a structured instrument developed by UN-ACT and the ILO, covering background information and pre-departure conditions; the recruitment and the migration stage; conditions at destination; end of work and return to the Lao People's Democratic Republic.

UN-ACT recruited two data collectors, one woman and one man, who were trained for interviewing including by completing UN-ACT's standard ethics review process<sup>20</sup>. Each interview was conducted in private and began with a consent procedure, whereby respondents were informed about the purpose of the project; what themes would be covered in the interview; how their data was going to be used including levels of guaranteed anonymity; their rights during the interview, such as skipping questions or terminating the conversation at any time; and how long it was likely to take. This was participatory in nature, with the respondents having had the opportunity to ask questions and raise concerns. Before proceeding, the data collectors confirmed that it was okay to conduct the interview.

The report, where feasible and relevant, compares the respondents' experiences with those of irregular migrant workers interviewed for *Human trafficking trends in Asia: Migration experiences of Lao workers deported from Thailand in 2013*,<sup>21</sup> hereafter referred to as the irregular-migrant survey. The analysis in that publication was based

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19 An additional respondent from the province of Vientiane was excluded from the dataset.

20 This is based on United Nations Inter-Agency Project on Human Trafficking (UNIAP): *Guide to Ethics and Human Rights in Counter-Trafficking: Ethical Standards for Counter-Trafficking Research and Programming* (Bangkok, 2008) and the ethics review process laid out therein.

21 United Nations Action for Cooperation against Trafficking in Persons (UN-ACT): *Migration experiences of Lao workers deported from Thailand in 2013*: Wang Tao, Lao PDR (Bangkok, 2015).

on a sample of 128 interviewees, 67 men and 61 women, who were randomly selected from groups of Lao migrants being deported across the Wang Tao-Chong Mek international border in the south of the Lao People’s Democratic Republic. Whilst the instrument used was more specifically targeted at identifying cases of human trafficking, it covered many of the sections included in the regular-migrant survey as well. The structures of the two surveys are outlined in more detail in table 2.

Table 2: Main structure of the two surveys

	The 2015 regular-migrant survey	The 2013 irregular-migrant survey
<b>Background of the respondents</b>		
<b>Pre-departure conditions</b>	Nature of work and salary in Lao PDR, quality of life in home country, reasons for migration, previous migration experience	Nature of work and salary in Lao PDR, quality of life in home country
<b>Recruitment and migration stage</b>	Reasons for choosing a recruitment agency, costs and financing of migration, contract details, pre-departure training, and journey to Thailand	Reasons for migration, journey to Thailand, costs and financing of migration, anticipated job and conditions
<b>Conditions at destination</b>	Training at workplace, work and living conditions including salary and deductions, remittances, complaint mechanisms, and quality of life in Thailand	Work and living conditions including salary and deductions, quality of life in Thailand, previous migration experience
<b>End of work and return to Lao PDR</b>	Arrangements and costs of journey home, engagement with institutions in Lao PDR, review of recruitment agency	Leaving employment, arrest and detention, return to Lao PDR
<b>Next steps</b>	Possible claims for compensation and criminal charges	Interest in assistance, knowledge on human trafficking, possible claims for compensation and criminal charges, future plans
	-	Who was possibly trafficked

The analysis in this study is generally disaggregated by gender, province of origin in the Lao People’s Democratic Republic and sector of employment in Thailand (the latter only in the regular-migrant survey), depending on the section of the report. The key variables including their sample sizes are outlined in table 3.

Table 3: Key variables for disaggregation including their sample sizes in two surveys

	Total	Men	Women	Luang Prabang	Champassack	Saravan	Food factories	Wood factories
<b>Regular</b>	131	75	56	45	86	-	37	57
<b>Irregular</b>	128	67	61	-	84	28	-	-
<b>Total</b>	259	142	117	45	170	28	37	57

Given occasional non-responses and to facilitate comprehension, the sample sizes are indicated for each figure in the report. Only valid responses are considered for the sample sizes and subsequent analyses.

It is acknowledged that migrant workers from the Lao People’s Democratic Republic can obtain regular status in Thailand through other channels than the MOU process, and that regular migrant workers who went through recruitment agencies may become irregular in Thailand later. For the purposes of this study, however, ‘regular migrant workers’ are defined as only those who migrated in accordance with the bilateral MOU on Employment Cooperation between the two countries, and only information related to that experience is captured in this survey. Further, ‘irregular migrant workers’, in this report, captures those who were deported back to the Lao People’s Democratic Republic following employment in Thailand. None of them went through the MOU process and, whilst 13 per cent initially noted that they had formal working documents at some point during their time in Thailand, only a few in fact referred to papers that granted employment rights. Hence, risks for regular work experiences to have been captured and misidentified as irregular in the study are small, and even in theory could only have occurred in very few cases.

The regular-migrant survey dataset, and an integrated set of both regular- and irregular-migrant survey data where feasible and relevant, were analysed using SPSS statistical analysis software.

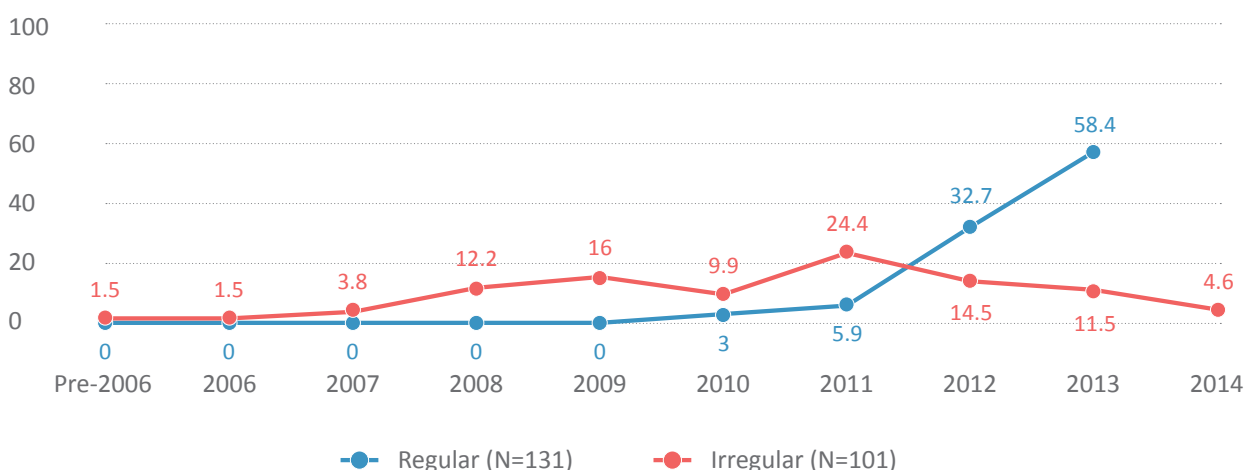
## Limitations

The sample of 131 in the regular-migrant survey is relatively small, and it was not possible to ensure probabilistic sampling methods in recruiting respondents. Further, the geographical spread is limited covering only two provinces in the Lao People’s Democratic Republic, and merely five of the then 14 Lao agencies recruiting for employment in Thailand are captured in the sample, with only two at significant levels. The findings can hence not be taken to represent the overall experiences of Lao migrants recruited through the MOU process for work in Thailand.

Similarly, the sample of 128 respondents in the irregular-migrant survey was insufficient to generate findings at a 95 per cent confidence level and with a 5 per cent margin of error, although random sampling was conducted in this case. The results as presented in *Human Trafficking Trends in Asia: Migration Experiences of Lao workers deported from Thailand in 2013* are hence not representative either of the overall population of Lao irregular migrant workers deported from Thailand via the Wang Tao-Chong Mek border crossing.

Combining these two datasets presents additional limitations, because the surveys were conducted at different times and due to the structure of the instruments used being different. The data indicates, however, that the stays of many of the regular and irregular migrant workers overlapped in Thailand, with the former often having arrived in Thailand earlier and then stayed longer (see figure 2). Moreover, the two datasets were only integrated and analysed jointly where there was sufficient overlap between the questions asked.

Figure 2: Respondents' arrivals in Thailand per year, by survey (%)





## 4. Findings

### Background and pre-departure conditions

#### Age

The age at which regular and irregular migrants started working in Thailand was similar (see figures 3 and 4). More than 10 per cent in the two groups indicated that they began when they were still children, over 60 per cent when they were aged 18 to 29 years, and around 20 per cent when they were 30 years or older.

It is of concern that a number of respondents appear to have been underage when they started working in Thailand, particularly as part of regular labour migration procedures. As outlined above, the MLSW Guideline stipulates that a potential Lao migrant worker must be aged 18 years or older at the time they apply for employment abroad (see table 1). Whilst Thailand, in principle, permits the recruitment of children as of 15 years of age, strict rules apply in such cases as specified in a dedicated chapter on Employment of Young Workers in the 1998 LPA.<sup>22</sup> Further, a bilateral working group established to help implement and review the MOU agreed that no minors would be recruited through the process.

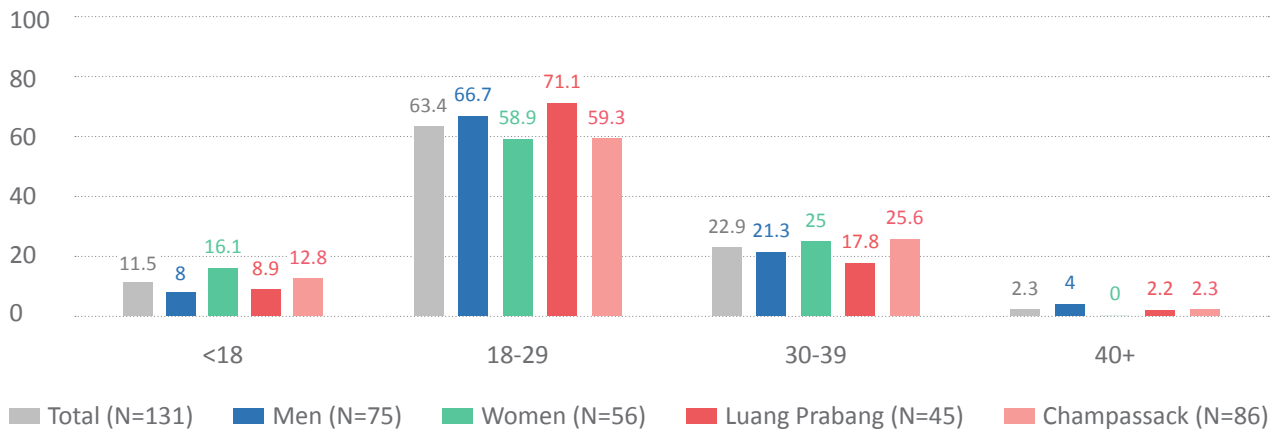
Of the 15 regular migrant workers who indicated that they were underage, most were 17 years old, although some were as young as 11.

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<sup>22</sup> Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998).

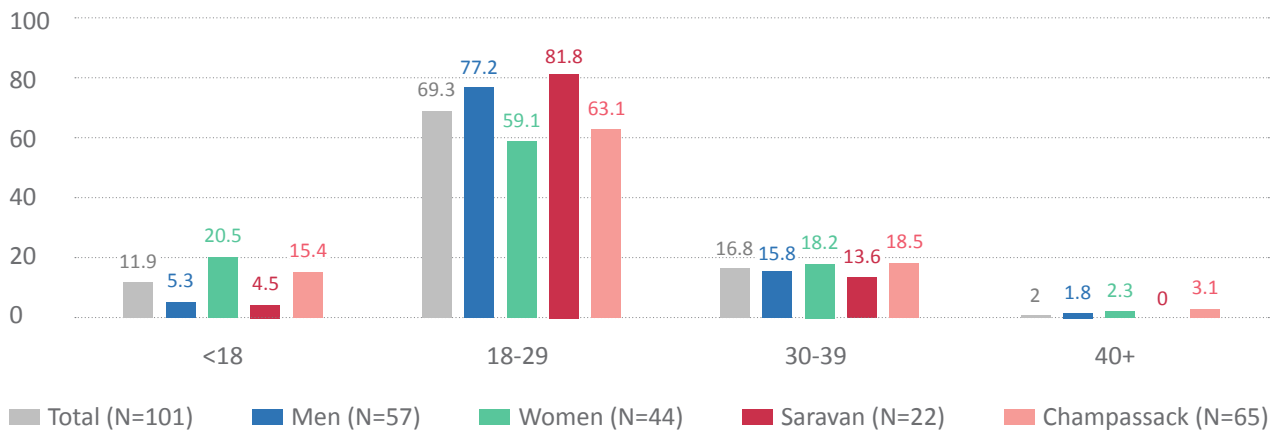


Figure 3: Age at which the regular migrant workers started working in Thailand, in total, by gender and province in Lao PDR (%)



In both regular- and irregular-migrant surveys, higher proportions of women than men were under 18 years when they began to work in Thailand, i.e. 16 per cent compared to 8 per cent and 21 per cent as against 5 per cent, respectively. Further, a higher share of respondents from Champassack (13 per cent) than from Luang Prabang (9 per cent) in the regular-migrant survey, and from Champassack (15 per cent) than in Saravan (5 per cent) in the irregular-migrant survey, were underage as they started working in Thailand.

Figure 4: Age at which the irregular migrant workers started working in Thailand, in total, by gender and province in Lao PDR (%)



## Gender

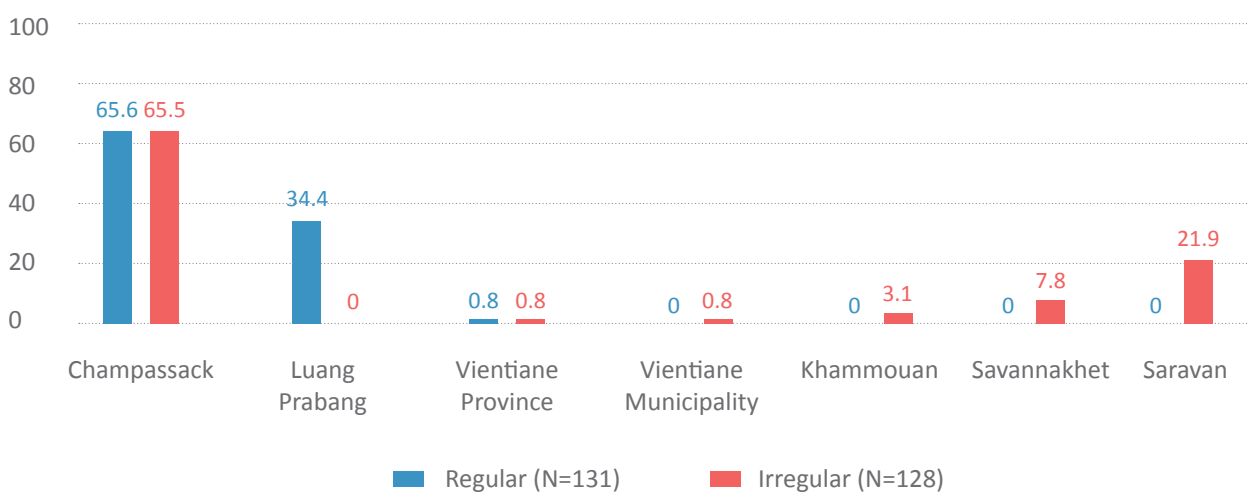
Men and women were interviewed in relatively even numbers, with men making up 55 per cent, or a total of 142, of all respondents, as compared to women's 45 per cent, or a total of 117. Further, such proportions were fairly consistent across the two surveys, with a breakdown of 57/43 per cent among the regular and 52/48 per cent for the irregular migrant workers.

## Residence in the Lao People's Democratic Republic

In the regular-migrant survey, all 131 respondents were either from Luang Prabang (45 residents or 34 per cent) in the north of the Lao People's Democratic Republic, or from Champassack (86 residents or 66 per cent) in the south of the country (see figure 5).

Most irregular migrant workers came from southern provinces in the Lao People's Democratic Republic, predominantly Champassack (66 per cent), Saravan (22 per cent) and Savannakhet (8 per cent). Data on residence was shaped significantly by the location of interviewing, with irregular migrant workers from elsewhere in the country likely being deported across borders further north.

Figure 5: Province of residence in Lao PDR before migrating to Thailand, by survey (%)



## Native language

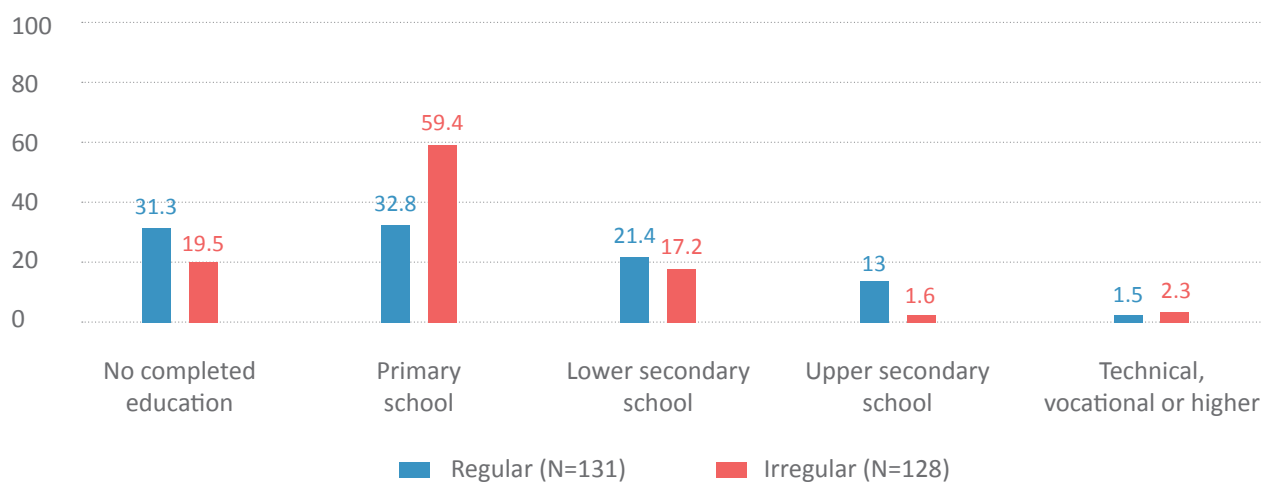
Only the respondents in the regular-migrant survey were asked what their native language was, with 68 per cent noting Lao and 31 per cent Khmu.<sup>23</sup> Reflecting geographical differences across the country, almost all (85 out of 89) of the Lao native speakers lived in Champassack, whereas almost all (40 out of 41) Khmu speakers resided in Luang Prabang.

## Educational level

Overall, the educational levels of the respondents were low. In fact, more than 30 per cent of the regular and 20 per cent of the irregular migrant workers did not complete any formal schooling, and close to 60 per cent of the latter only finished primary education, compared to a third of the regular migrant workers.

<sup>23</sup> One respondent in Luang Prabang indicated 'other' as their native language.

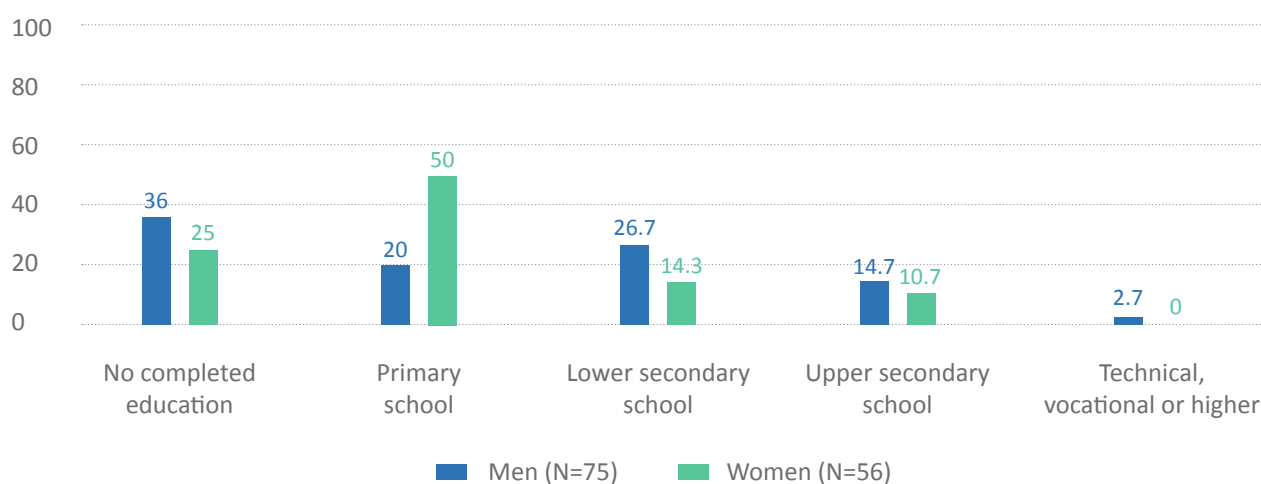
Figure 6: Completed educational levels, by survey (%)



As outlined above, the MLSW Guideline states that all Lao people applying for employment in Thailand must have completed primary education (see table 1), which is reflective of the mandatory years of schooling in the Lao People’s Democratic Republic. The data suggests, however, that some of the country’s migrant workers in Thailand, both regular and irregular, do not reach such compulsory educational levels before moving abroad.

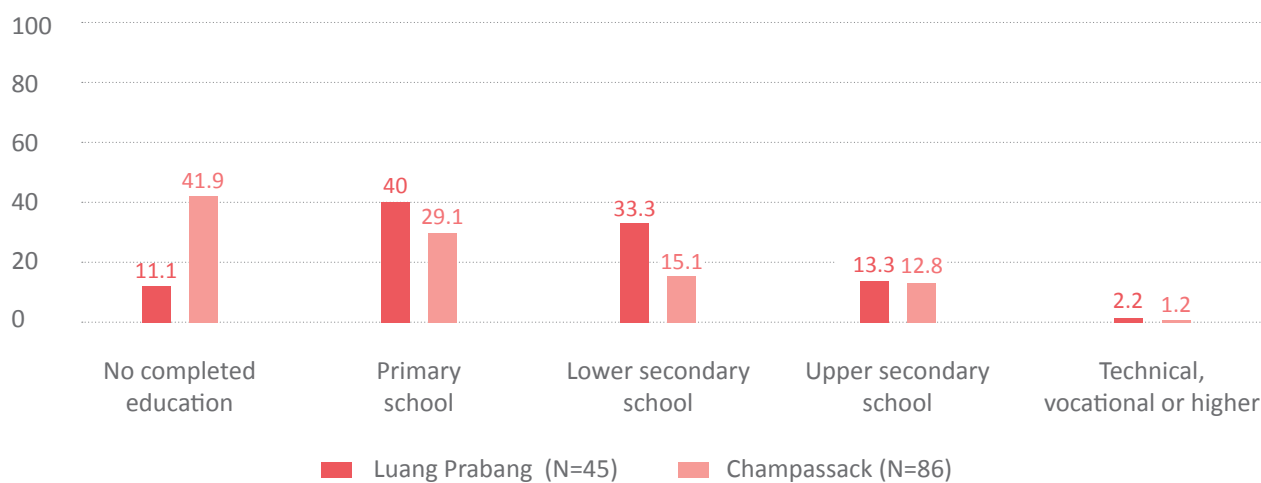
There were pronounced differences based on gender among the regular migrant workers with respect to their educational levels. Whilst men were more likely than women to not have completed any education (36 to 25 per cent), the reverse was true for those who only completed primary education (50 per cent of women to 20 per cent of men). This left 44 per cent of men with lower secondary school certificates or higher, as compared to only 25 per cent of women.

Figure 7: Completed educational levels among regular migrant workers, by gender (%)



Similarly, there were significant differences between the regular migrant workers’ educational levels based on their province of residence in the Lao People’s Democratic Republic. About 11 per cent from Luang Prabang had no completed education compared to 42 per cent from Champassack, with lower proportions of respondents from the latter having finished each level of formal schooling compared to Luang Prabang.

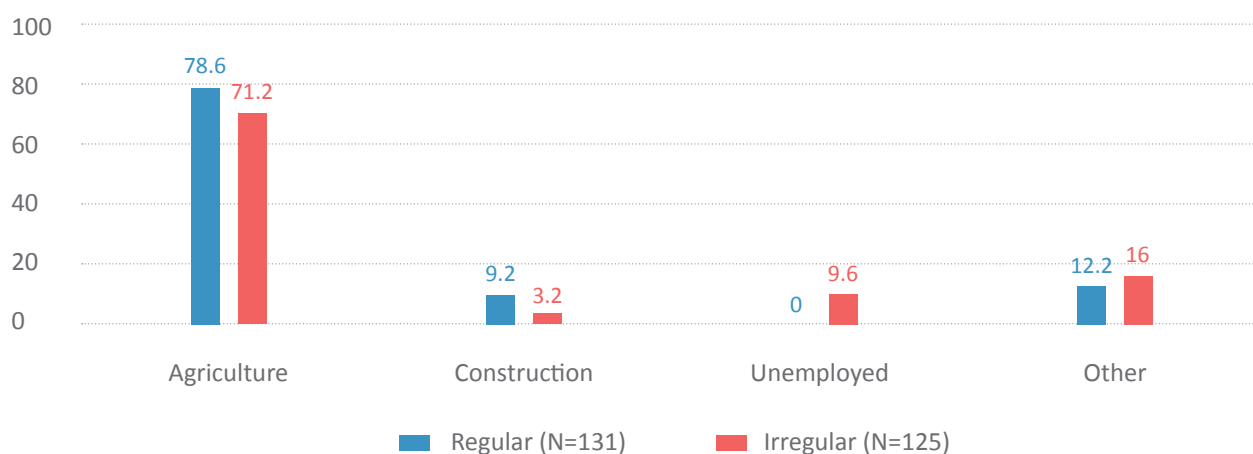
Figure 8: Completed educational levels among regular migrant workers, by province (%)



### Employment in the Lao People's Democratic Republic

Most respondents in both surveys (79 per cent among the regular and 71 per cent among the irregular migrant workers) engaged in agricultural activities before migrating to Thailand (see figure 9). Construction was also an important sector of employment, accounting for 9 per cent of the regular migrant workers and 3 per cent of the irregular migrant workers. About 10 per cent of the latter were unemployed, whereas no respondent in the regular-migrant survey was without a job prior to moving to Thailand.

Figure 9: Sector of employment in Lao PDR before migrating to Thailand, by survey (%)



In the regular-migrant survey, a greater share of women than men were involved in agriculture (88 per cent compared to 72 per cent), whereas all those working in construction were men. No such gender variations existed among the irregular migrant workers.

Moreover, there were differences between regular migrant workers based on residence, with two-thirds of those from Luang Prabang engaged in agriculture compared to 85 per cent from Champassack, and 16 per cent from Luang Prabang working in construction versus 6 per cent of those from Champassack. Variations were less pronounced in the irregular-migrant survey.

Finally, the regular migrant workers were asked about potential additional jobs beyond their primary source of income, with 58 per cent, namely 50 men and 26 women, reporting a second, and 12 per cent, i.e. 13 men and three women, a third job. In many cases, such second and third jobs related to agriculture, livestock, fishing and construction.

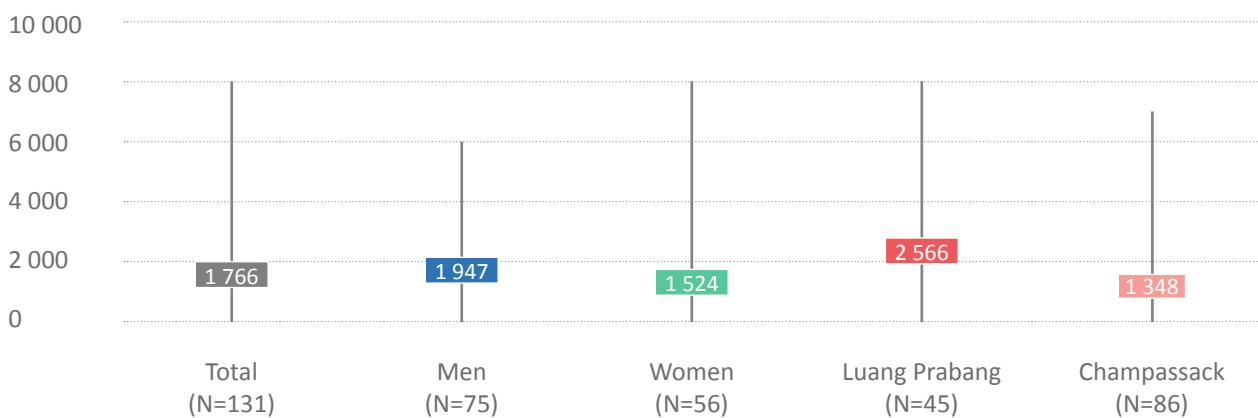
The irregular migrant workers were not asked this question.

### Mean monthly income in the Lao People's Democratic Republic

The mean monthly income in the Lao People’s Democratic Republic among regular migrant workers was THB1,766, ranging from 18 per cent who had no income to one person indicating that she was earning THB8,000 per month (see figure 10). Whilst men, on average, earned more than women (THB1,947 versus THB1,524), the differences were more pronounced based on province, with respondents in Luang Prabang earning almost twice as much as those in Champassack (THB2,566 compared to THB1,348).

Only 13 of the irregular migrant workers indicated their monthly income in the Lao People’s Democratic Republic, rendering any analysis including comparisons across datasets meaningless.

Figure 10: Range and average of monthly income among regular migrant workers before migrating to Thailand, in total, by gender and province in Lao PDR (in THB)

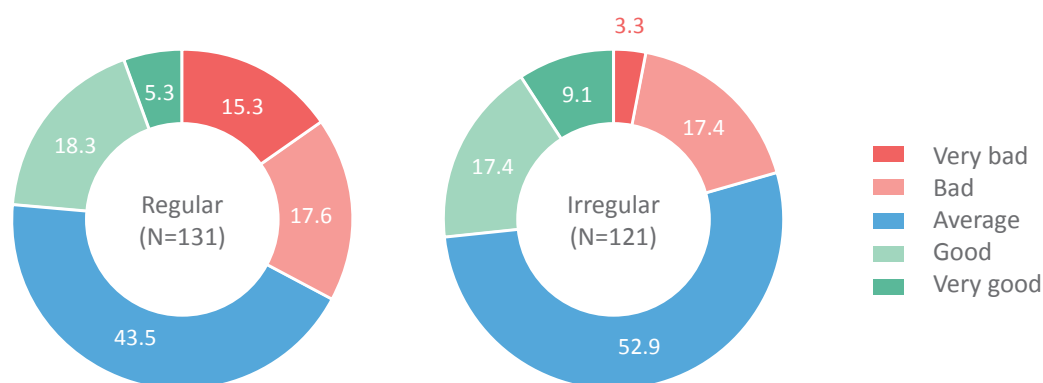


### Quality of life in the Lao People's Democratic Republic

The regular migrant workers rated their quality of life in the Lao People’s Democratic Republic less favourably than the irregular migrant workers, with an average score of 2.8 versus 3.1 on a scale from 1 ‘very bad’ to 5 ‘very good’. Thirty three per cent, compared to 21 per cent of the irregular migrants, assessed life as ‘bad’ or ‘very bad’, while about a quarter of both groups indicated that it was ‘good’ or ‘very good’ (see figure 11).

Mean results were consistent based on gender in both surveys, and for provinces among irregular migrant workers. However, respondents in Luang Prabang rated their quality of life significantly worse than those from Champassack (2.5 compared to 3.0) in the regular-migrant survey. In fact, 49 per cent in Luang Prabang described their life as either ‘bad’ or ‘very bad’.

Figure 11: Quality of life in Lao PDR, by survey (%)



### Previous migration to Thailand

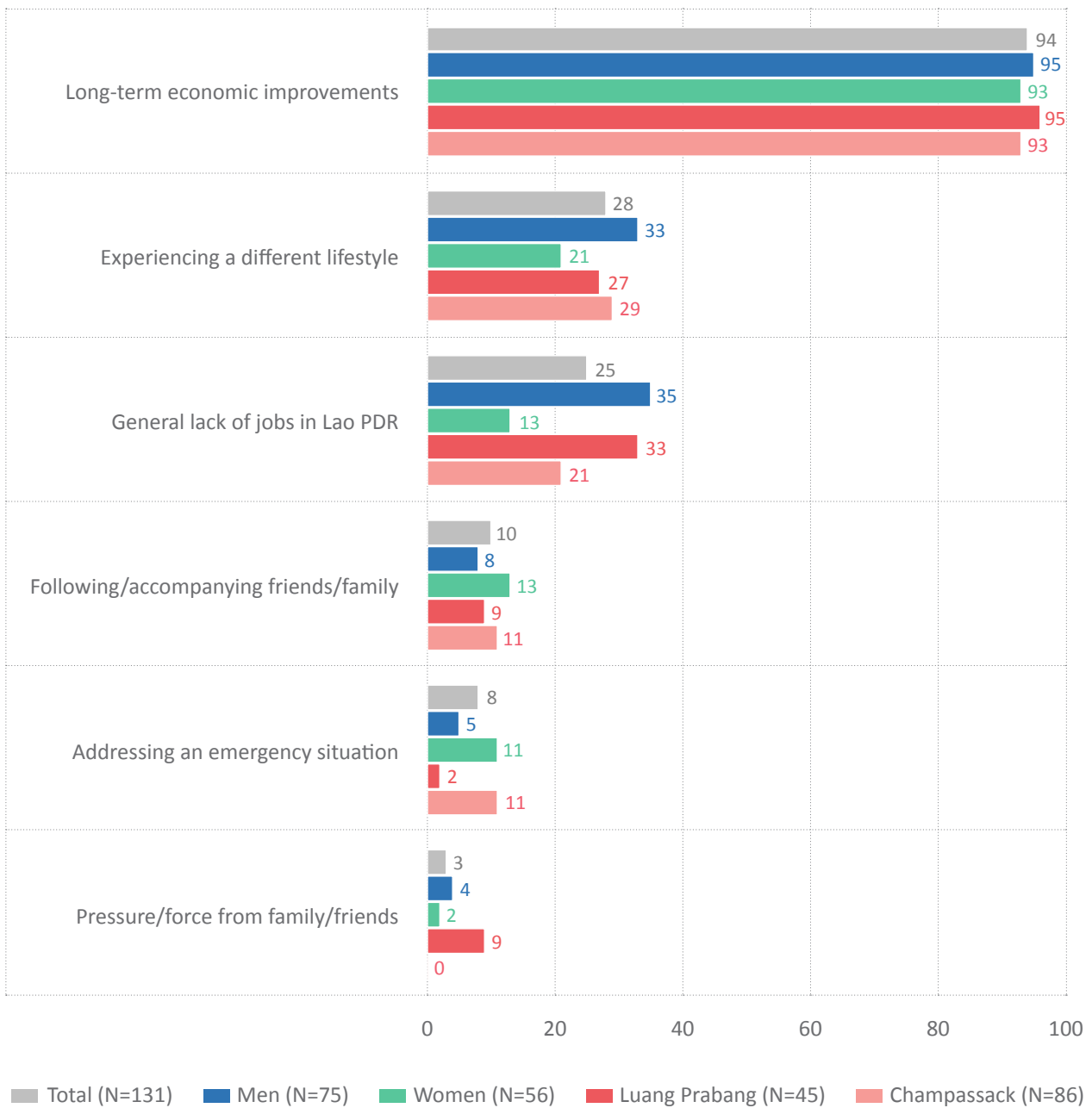
Less than 17 per cent of the regular migrant workers – that is, 14 men and eight women, with 16 from Champassack and six from Luang Prabang – suggested that they had previously worked abroad in Thailand. The irregular migrant workers were asked a different question making an integrated analysis and any comparisons unattainable.

### Reasons for migrating to Thailand

Most regular migrant workers suggested that they moved to Thailand to improve their economic situation (94 per cent), followed by a desire to experience a different lifestyle (28 per cent) and because of a general lack of jobs in the Lao People’s Democratic Republic (25 per cent) (see figure 12). Some also indicated that they were following or accompanying family and/or friends (10 per cent); that they needed to deal with an emergency situation (8 per cent); or that they moved due to pressure from family and/or friends (3 per cent).

In the same survey, the lack of available jobs and the desire to experience a different lifestyle appeared to be more important factors for men, while women more often responded to emergency situations or followed/accompanied family and/or friends. Further, more respondents in Luang Prabang than in Champassack migrated due to a general lack of jobs in the Lao People’s Democratic Republic (33 per cent versus 21 per cent) and for pressure/force from family and/or friends (9 per cent compared to 0 per cent), whilst the reverse was true for the need to address an emergency situation (11 per cent in Champassack versus 2 per cent in Luang Prabang).

Figure 12: Reasons for regular migrant workers to move to Thailand, in total, by gender and province in Lao PDR (%)



## Recruitment process

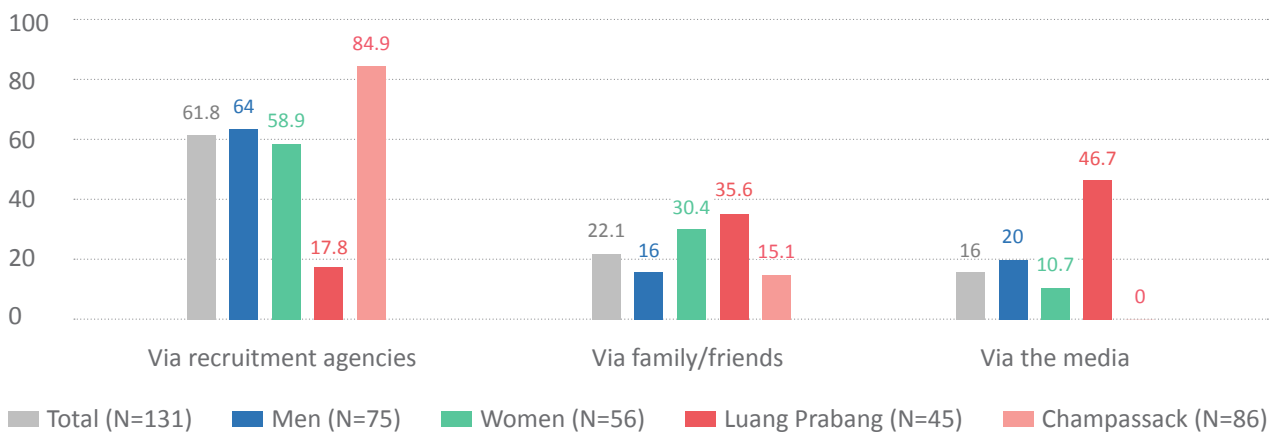
The analysis in this section is only based on the regular-migrant survey, unless otherwise indicated.

### Awareness and selection of recruitment agencies

Most regular migrant workers first heard about formal labour migration options through the recruitment agencies themselves (62 per cent), followed by information from family, friends or the community (22 per cent), and media channels<sup>24</sup> (16 per cent) (see figure 13). Recruitment agencies and media were more important sources of information for men than women (64 per cent to 59 per cent, and 20 per cent to 11 per cent, respectively), whilst family/friends played a greater role for women than for men (30 per cent to 16 per cent).

Differences were more pronounced at the provincial level; whilst most respondents in Champassack found out about regular labour migration opportunities through the agencies themselves (85 per cent), this only applied to 18 per cent of interviewees from Luang Prabang. Conversely, media channels and family/friends were more important for residents in Luang Prabang than in Champassack (47 per cent to 0 per cent, and 36 per cent to 15 per cent, respectively).

Figure 13: How respondents first heard about regular labour migration options, in total, by gender and province in Lao PDR (%)



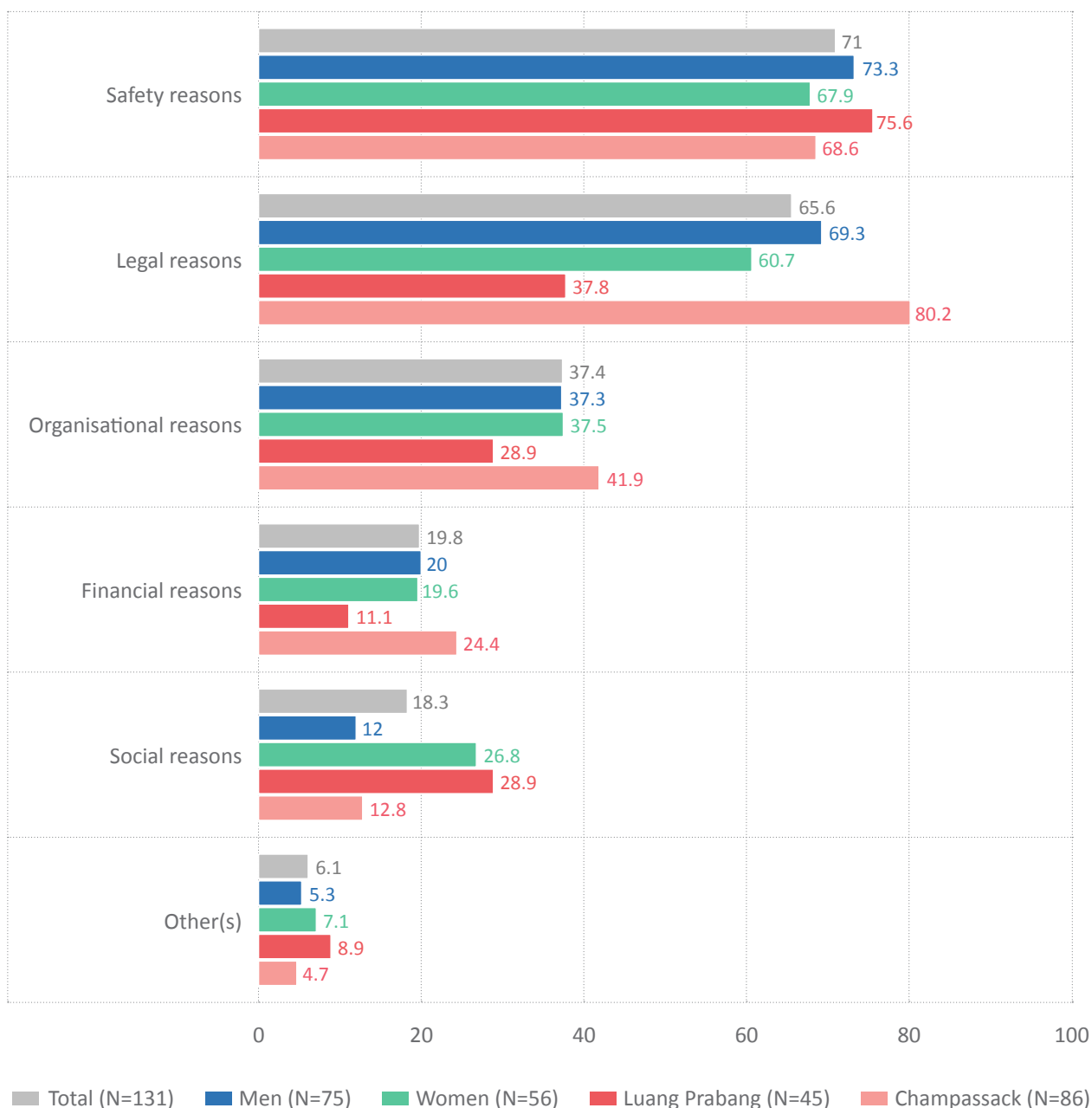
About 71 per cent of the regular migrant workers indicated that they enlisted the services of a recruitment agency to work in Thailand for ‘safety reasons’ (i.e. it is safer/more protected), followed by 66 per cent reporting ‘legal reasons’ (that is, to comply with the laws to legally work abroad), and 37 per cent mentioning ‘organizational reasons’ (i.e. the recruitment agency would organize much of the migration process). Additionally, ‘financial reasons’ (namely, the promise of a better salary than with other migration options) and ‘social reasons’ (i.e. the respondent was recommended or told to do so by family members/friends) were of relevance for 20 per cent and 18 per cent, respectively (see figure 14).

Women were more likely than men to mention ‘social reasons’, whereas the latter more often referenced both ‘legal reasons’ and ‘safety reasons’. At the provincial level, a higher proportion of respondents in Champassack cited ‘legal reasons’ than those in Luang Prabang, with similar albeit less pronounced tendencies for ‘organisational reasons’ and ‘financial reasons’. The reverse was true for both ‘safety reasons’ and ‘social reasons’.

24 This often involved information received via radio.



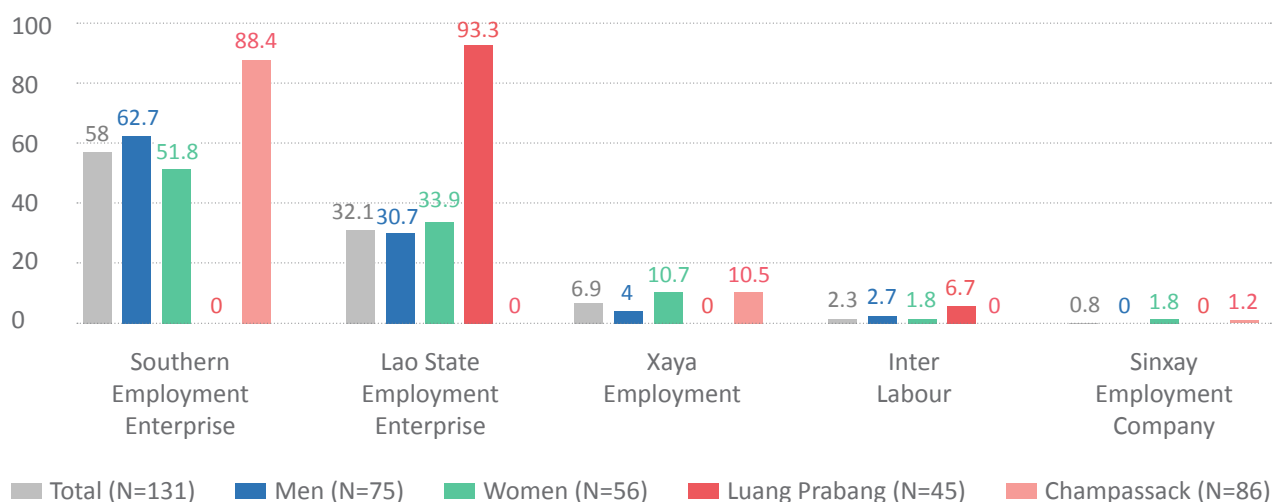
Figure 14: Reasons for enlisting the services of a recruitment agency, in total, by gender and province in Lao PDR (%)



A total of five recruitment agencies in the Lao People’s Democratic Republic were used by the regular migrant workers (see figure 15), with two accounting for 90 per cent, namely the Lao State Employment Enterprise (32 per cent, or 42 respondents) and the Southern Employment Enterprise (58 per cent, or 76 respondents).

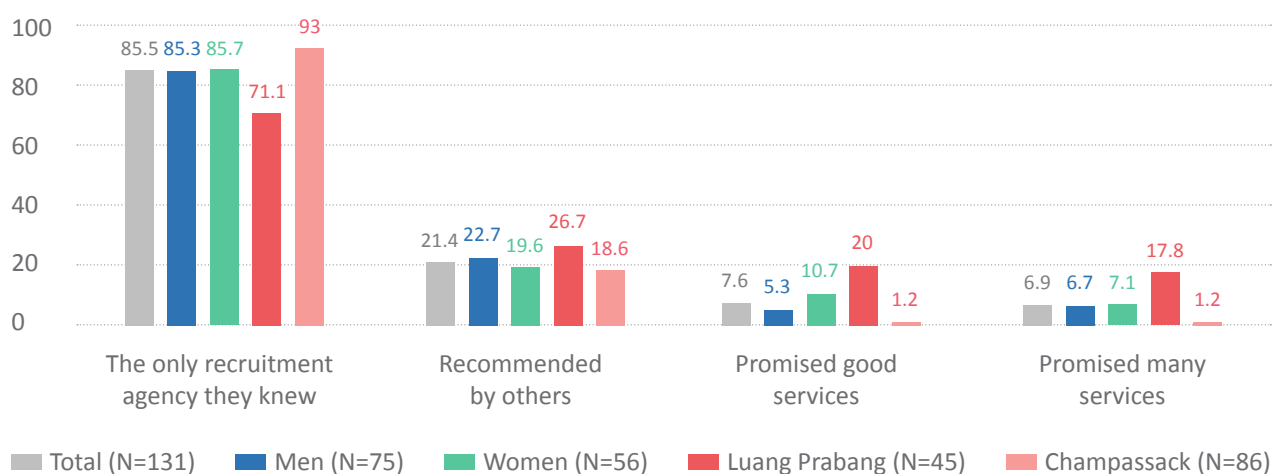
There were pronounced differences at the provincial level, in that all those who chose the Lao State Employment Enterprise resided in Luang Prabang (93 per cent of the provincial total), while all respondents who enlisted the Southern Employment Enterprise were from Champassack (88 per cent of the provincial total). This is a reflection of the fragmented and regionalised nature of the recruitment industry in the Lao People’s Democratic Republic, with many agencies focusing their business on a particular province only.

Figure 15: Recruitment agencies as enlisted by regular migrant workers, in total, by gender and province in Lao PDR (%)



The recruitment agencies were chosen primarily because they were the only agencies that respondents were aware of (86 per cent), followed by recommendations received from others (21 per cent) (see figure 16). There were no significant differences in this respect based on gender, however there were at the provincial level; a much higher proportion of respondents in Champassack than in Luang Prabang selected their company because it was the only one they knew of, whereas in the latter a more substantial share suggested that their chosen agency promised many and good services.

Figure 16: Reasons for selecting a specific recruitment agency, in total, by gender and province in Lao PDR (%)



## Recruitment costs

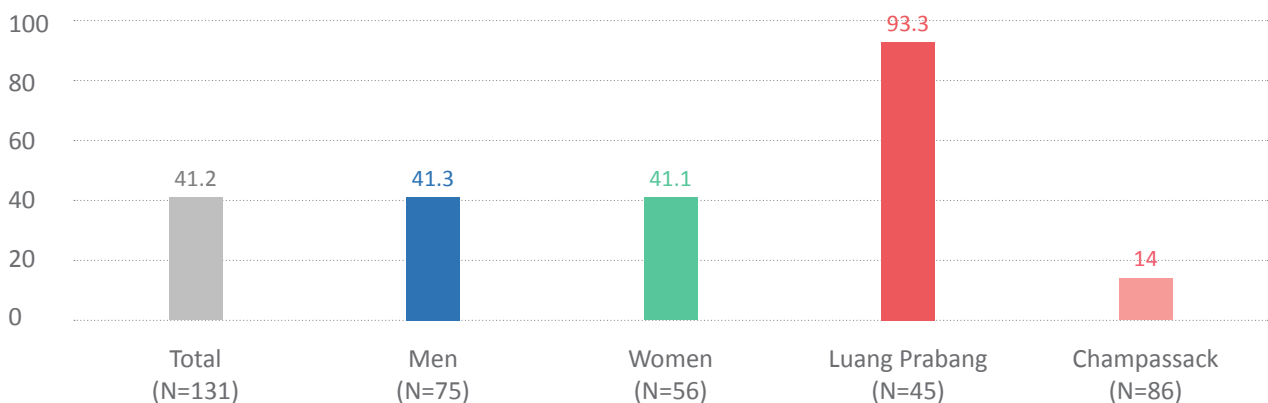
A substantial proportion, i.e. 59 per cent, of the regular migrant workers said that they did not pay any fees directly to their recruitment agency (see figure 17), whilst the others covered some or all of the following:

1. Brokerage fees
2. Costs for a passport
3. Visa and/or work permit for Thailand
4. Pre-departure training package
5. Transport costs to destination
6. Accommodation and food at destination
7. Insurance
8. Medical/health checks
9. Other costs

It is worth noting that none of the respondents said that they paid a deposit to their recruitment agency.

Whilst there was no significant difference based on gender and whether they paid fees to the recruitment company, responses greatly varied at the provincial level. Only 14 per cent of interviewees from Champassack paid directly to their agencies, whereas 93 per cent of those from Luang Prabang did so. This appears to point to differences in the business model between recruitment agencies.

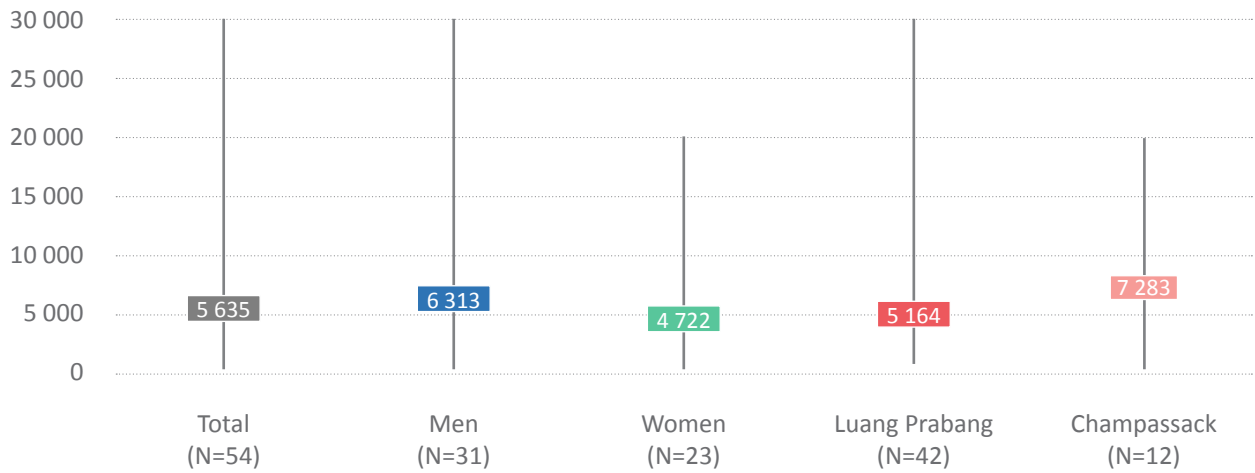
Figure 17: Regular migrant workers paying direct fees to their recruitment agencies, in total, by gender and province in Lao PDR (%)



The amounts covered by the 54 regular migrant workers (31 men and 23 women) who paid recruitment fees varied significantly (see figure 18). Whilst their average costs were THB5,635, men paid higher fees than women (THB6,313 versus THB4,722). There were also differences between provinces, and hence between recruitment agencies, in that payments by respondents residing in Luang Prabang (42 cases) averaged THB5,164, and by those in Champassack (12 cases) THB7,283.

Such indications of mean costs, however, hide significant discrepancies at an individual level; whilst 77 respondents (58 per cent) did not pay anything to their recruitment agencies, others reported paying as much as THB30,000.

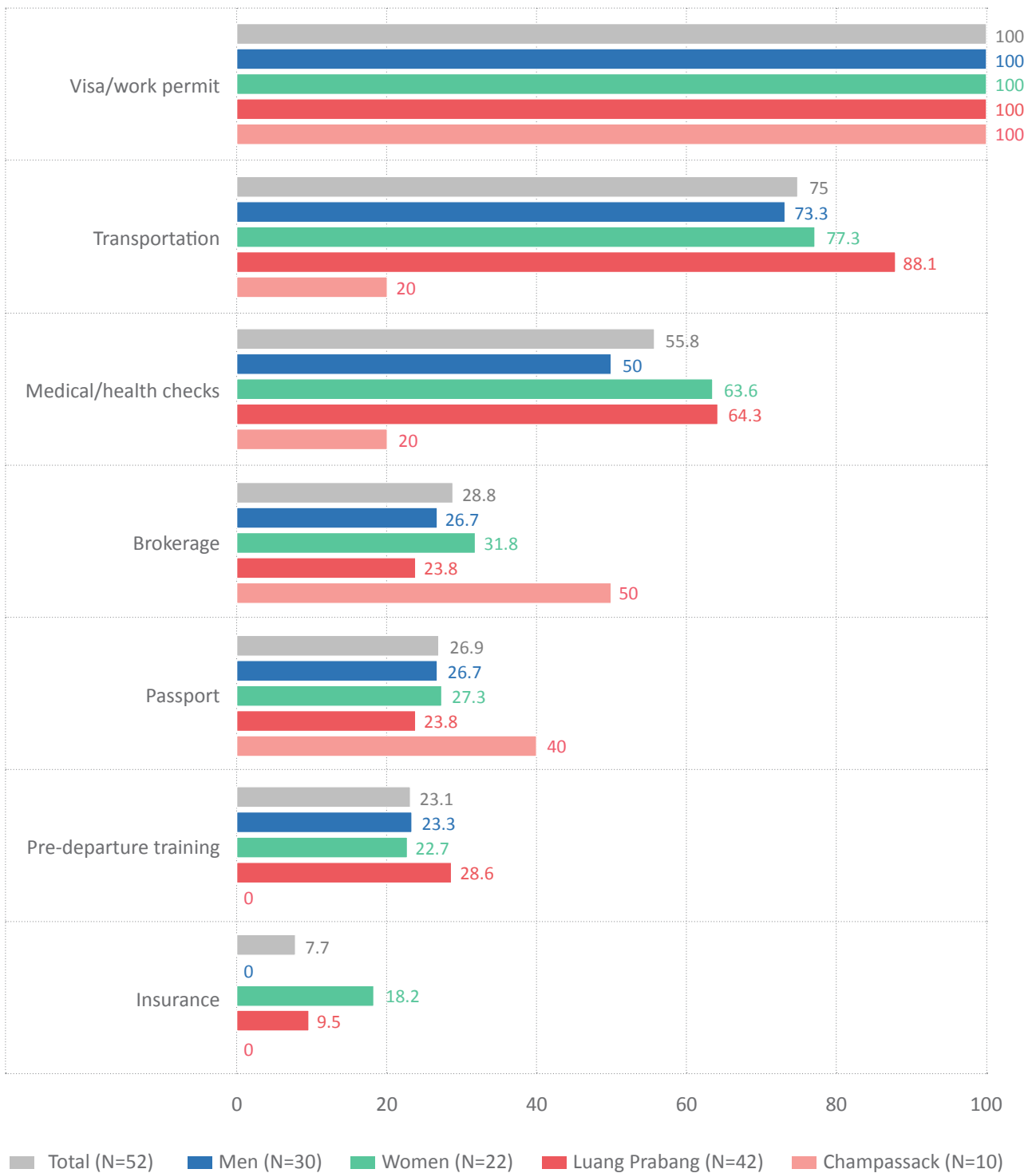
Figure 18: Range and average of payments made by regular migrant workers who paid their recruitment agencies, in total, by gender and province in Lao PDR (in THB)



Fifty-two of the 54 respondents who paid their recruitment agencies provided details on what they were charged for. All of them covered costs related to their visa and/or work permit, followed by 75 per cent having transportation-related charges, and 56 per cent paying fees for medical/health checks (see figure 19).

There was one significant difference based on gender with respect to the types of fees that they had to cover, and that related to 'insurance'; whilst 18 per cent of women paid for associated expenses, this did not apply to any man. Further, interviewees from Luang Prabang were more likely to be charged transportation costs than those from Champassack, possibly reflecting longer travels to the Thai-Lao border, and the same tendency albeit less pronounced was true for medical/health checks.

Figure 19: Itemized fees paid by regular migrant workers to their recruitment agencies, in total, by gender and province in Lao PDR (%)

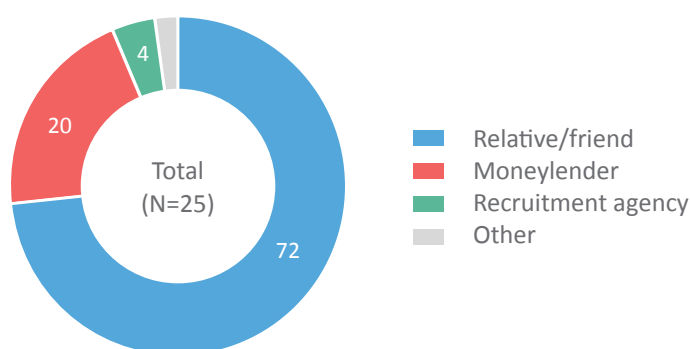


Whilst the Lao Government states that recruitment-related costs may range from THB15,000-THB21,000<sup>25</sup>, such diverse experiences as outlined above suggest a lack of standardization in this respect. The MLSW Guideline stipulates that recruitment agencies advance the recruitment-related fees for the migrant workers, but may subsequently deduct up to 15 per cent of their monthly salaries to recover these costs. However, the practices as reported by respondents to this research suggest that many migrant workers at least partially had to pay directly to their respective recruitment agencies. It is worth reiterating that costs of recruitment should be borne by the employers and not the workers, according to the ILO’s Private Employment Agencies Convention, 1997 (No. 181), though authorities may authorize exceptions.

### Loans and their terms to finance labour migration

Twenty-five respondents (six in Luang Prabang and 19 in Champassack; 16 men and nine women) had to borrow money to fund their migrant work experience in Thailand, typically from relatives or friends (72 per cent), but some also from moneylenders (20 per cent) or recruitment agencies (4 per cent) (see figure 20). It is worth noting that regular financial institutions did not appear to play a role in this context.

Figure 20: Sources of loans for respondents to cover their recruitment agency fees, in total (%)



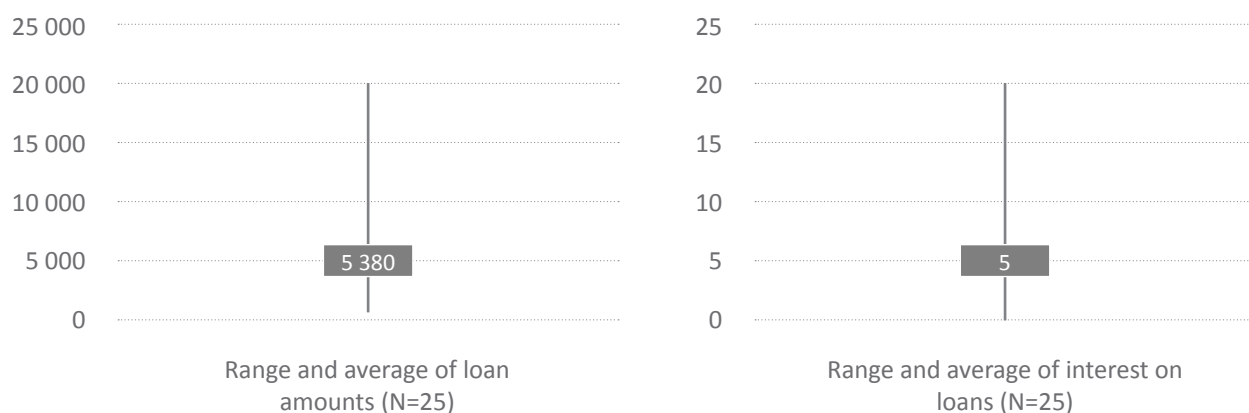
The amounts ranged from THB700 to THB20,000 with a mean of THB5,380 (see figure 21), and the interest rates averaged 5 per cent stretching from 0 to 20 per cent. The mean time for repayment was one year and respondents, on average, paid 1.7 instalments.

Only three respondents had a contract or other documentation for the loan, two with a friend and one with a moneylender. This is perhaps not surprising, given the low average amounts and the informality of the arrangements that often involved friends and relatives as granters.

The low number of respondents falling into these categories did not provide sufficient scope for further disaggregation of the analysis.

25 International Labour Organization (ILO): *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok, 2015).

Figure 21: Range and average of loan amounts and interest on loans among regular migrant workers, in total (in THB and %)

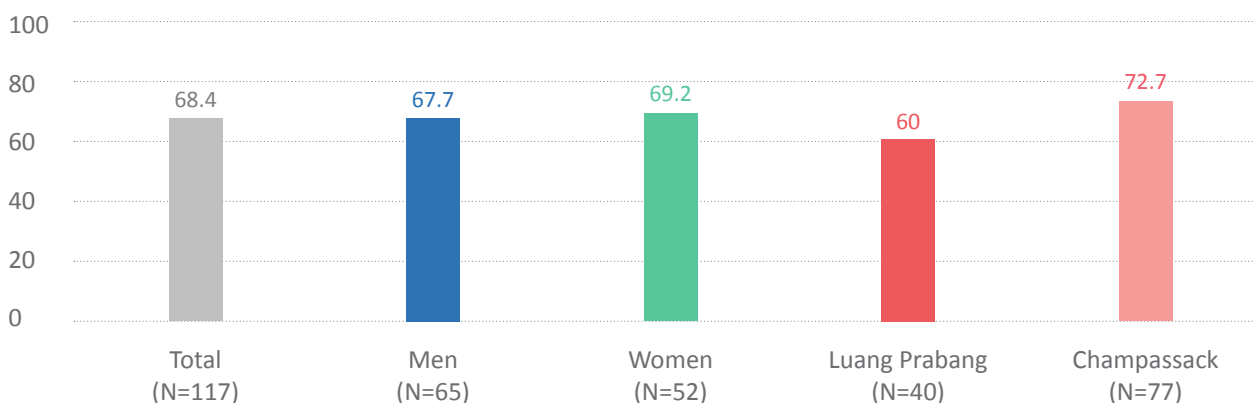


### Provision, details and comprehension of contracts

About 89 per cent of the regular migrant workers stated that they signed a contract with their respective recruitment agency in the Lao People’s Democratic Republic for the purpose of employment in Thailand prior to departure. There were no pronounced differences based on gender or province in this respect.

About 68 per cent of the regular migrant workers who signed contracts with their recruitment agencies did not fully or at all understand the agreements. Again, there was no significant difference based on gender, but a higher proportion of respondents in Champassack than in Luang Prabang did not fully or at all comprehend their contracts.

Figure 22: Respondents who did not fully or at all understand their contract with the recruitment agency, in total, by gender and province in Lao PDR (%)

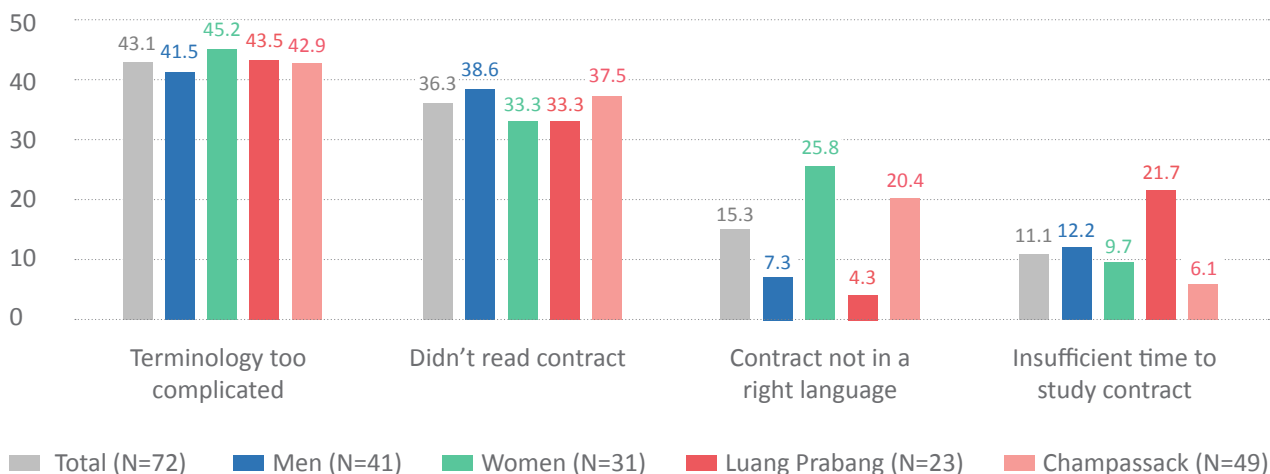


For 43 per cent of those who did not fully or at all understand their contracts, the lack of comprehension was due to the complicated terminology; 36 per cent noted that they simply did not read the contract; for 15 per cent it was because the agreement was not available in a language that they could read; and 11 per cent suggested that they were not given enough time to study the contract (see figure 23).

There were some variations in this respect based on gender and province. The language factor was more important among women than men, and in Champassack than in Luang Prabang, whereas the time factor was a bigger concern in Luang Prabang than in Champassack.

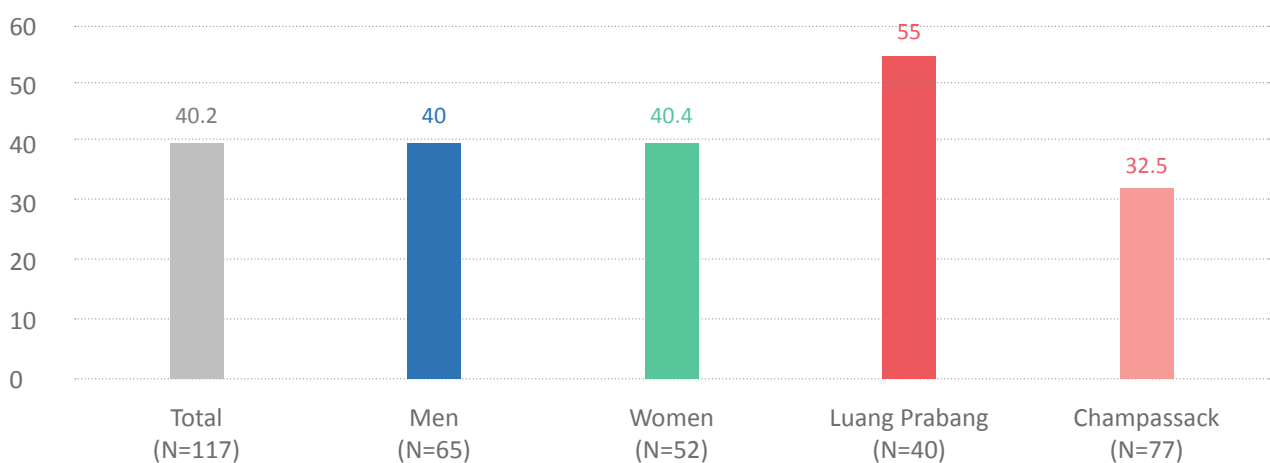
Further, it is worth noting that there was only one non-Lao native speaker among those reporting that the contract was not available in a language they could read. Illiteracy may have been a factor in this regard.

Figure 23: Reasons why respondents did not fully or at all understand their contract, in total, by gender and province in Lao PDR (%)



Only 40 per cent of the 117 regular migrant workers who signed contracts with their recruitment agency received a copy of their agreement. This finding was consistent based on gender, but there were differences between provinces; whereas 55 per cent of regular migrant workers in Luang Prabang received a copy, this was only applicable to 33 per cent in Champassack.

Figure 24: Respondents receiving a copy of their signed contract, in total, by gender and province in Lao PDR (%)





Further, none of the regular migrant workers signed an agreement with their employer upon arriving in Thailand. Whilst this was not in contradiction to national legislation in the two countries concerned<sup>26</sup> or their bilateral MOU on Employment Cooperation, the practice raises important questions about the enforceability of working conditions in the destination country as agreed in the country of origin. Indeed, it remains unclear how an employer in Thailand can be held accountable for breaches of employment terms that they have not directly agreed upon with the violated party and that may not be against minimum working standards in the country of destination.

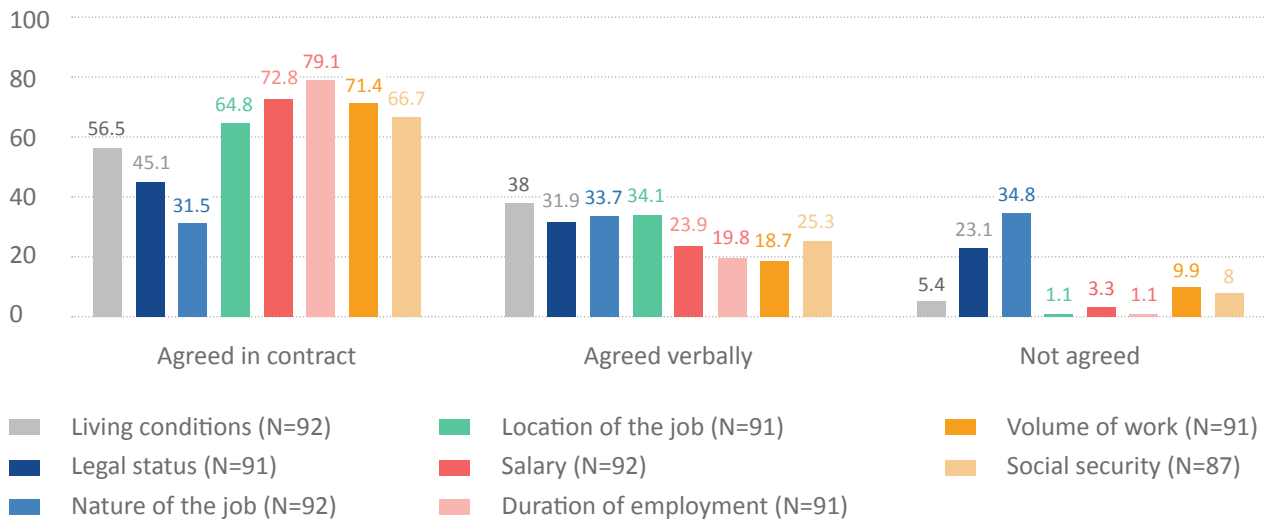


In addition, although most regular migrant workers signed a contract with their recruitment agency as outlined above, many key terms and conditions regarding work and life in Thailand remained unspecified. For example, more than a third of all regular migrant workers said that they had no agreement about the nature of their work in Thailand, and another third indicated that they only had a verbal agreement (see figure 25). Similarly, 23 per cent of respondents noted that they had no arrangements regarding their legal status in Thailand, and 32 per cent only had a verbal agreement in this respect.

26 The Thai LPA does not require written employment contracts. Further, the language of the 2002 MLSW Guideline is somewhat ambiguous in this respect and, as a result, has been interpreted differently. Some analyses suggest that it requires a written contract between the Thai employer and the Lao migrant worker. This interpretation, however, seems questionable, partly because Lao legislation is not in a position to mandate action from Thai employers in Thailand. It is important to note that, in 2016, the Lao and the Thai Government signed a revised MOU on Employment Cooperation with a mandatory employment contract for use in Thailand annexed.

Further, between 19 and 38 per cent of regular migrant workers only had verbal agreements for the following terms and conditions: ‘volume of work’, ‘duration of employment’, ‘salary’, ‘social security’, ‘location of the job’ and ‘living conditions’. The 2002 MLSW Guideline, however, requires that salary levels in Thailand, amongst other aspects, be specified in a written contract for all Lao workers (see table 1).

Figure 25: Key employment conditions and their levels of agreement, in total (%)



There were differences in this respect based on gender and province. More women than men had no agreements on the ‘nature of the job’, the ‘volume of work’ and ‘social security’, whereas a higher share of men than women lacked any arrangements on ‘living conditions’. Further, more respondents in Champassack than in Luang Prabang reported that they had no agreements on the ‘nature of the job’, their ‘legal status’ and ‘social security’, with the reverse true for ‘salary’.

All regular migrant workers from Luang Prabang and 88 per cent from Champassack indicated that the arrangement was for them to work in Thailand for two years. For six respondents, the agreed period was 48 months; for one interviewee, it was 18 months; for two it was 27 months; and for another one it was 36 months. There were no significant differences in this respect based on gender.

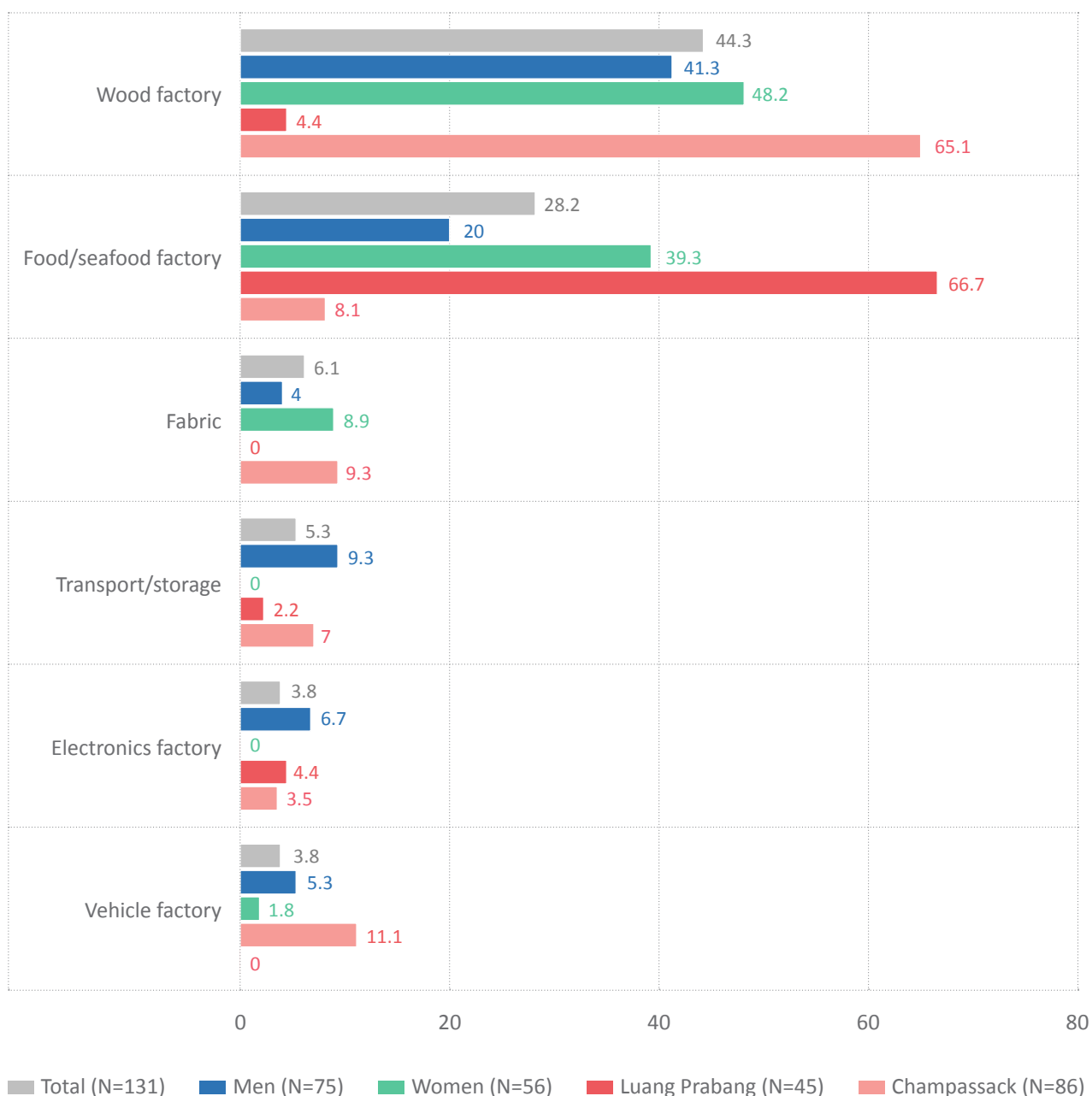
### Agreed type of employment

Many regular migrant workers moved to Thailand for jobs in factories, especially wood processing (44 per cent of all respondents) and food including seafood (28 per cent) (see figure 26).

There were distinct patterns in this respect based on gender and province. Higher proportions of women than men agreed to work in wood, food and fabric factories, whereas the reverse was true for work in the transport or storage industry and electronics factories.

The differences were even more pronounced at the provincial level. For example, two-thirds of the respondents from Luang Prabang agreed to work in food factories, compared to 8 per cent from Champassack. Conversely, 65 per cent from Champassack moved for jobs in wood factories, as against 4 per cent from Luang Prabang.

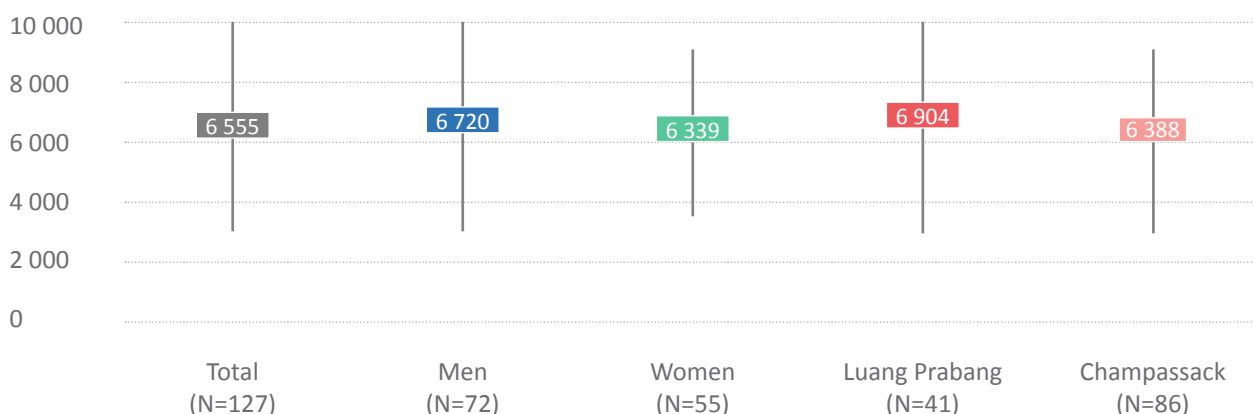
Figure 26: Agreed type of work in Thailand, in total, by gender and province in Lao PDR (%)



### Agreed monthly salary

The agreed monthly salary, where applicable (N=127), ranged from THB3,000 to THB10,000, with a mean of THB6,555 (THB6,720 for men and THB6,339 for women) (see figure 27). Respondents from Luang Prabang had slightly higher agreed average wages compared to their counterparts in Champassack (THB6,904 versus THB6,388). Overall, such rates were substantially higher than the monthly average earnings in the Lao People’s Democratic Republic (THB1,753).

Figure 27: Range and average of agreed monthly average salaries where applicable, in total, by gender and province in Lao PDR (in THB)

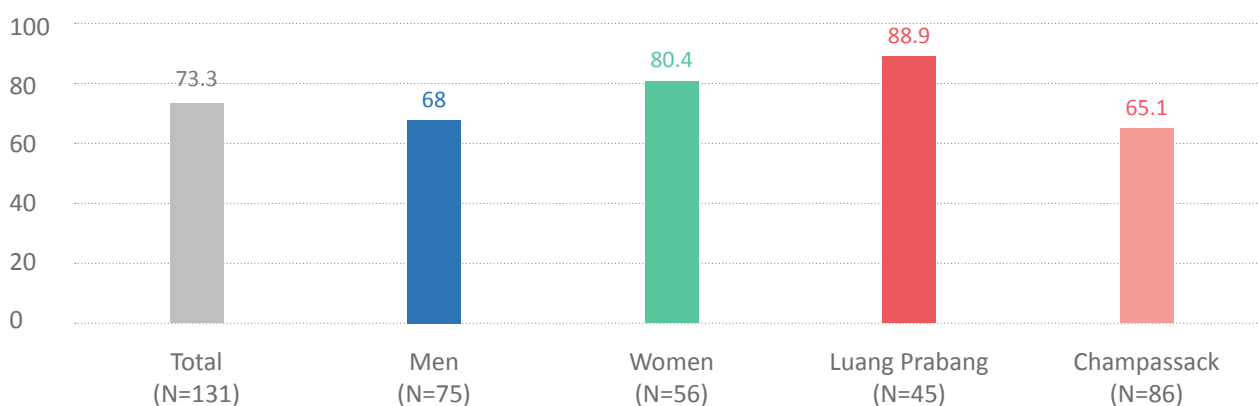


However, with the Thai minimum wage at the time of data collection at around THB7,200 per month,<sup>27</sup> the reported, agreed average salaries were lower than such levels. Further, given significant differences at the individual level, many respondents seemingly had to accept earnings well below minimum standards. Payment terms below minimum wages are a breach of Thai law and seen as an indicator of exploitation in the context of human trafficking and forced labour.<sup>28</sup>

### Pre-departure training

About 73 per cent of the regular migrant workers reported receiving pre-departure training in the Lao People's Democratic Republic (see figure 28). This applied to 68 per cent of men compared to 80 per cent of women, and to 89 per cent of respondents in Luang Prabang as against 65 per cent in Champassack. According to the 2002 MLSW Guideline, every Lao migrant worker is required to undergo pre-departure training before being sent abroad (see table 1). It is worth noting that a Pre-Departure Training Curriculum (PDTC) for the Lao People's Democratic Republic-Thailand migration corridor was developed in 2014 with support from the ILO and may have strengthened pre-departure training since.

Figure 28: Respondents who received pre-departure training, in total, by gender and province in Lao PDR (%)



27 This is calculated based on THB300 per day, six days per week and four weeks per month.

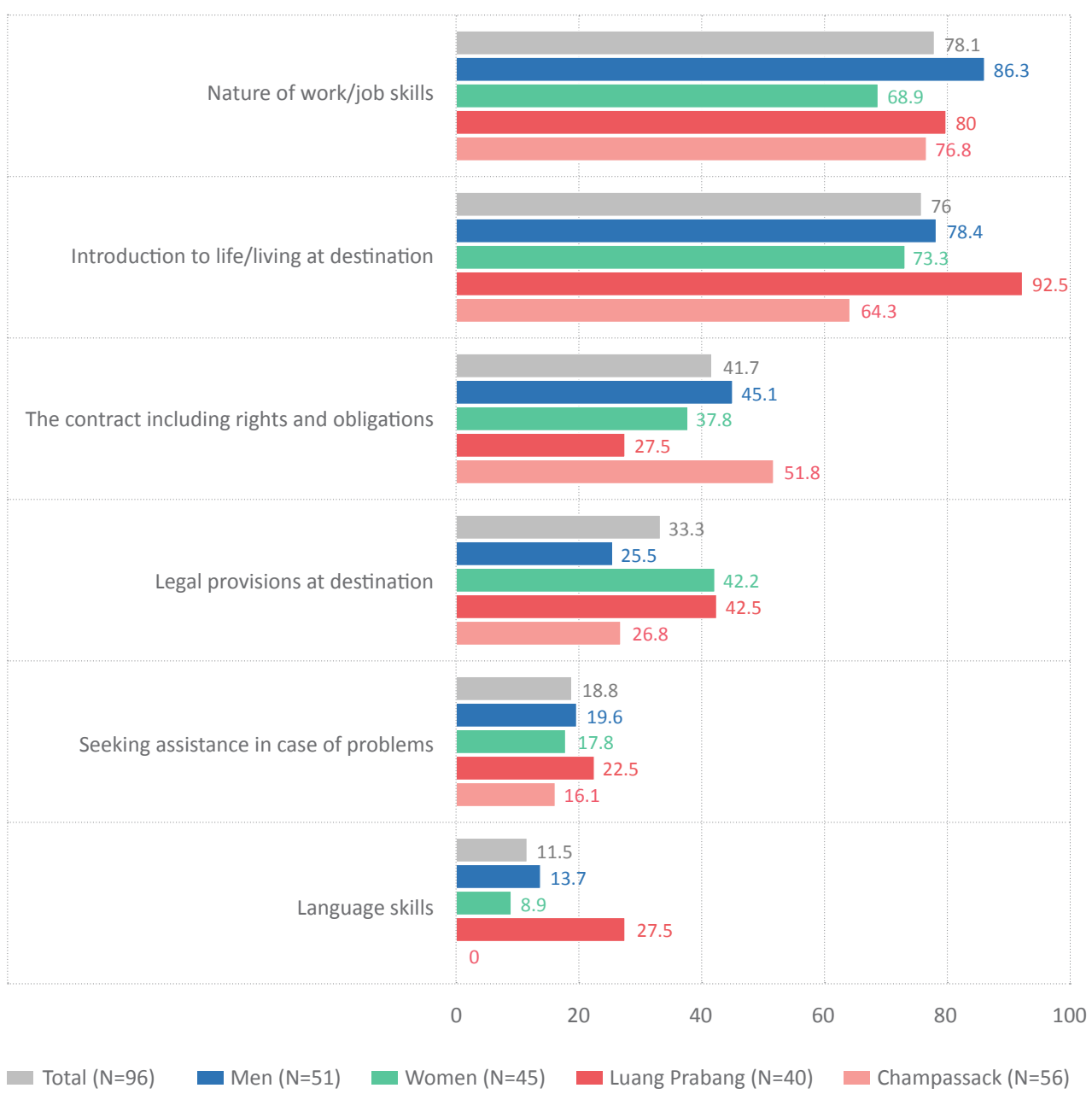
28 International Labour Organization (ILO) and European Commission (EU): *Operational indicators of trafficking in human beings* (Geneva, 2009).

Of the 96 respondents who received pre-departure training, 78 per cent said that it lasted half a day, with another 20 per cent having a full-day training. The subjects covered mostly focused on the nature of the job or job skills (78 per cent), life and living at destination (76 per cent). Less than half (42 per cent) were trained on contracts including rights and obligations, or legal provisions at destination (34 per cent) (see figure 29).

There were some distinct patterns in this respect at the provincial level; 93 per cent of respondents from Luang Prabang received training on life/living at destination and 28 per cent on language skills compared to 64 and 0 per cent respectively in Champassack. The reverse was true for training on the contract including rights and obligations, with 52 per cent of respondents in Champassack and only 28 per cent in Luang Prabang receiving such information.

The stronger emphasis on life and language skills in Luang Prabang may be explained by the fact that most respondents from the province were of Khmu ethnicity that is culturally and linguistically more distinct from Thailand than the predominantly ethnic Lao people interviewed in Champassack.

**Figure 29: Subjects covered in pre-departure training as applicable, in total, by gender and province in Lao PDR (%)**

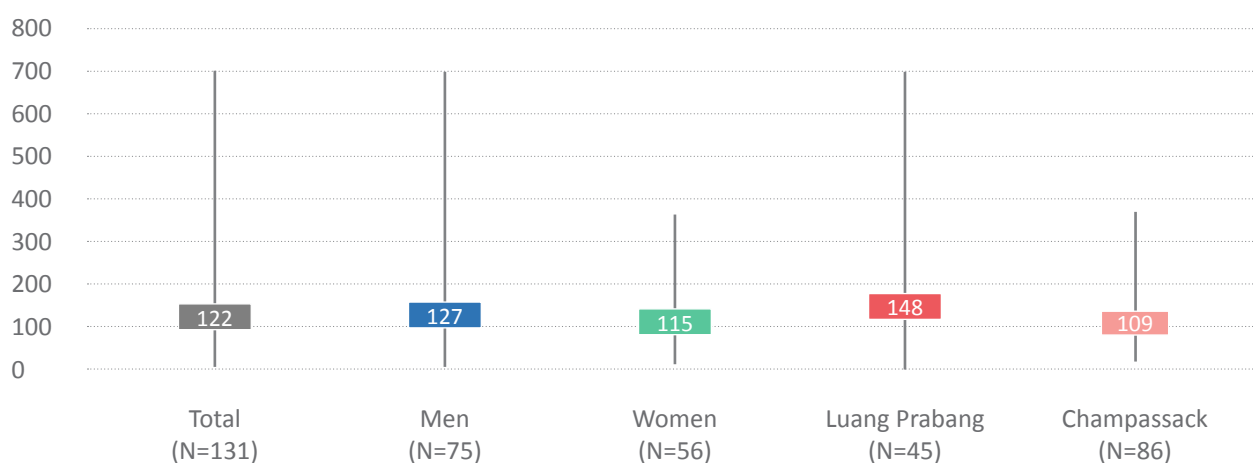


## Journey to Thailand

About 70 per cent of respondents waited between two to five months following their agreement with the recruitment agency for the journey to Thailand to begin, but there were noteworthy variations at an individual level. Whereas 9 per cent, or 12 migrant workers, left after 30 or fewer days, 20 per cent, or 26 individuals, had to wait six months or longer – in seven cases from one to almost two years. The mean standby time was four months (122 days), with men waiting an average of 12 days longer than women, and respondents in Luang Prabang 39 days more than their counterparts in Champassack (see figure 30).

It is important to highlight that these periods are significantly longer than official estimates of 55 days, from the time that an employer identifies a vacancy to the actual arrival of the migrant worker, for the Lao People’s Democratic Republic-Thailand migration corridor,<sup>29</sup> and are likely to be an important factor in undermining wider use of regular channels among Lao people seeking employment in Thailand.

Figure 30: Range and average of waiting time for regular migrant workers to begin the journey to Thailand, in total, by gender and province in Lao PDR (in days)



Once the journey began, almost all regular migrant workers went to Thailand by van or bus, and all were accompanied during their journey, either for parts (33 per cent) or for all of it (67 per cent). In most cases, they travelled with representatives from their Lao recruitment agency (91 per cent), and about a quarter also went with other migrant workers (28 per cent) and/or the employer/staff from the company (22 per cent).

Further, 92 per cent of the respondents did not pay any money for their journey to Thailand, beyond what they may have paid to the recruitment agency for that purpose. The remaining 8 per cent, or 11 migrant workers, had costs ranging from THB120 to THB2,000. Among these were six men and five women, with eight coming from Luang Prabang and three from Champassack.

## Training at destination

Only regular migrant workers from Champassack were asked whether they were (further) trained at destination, and if so what content was covered. Of the 86 respondents in that province, 80 – 45 men and 35 women – indicated that they received training upon arrival, ranging from half-day to four days and covering topics such as nature of work and job skills (100 per cent among those receiving training), contract-related issues including rights and obligations (50 per cent), life and living at destination (45 per cent), legal provisions at destination (45 per cent), or how to access assistance in case of problems (31 per cent). Six respondents were also trained in safety-related matters at their factories.

<sup>29</sup> International Labour Organization (ILO): *Review of the effectiveness of the MOUs in managing labour migration between Thailand and neighbouring countries* (Bangkok, 2015).

## Working and living conditions in Thailand

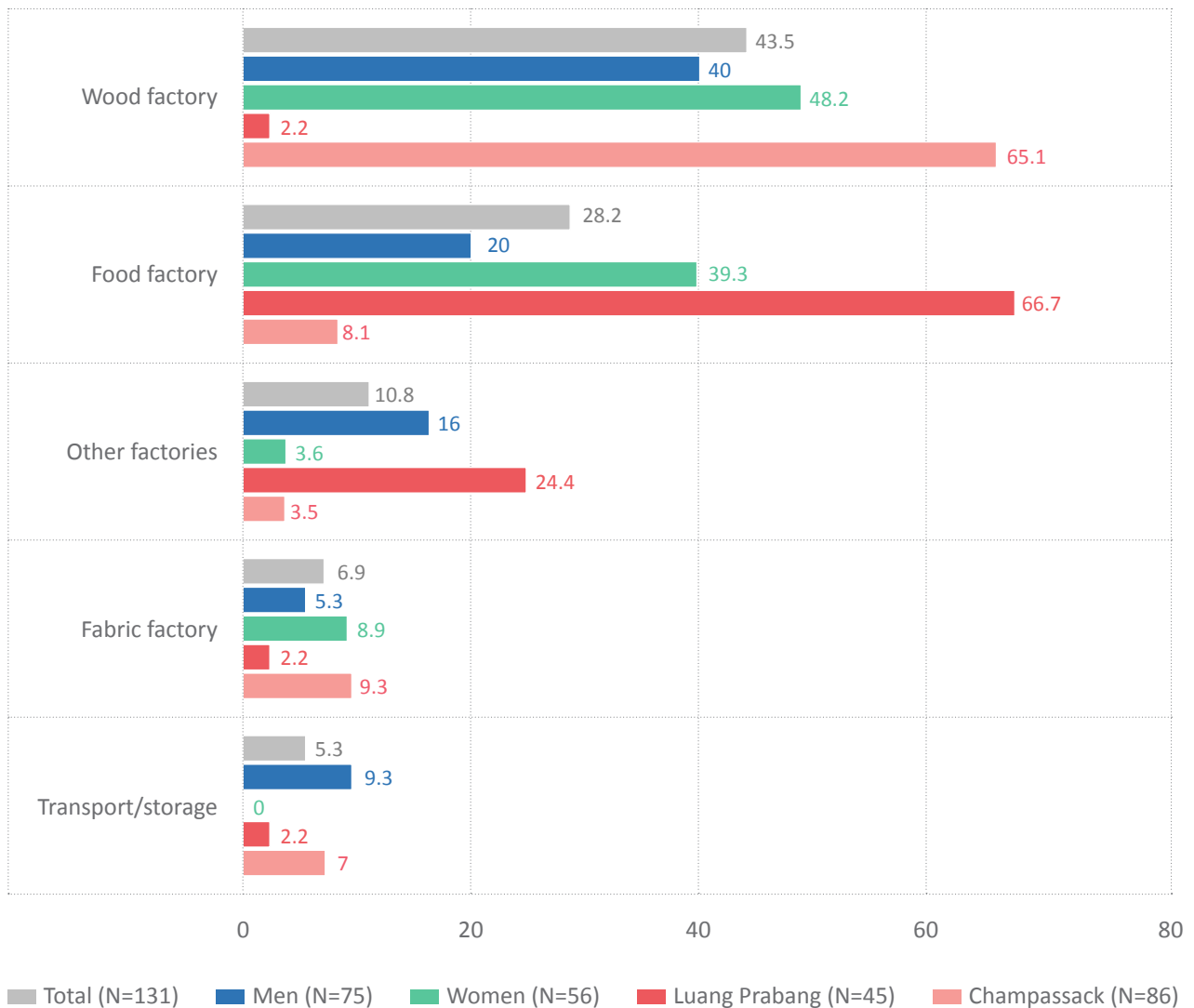
### Actual type of work performed

Answers on the actual types of work performed in Thailand were grouped differently in the two surveys making comparisons difficult.

Analysing the datasets separately, 44 per cent of the regular migrant workers were employed in wood and 28 per cent in food including seafood factories. With 7 per cent engaged in fabric factories and 11 per cent in 'other' factories, a total of 90 per cent worked in different types of production facilities (see figure 31). In contrast, only 39 per cent of the irregular migrant workers were involved in factory work in Thailand, with service<sup>30</sup> (33 per cent), construction (14 per cent) and domestic work (9 per cent) constituting significant other sectors of employment.

It is worth noting that the Lao Government considers domestic work to be 'unskilled' and, as such, does not authorize labour migration through the MOU process into domestic work in Thailand.

Figure 31: Key actual types of work in Thailand among regular migrant workers, in total, by gender and province in Lao PDR (%)



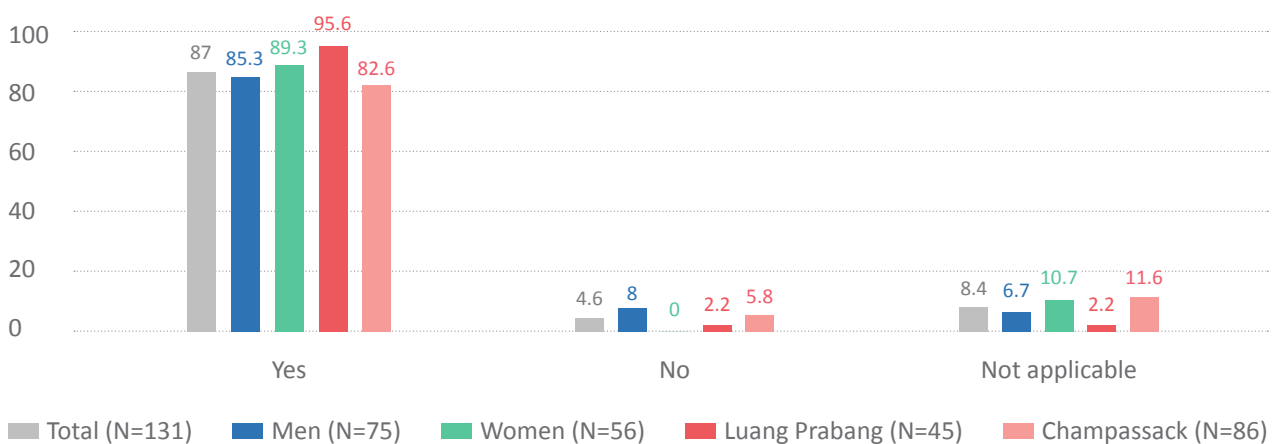
<sup>30</sup> 'Service' was an aggregate term comprising work in restaurants, in shops/as vendors, in hotels/guesthouses, and other services.

In the regular-migrant survey, a greater proportion of women than men worked in food and wood factories, whereas more men than women were employed in transport- and storage-related jobs. Further, while respondents from Luang Prabang were predominantly engaged in food factories, those from Champassack mainly worked in wood factories.

### Whether work was in line with agreements

Eighty-seven per cent of the regular migrant workers said that their jobs were the same as previously agreed with their recruitment agencies; 8 per cent noted that the question was not applicable as their work had not been defined prior to departure; and another 5 per cent suggested that their jobs were different from what had been agreed (see figure 32).

Figure 32: Whether the job in Thailand was as expected or not among regular migrant workers, in total, by gender and province in Lao PDR (%)



All regular migrant workers who indicated that their work was not in line with previous agreements (six respondents) were men. Of these, three noted that they were working in a whole different sector of employment; one said that the employer was different; four pointed to a different location of employment; and five suggested that their roles and responsibilities were different from previous agreements.<sup>31</sup>

For a higher proportion of respondents from Luang Prabang than Champassack (96 to 83 per cent), their jobs were the same as previously agreed with the recruitment agencies. In the latter, 12 per cent noted that there was no prior agreement on the work to be performed and another 6 per cent said that their jobs were not in line with what had been agreed.

Differences between agreed and actual working conditions are considered to be an indicator of forced labour and human trafficking, as demonstrated in tools developed with the involvement of the Lao People’s Democratic Republic and Thailand through COMMIT and ASEAN.<sup>32</sup> Further, leaving key terms of employment undefined during the recruitment process, especially in the context of labour migration, adds to workers’ vulnerabilities to forms of exploitation.

The irregular migrant workers were not asked this question.

31 The question allowed for multiple responses to be given.

32 Association of Southeast Asian Nations (ASEAN) and Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT): *Identifying Victims of Trafficking and Associated Forms of Exploitation: Common Indicators for First Responders* (Bangkok, 2016).



## Location of work

The regular migrant workers were sent to work in 12 Thai provinces, while the irregular migrant workers were spread across 25 different provinces.

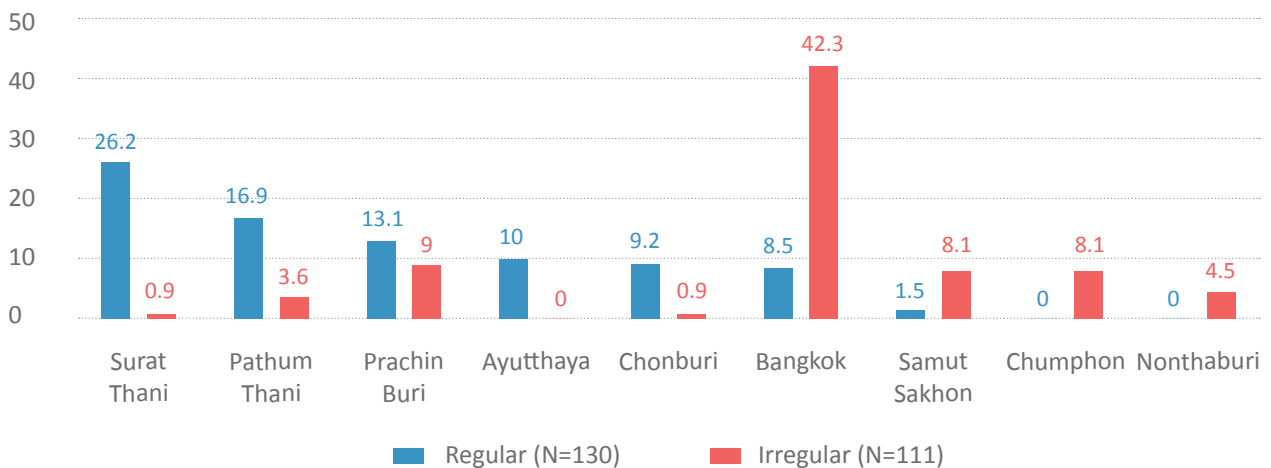
Among the former, more than a quarter were based in Surat Thani, followed by 17 per cent in Pathum Thani and 13 per cent in Chon Buri. Ayutthaya (10 per cent) and Prachin Buri (9 per cent) were also important destination provinces for regular migrant workers.

There were distinct patterns between provinces and sectors of employment, with 85 per cent of the regular migrant workers in Surat Thani, 82 per cent in Pathum Thani and 67 per cent in Prachin Buri employed in wood factories, whereas 85 per cent of those in Ayutthaya and 76 per cent in Chonburi were engaged in food factories.

Marked patterns were also identifiable between origin and destination provinces, in that all regular migrant workers in Surat Thani and 82 per cent in Pathum Thani came from Champassack, whereas all those in Chonburi and 69 per cent in Ayutthaya were from Luang Prabang.

In the irregular-migrant survey, more than 40 per cent of respondents were based in Bangkok, with significantly fewer numbers in Chonburi, Samut Sakhon and Chumphon (see figure 33). There were no recognizable patterns between provinces and sectors of employment among the irregular migrant workers.

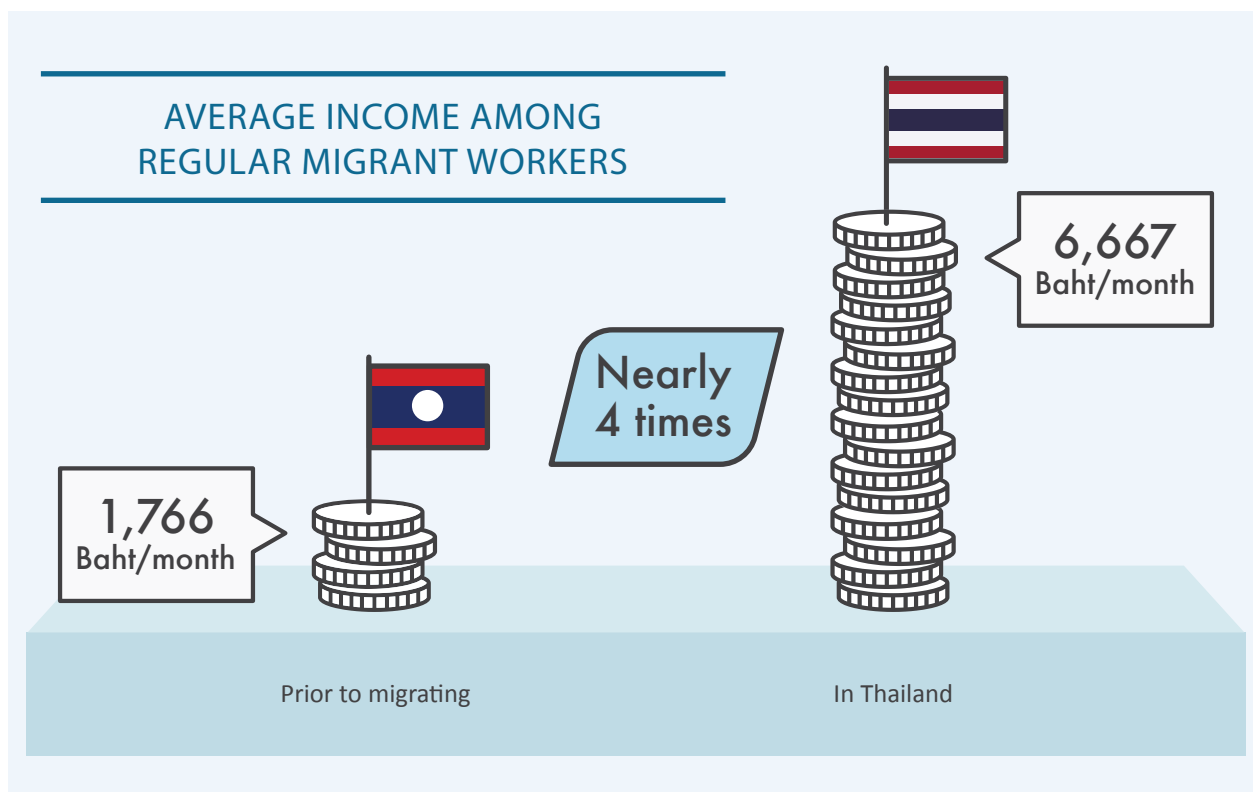
Figure 33: Top 5 destination provinces, by survey (%)



## Working conditions

### Salary

The mean monthly salary after deductions among the regular migrant workers was THB6,667, whereas the irregular migrant workers' 'actual salary' averaged THB6,864.<sup>33</sup> The former was 3.8 times higher than the regular migrant workers' mean income in the Lao People's Democratic Republic prior to migrating.<sup>34</sup>



Further, salaries after deductions varied in the regular-migrant survey with respect to gender, province in the Lao People's Democratic Republic and type of work in Thailand. On average, men earned THB526 per month more than women, and respondents from Luang Prabang benefitted from an extra THB793 compared to those from Champassack. Moreover, regular migrant workers employed in food factories earned THB877 per month more than their peers in wood factories.

Whilst the relationship between salaries, deductions and the minimum wage requires further analysis, it is safe to conclude that a significant number of respondents were paid below the wage floor of about THB7,200 per month at the time of data collection.<sup>35</sup> Payment terms below minimum wages, as previously highlighted, are considered to be an indicator of exploitation in the context of forced labour and human trafficking.<sup>36</sup>

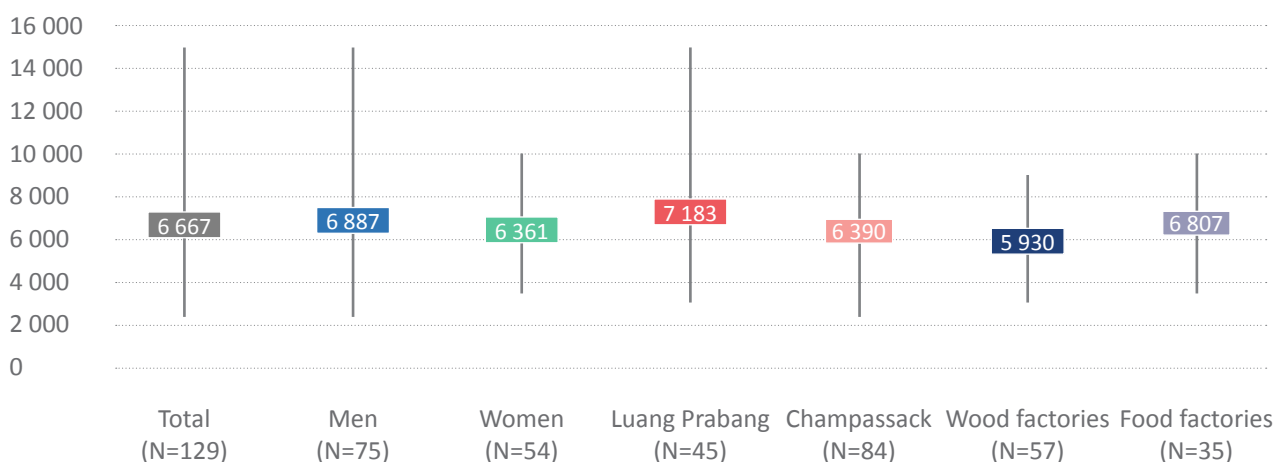
33 Note that it cannot be verified whether the figures on 'actual salary' already consider potential deductions.

34 There were insufficient datapoints in the irregular-migrant survey for such a comparison.

35 This is based on six days of work per week at 300 THB per day, with four weeks per month.

36 International Labour Organization (ILO) and European Commission (EU): *Operational indicators of trafficking in human beings* (Geneva, 2009).

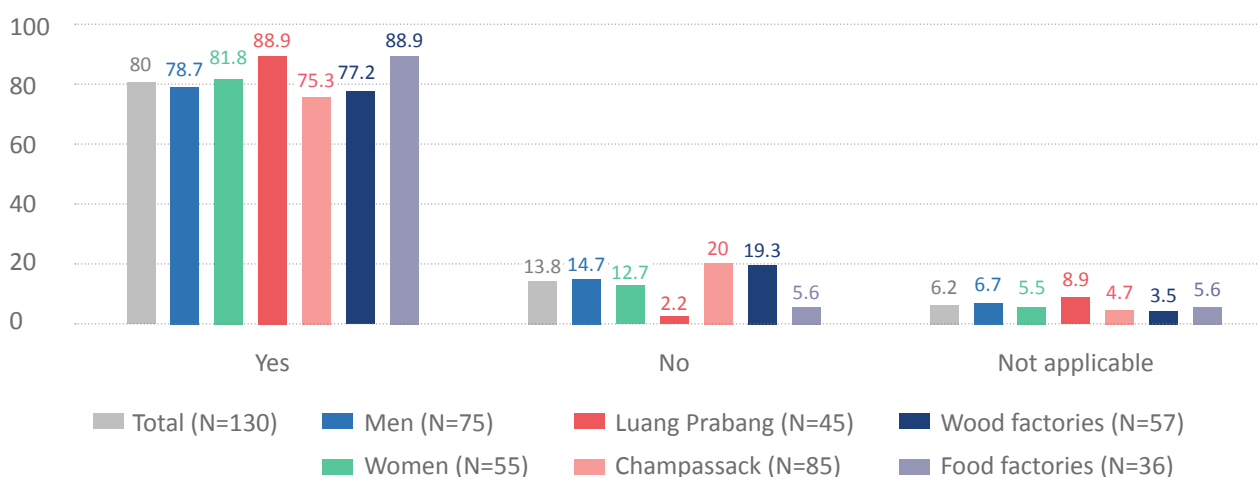
Figure 34: Range of and average salaries after deductions among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand (in THB)



For 80 per cent of the regular migrant workers, the actual amounts received were the same as agreed with the recruitment agency. About 6 per cent noted that the question was not applicable, as their salaries had not been previously established, and 14 per cent said that their salaries were not in line with prior agreements.

Such results were consistent based on gender, but there were variations between provinces in the Lao People’s Democratic Republic and for the type of work performed in Thailand. A higher proportion of respondents in Champassack compared to those in Luang Prabang noted that their salaries were not the same as previously agreed, and similar tendencies were true for workers in wood factories versus those engaged in food factories.

Figure 35: Whether the actual amounts received were the same as agreed with the recruitment agencies, in total, by gender, province in Lao PDR and type of work in Thailand (%)



Further, 98 per cent of the regular migrant workers never experienced any problems receiving their wages. Two respondents ‘rarely’ and another ‘sometimes’ had issues in this respect, primarily related to ‘delays in getting the salary’.

A slightly different question was asked in the irregular-migrants survey, making comparisons between the two populations difficult. Still, 89 per cent of the irregular migrant workers indicated that they received their wages on

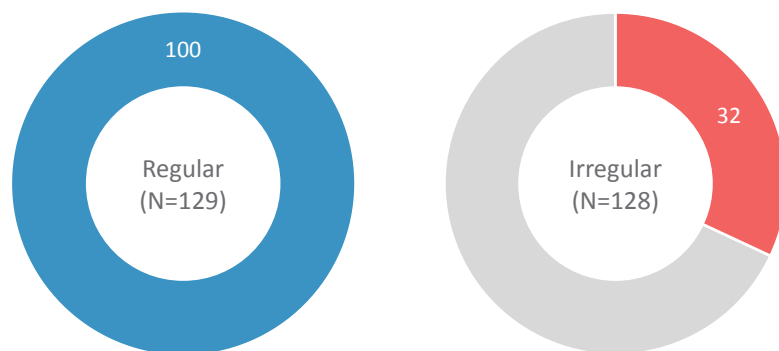
time, while 6 per cent stated that they got their salaries but with delays. A further 6 per cent, or seven respondents, said that they never received their payments.

It is important to highlight that withholding wages is considered to be an indicator of human trafficking and forced labour, as demonstrated in tools developed with the involvement of the Lao People’s Democratic Republic and Thailand through COMMIT and ASEAN.<sup>37</sup>

### Deductions

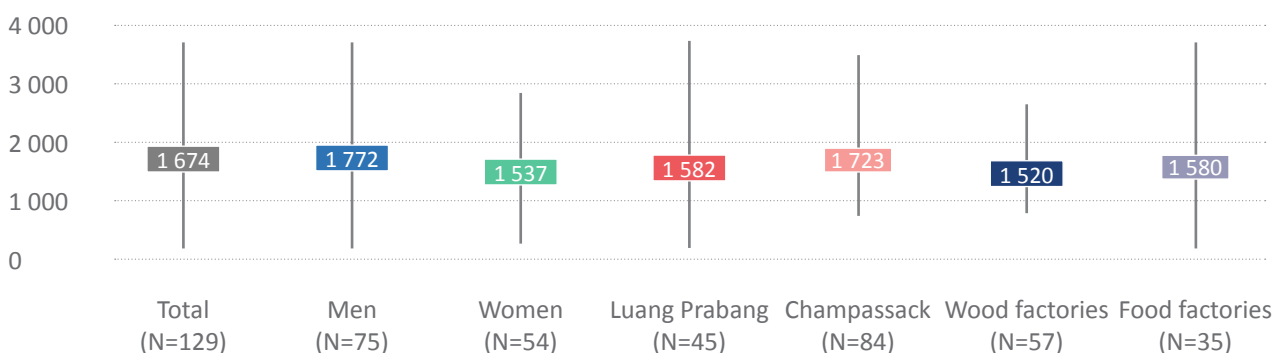
All regular migrant workers indicated that they had deductions taken from their salaries, whereas this only applied to 32 per cent of the irregular migrant workers. Further, among those with deductions, the regular migrant workers, on average, had higher amounts taken off their salaries than the irregular migrant workers, i.e. THB1,674 per month compared to THB1,176.

**Figure 36: Respondents stating that they had deductions made from their salaries, by survey (%)**



In the regular-migrant survey, men paid a monthly average of THB1,772 as against women’s THB1,537, and respondents in Champassack had deductions of THB1,723 per month versus THB1,582 in Luang Prabang. Results were more similar for the two predominant types of work, with regular workers in food factories paying a monthly THB1,580 compared to THB1,520 in wood factories.

**Figure 37: Average and range of monthly deductions on salaries among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand (in THB)**



37 Association of Southeast Asian Nations (ASEAN) and Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT): *Identifying Victims of Trafficking and Associated Forms of Exploitation: Common Indicators for First Responders* (Bangkok, 2016).

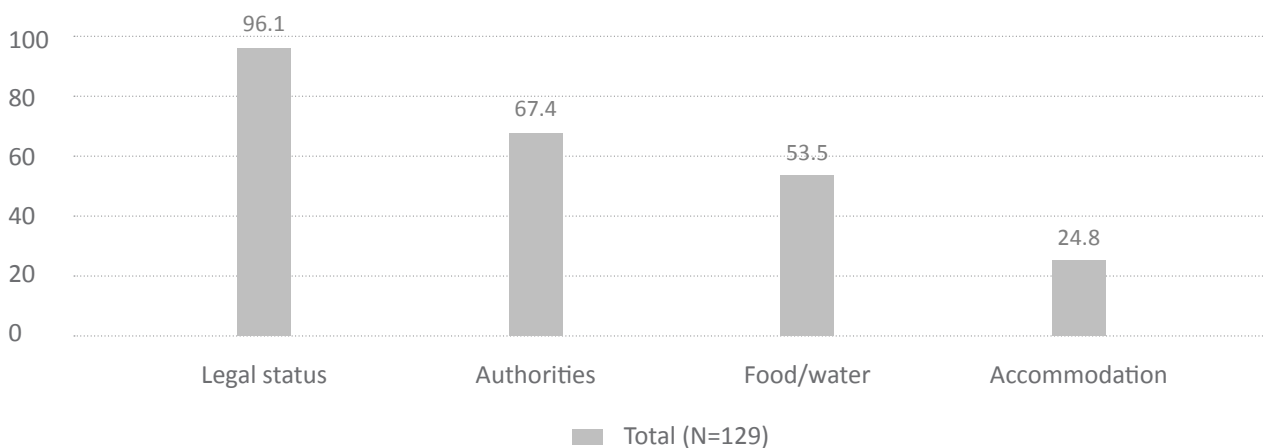
About 96 per cent of the regular migrant workers cited legal status-related costs including passports and other required documents, followed by authority-related costs (67 per cent) such as social welfare contributions, food- and water-related costs (54 per cent) and accommodation-related costs (25 per cent) (see figure 38). No respondent indicated any recruitment- or migration-/transportation-related deductions, although 15 per cent of the regular migrant workers' wages were to be deducted for a deportation fund in Thailand, according to the 2002 MOU (see table 1).

The Thai LPA requires that employers not make any deductions from salaries, overtime or holiday pay of their workers, except for certain confined circumstances, some of which require the prior consent of the worker. Excluding payments for income taxes, such deductions in aggregate must not exceed 20 per cent of the worker's salary.<sup>38</sup>

Further, Lao regulations allow for deductions of up to 15 per cent of the migrant workers' monthly salaries for recruitment agencies to recover recruitment-related costs,<sup>39</sup> with overall charges ranging from THB15,000-THB21,000. It is unclear, however, how these deductions relate to those in Thailand, especially with respect to maximum deductions per month.

In comparison, the most common deductions for irregular migrant workers were for brokers, fees to the police, for electricity/water and for food.

Figure 38: Purpose of deductions made from salaries of regular migrant workers, in total (%)



About 96 per cent of the regular migrant workers consented to these deductions, with only two stating that they agreed to some but not all. Another three respondents indicated that they did not know whether consent had been provided, but none noted explicitly that they had not agreed to any of the deductions made.

The 2002 MLSW Guideline requires that the contract between the migrant worker and the recruitment agency state the amount of deductions (see table 1). However, this research is not in a position to verify to what extent the regulation is implemented in practice.

### Weekly working time

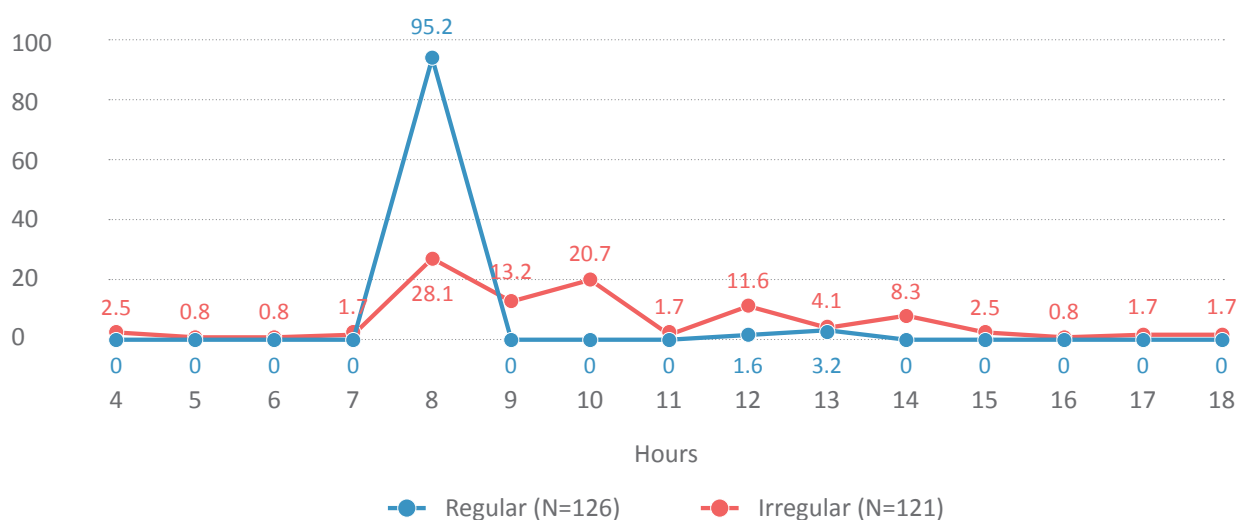
There were marked differences between regular and irregular migrant workers with respect to the hours worked per day in Thailand (see figure 39). 95 per cent of the former had a regular eight-hour working day, none worked less while two worked 12 and four worked 13 hours per day.<sup>40</sup> Among the irregular migrant workers, only 28 per cent worked eight hours per day, and 6 per cent worked fewer hours, whereas 36 per cent worked between nine and 11 hours, and 31 per cent 12 hours or more per day – up to 18 hours in two cases.

38 Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998).

39 Ministry of Labour and Social Welfare (MLSW): *Guideline on Implementation of Decree on Export of Lao Workers Working Abroad No. 2417/MLSW* (Vientiane, 2002).

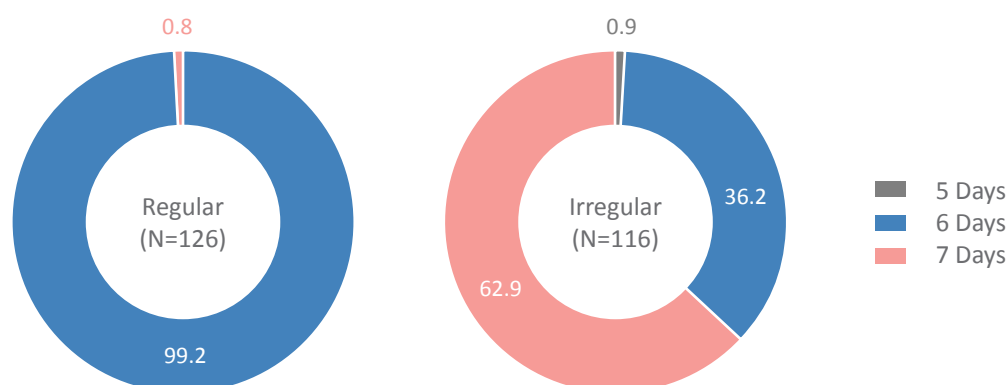
40 There were five men and one woman among these six respondents, and five worked in transport/storage whereas the sixth was engaged in a food factory.

Figure 39: Working hours per day, by survey (%)



Further, 99 per cent, or all but two, of the regular migrant workers indicated that they worked six days per week, which was only applicable to 36 per cent of the irregular migrant workers. Among the latter, the majority (i.e. 63 per cent, including 70 per cent of all men and 55 per cent of all women) worked seven days a week, as against just 1 per cent of the regular migrant workers.

Figure 40: Working days per week, by survey (%)



About 91 per cent of the regular migrant workers noted that their weekly working hours were the same as originally agreed. Six per cent reported having worked more, whereas 1 per cent worked less than previously agreed. Three per cent said that the question was not applicable given that the working time had not been agreed upon before.

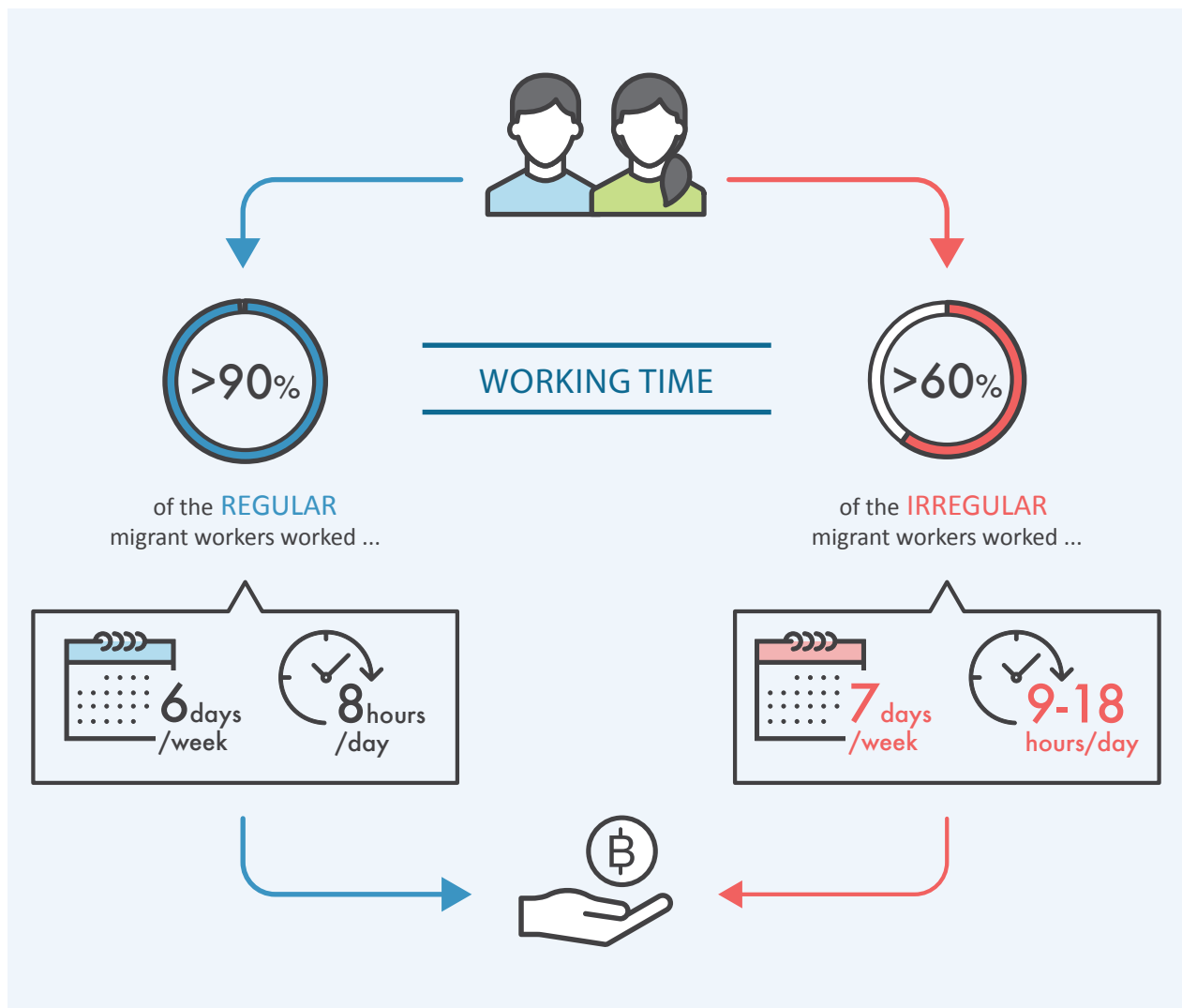
More men than women (8 per cent to 2 per cent) and more respondents from Champassack than Luang Prabang (9 per cent compared to 0 per cent) indicated that they worked longer hours than originally agreed, whereas results were consistent by type of work in Thailand.

The irregular-migrant survey did not include a question of how actual working hours compared to previous agreements.

It is worth pointing out that, with some exceptions, the standard daily and weekly working hours in Thailand must not exceed eight and 48 hours respectively, according to the Labour Protection Act.<sup>41</sup> Whilst such standards were largely upheld among the regular migrant workers, the experiences of the irregular migrant workers suggest breaches in this respect.

41 Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998).

Further, excessive working hours are an indicator of human trafficking and forced labour, as demonstrated in tools developed with the involvement of the Lao People’s Democratic Republic and Thailand through COMMIT and ASEAN.<sup>42</sup>



## Overtime

Overtime work, if properly compensated and freely consented to, is often an attractive way to further improve income levels.

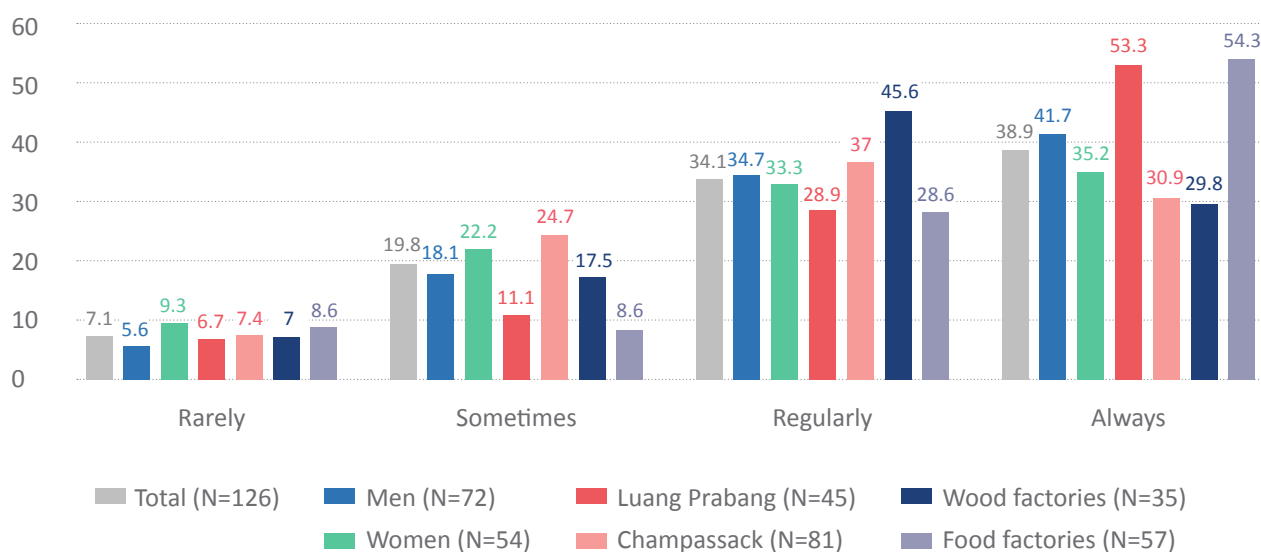
Among the regular migrant workers, 39 per cent said that they ‘always’ worked overtime, 34 per cent did so ‘regularly’ and another 20 per cent ‘sometimes’. About 7 per cent responded that they ‘rarely’ worked overtime, but no respondent ‘never’ performed any overtime work.

Men worked slightly more overtime than women, but differences were more pronounced based on province of residence in the Lao People’s Democratic Republic and type of work in Thailand. Higher proportions of respondents from Luang Prabang and those working in food factories ‘always’ worked overtime, compared to interviewees in Champassack and those engaged in wood factories.

No question related to overtime was asked in the irregular-migrant survey.

42 Association of Southeast Asian Nations (ASEAN) and Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT): *Identifying Victims of Trafficking and Associated Forms of Exploitation: Common Indicators for First Responders* (Bangkok, 2016).

Figure 41: Frequency of overtime work among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand (%)



Ninety-one per cent of the regular migrant workers said that they ‘always’ felt free to accept or decline overtime work, but 3 per cent noted they only ‘sometimes’ had a choice and 6 per cent argued that they were ‘never’ able to choose to work overtime.

There were some variations based on gender and type of work in this respect. Whilst 98 per cent of women noted that they were ‘always’ able to accept or decline overtime work, only 86 per cent of men felt this way. Further, all respondents working in wood factories said the same, but this only applied to 87 per cent of those engaged in food factories.

The ILO’s Committee of Experts has determined that mandatory overtime may be permissible, for as long as it remains within the limits stipulated in national legislation or collective agreements. However, it becomes forced labour if it exceeds such limits and is made compulsory by threat of penalty. This is irrespective of the reasons for the overtime work.<sup>43</sup>

The Thai LPA maintains the voluntariness of overtime work, although it introduces some exceptions. Further, it caps the permissible weekly overtime and holiday work at a combined 36 hours, whilst setting additional limitations for specific industries.<sup>44</sup>

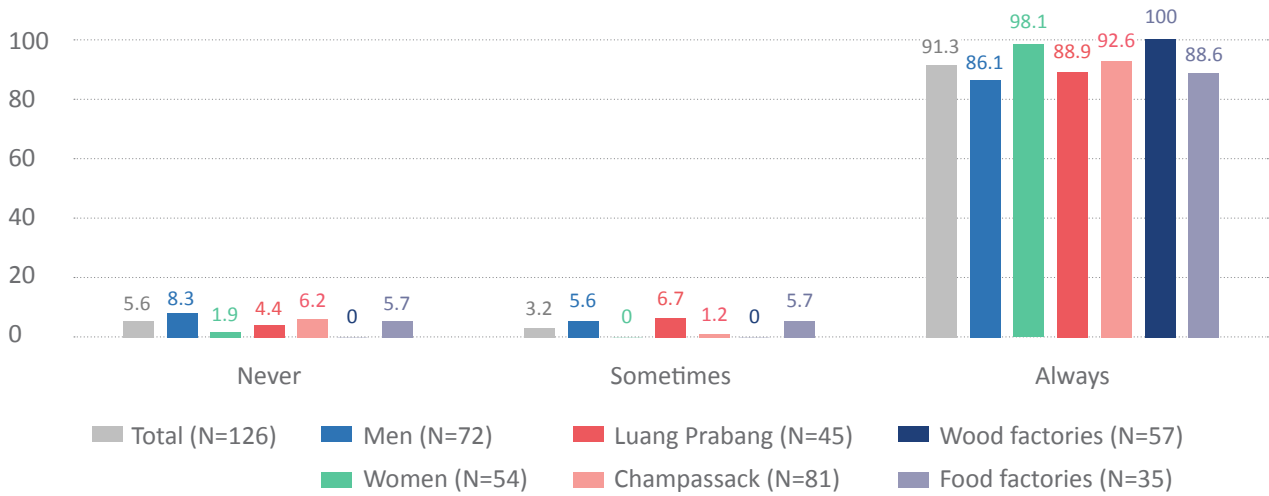
Again, no such question was administered in the irregular-migrant survey.

43 International Labour Organization (ILO): *General Survey concerning the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)* (Geneva, 2007).

44 Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998). For example, land transport workers must not work more than two hours of overtime per day.



Figure 42: Whether regular migrant workers were able to freely accept or decline overtime work, in total, by gender, province in Lao PDR and type of work in Thailand (%)



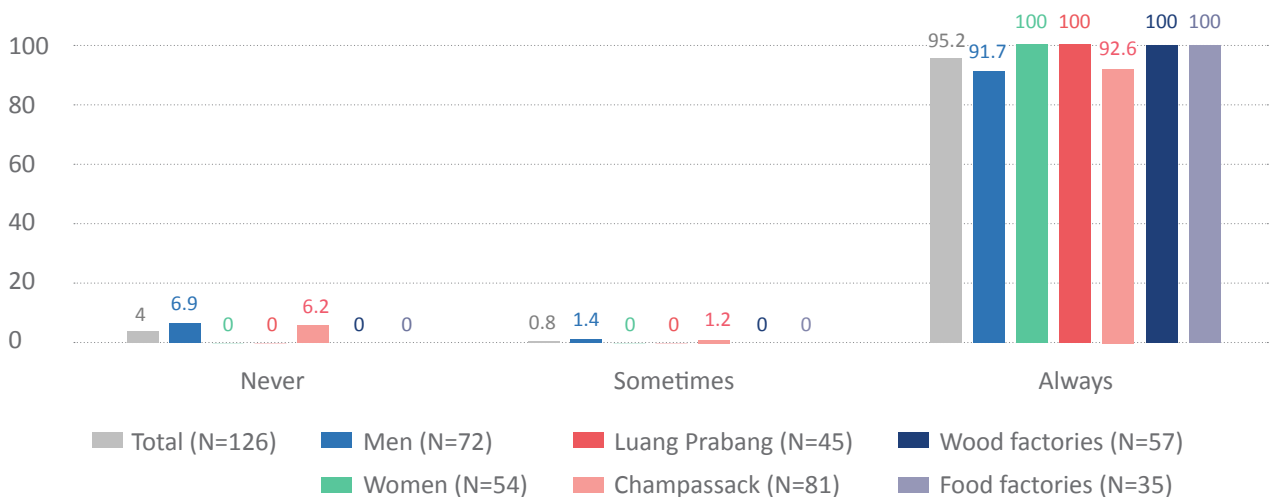
Moreover, 95 per cent of the regular migrant workers indicated that they were ‘always’ paid or otherwise compensated for their overtime work. However, 1 per cent said this was only ‘sometimes’ the case and another 4 per cent noted they were ‘never’ compensated for working overtime.

There were some differences based on gender and province in the Lao People’s Democratic Republic, in that 7 per cent of men compared to none of the women noted that they were ‘never’ compensated for overtime work, and the same applied to 6 per cent of respondents in Champassack versus 0 per cent in Luang Prabang.

The Thai LPA mandates that workers be compensated for overtime work at a rate of no less than one and a half times of their regular hourly wage rate. Whilst responses are not detailed enough to examine the level of compliance with such standards, there are likely to have been breaches in this respect for at least 5 per cent of the regular migrant workers interviewed.

The irregular migrant workers were not asked this question.

Figure 43: Whether regular migrant workers were compensated for overtime work, in total, by gender, province in Lao PDR and type of work in Thailand (%)



## Legal documents

Ninety-two per cent of the regular migrant workers indicated that they had all the required documents to live and work in Thailand, compared to 13 per cent of the irregular migrant workers (see figure 44).<sup>45</sup>

Six per cent of the regular migrant workers said that they did not have all documentation, although they moved to Thailand as part of the bilateral MOU process, with another three respondents being unsure.

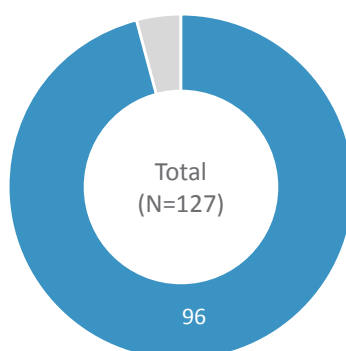
Findings were consistent among regular migrant workers based on gender, but variations existed between provinces in the Lao People's Democratic Republic and types of work in Thailand. Whereas 98 per cent of respondents from Luang Prabang suggested that they had all required documents, this only applied to 89 per cent in Champassack. Similarly, 97 per cent of those working in food factories reported having all papers, whereas only 88 per cent engaged in wood factories noted the same.

Figure 44: Respondents who had the required documents to live and work in Thailand, by survey (%)



Ninety-six per cent of the regular migrant workers indicated that their passports were retained by their employer or supervisor, with 61 per cent suggesting that they were able to access them and 35 per cent reporting that they were unable to do so even if wanted. Only two respondents kept their passports.

Figure 45: Regular migrant workers indicating that their passport was retained by their employer/supervisor, in total (%)

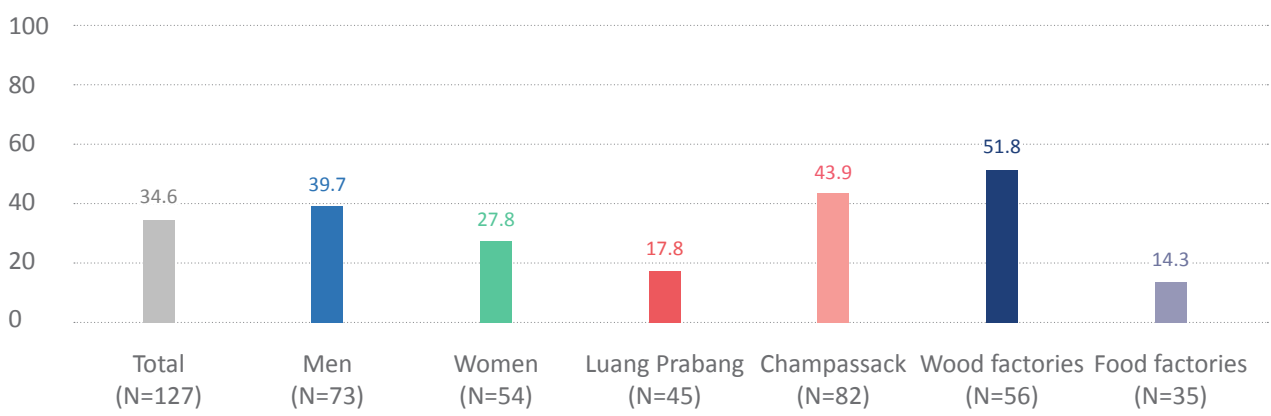


<sup>45</sup> Whilst 13 per cent of the irregular migrant workers initially noted that they had formal working documents at some point during their time in Thailand, none of them went through the MOU process and only some referred to papers that actually grant employment rights.

Four of the regular migrant workers who did not have access to their passports provided further details. One said that, when he returned home, the factory refused to return his passport, so he went back to the Lao People’s Democratic Republic without it. Another noted that, when he finished his contract, the factory did not let him go and refused to hand out the passport to him. He hence returned to the Lao People’s Democratic Republic without his passport and paid THB500 to cross the border. Two more simply noted that their passports were still with their employers.

There were differences based on gender, province in the Lao People’s Democratic Republic and type of work in Thailand in this respect. Forty per cent of men versus 28 per cent of women suggested that they were unable to get hold of their passports from their employer/supervisor when needed, and so did 44 per cent of respondents from Champassack compared to 18 per cent from Luang Prabang. Disparities were most pronounced by type of work in Thailand, with 52 per cent of interviewees in wood factories as against 14 per cent in food factories not able to access their passports from employers or supervisors if wanted.

**Figure 46: Respondents indicating that their passport was retained by their employer/supervisor and they did not have access to it even if wanted, in total, by gender, province in Lao PDR and type of work in Thailand (%)**



This is a very concerning finding as confiscation of passports leaves migrant workers vulnerable to abuse and exploitation. It is for this reason that such practices are considered to be an indicator of forced labour and human trafficking, as demonstrated in tools developed with the involvement of the Lao People’s Democratic Republic and Thailand through COMMIT and ASEAN.<sup>46</sup> While passport retention was not against the law at the time of data collection, the Thai Government has since introduced legislation prohibiting this conduct.<sup>47</sup>

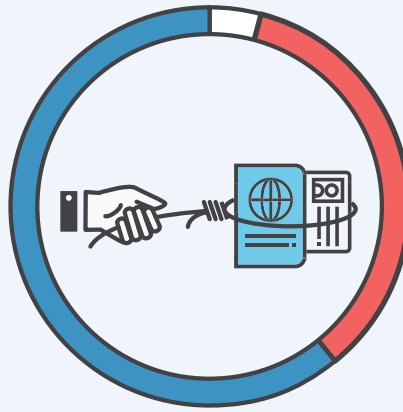
The irregular migrant workers were not asked this question.

46 International Labour Organization (ILO): *ILO Indicators of Forced Labour* (Geneva, 2012).

47 Ministry of Labour (MOL): *Royal Decree on Managing the Work of Aliens B.E. 2560* (Bangkok, 2017).

96%

of regular migrant workers had their passports confiscated by their employers/supervisors



Of these

Of these



61%

Only 2

35%

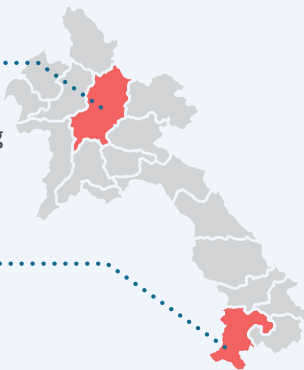
were able to access their passports

respondants kept their passports

were unable to access their passports

Of those unable to access their passports

18%  
came from  
Luang Prabang



44%  
came from  
Champassack



14%  
worked in  
food factories



28%  
were women



52%  
worked in  
wood factories



40%  
were men

## Holidays

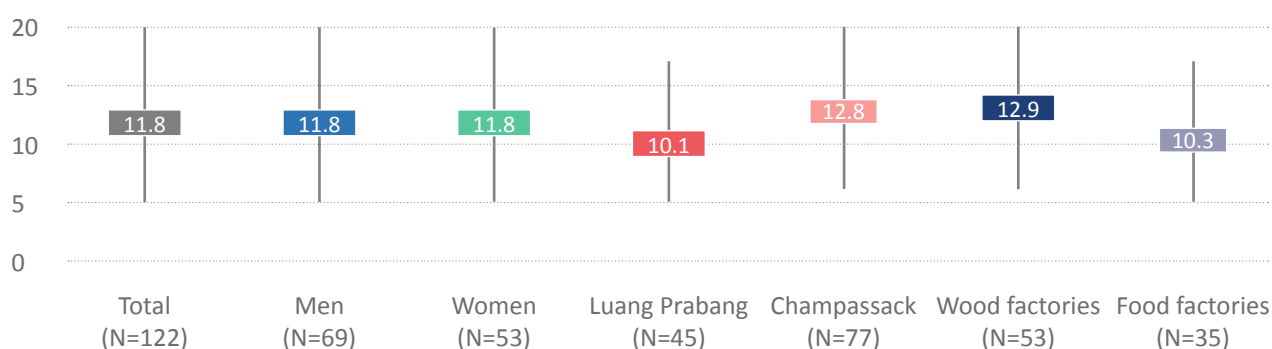
All regular migrant workers who answered this question (N=122) were able to take leave days. The number of days off per year ranged from five to 20, with most respondents, i.e. 68 per cent, having between ten and 15 days of holidays (see figure 47).

There was no significant variation based on gender, but differences existed for province in the Lao People’s Democratic Republic and type of work in Thailand. Respondents from Champassack, on average, received three more days of annual leave than those in Luang Prabang, i.e. 13 compared to ten, and the same was true for migrant workers engaged in wood factories (13 days) as against those in food factories (ten days).

The Thai LPA mandates that workers including migrant workers be given 13 days of traditional holidays and an additional six days off for an uninterrupted period of one year of work. Further, they are entitled to up to 30 days of fully paid sick leave per year.<sup>48</sup> It is unclear whether responses on annual leave included public holidays or sick leave, making it unattainable to assess compliance with such standards.

The irregular migrant workers were not asked about annual leave.

Figure 47: Range of and average annual leave per year among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand (in days)



## Accommodation

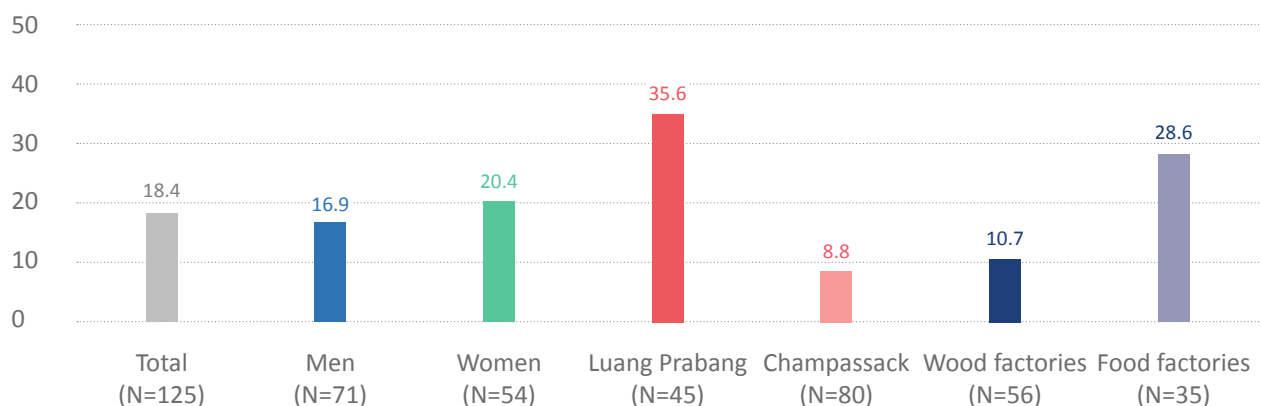
Accommodation arrangements differed among the regular migrant workers, with 27 per cent indicating that they lived on-site or at the workplace, whereas 35 per cent stayed around/near their worksite and 38 per cent lived further away from the job, requiring transportation for the commute.

Most of these arrangements were pre-determined, in that 82 per cent of respondents noted that they were told where to live without any choice, and only 18 per cent said that they were free to make own accommodation arrangements.

There were pronounced differences in this respect for province in the Lao People’s Democratic Republic and type of work in Thailand, with more respondents from Luang Prabang than Champassack and more of those working in food than in wood factories able to choose their own housing.

48 Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998).

Figure 48: Regular migrant workers indicating that they were free to choose their own accommodation, in total, by gender, province in Lao PDR and type of work in Thailand (%)



The irregular migrant workers were asked a related but different question – namely, whether they lived in accommodation provided by their employer. This was the case for 68 per cent of the respondents. Other types of accommodation were not captured in more detail.

The ILO's *Workers' Housing Recommendation, 1961 (No. 115)* notes that it is "generally not desirable that employers should provide housing for their workers directly, with the exception of cases in which circumstances necessitate that ..., for instance, when an undertaking is located at a long distance from normal centers of population, or where the nature of the employment requires that the worker should be available at short notice."<sup>49</sup>

Where housing is provided by the employer, the recommendation, amongst other aspects, reiterates the importance of safeguarding the workers' fundamental human rights including their freedom of association and movement.<sup>50</sup> It is hence important to be considerate of and address potential signs that employer-provided housing is used as a means of exercising control over workers and/or otherwise infringing upon their rights. The recommendation further notes that rent should not be higher than a reasonable proportion of income and not include speculative profit.<sup>51</sup>

### Complaints mechanisms

About 63 per cent of the regular migrant workers suggested that there were opportunities to raise concerns about their employment conditions if wanted. However, 27 per cent noted that there were no such mechanisms, and another 10 per cent did not know whether opportunities of this kind existed.

There were differences based on gender and type of work in Thailand. Whereas 70 per cent of men noted that there were opportunities to raise concerns, this only applied to 54 per cent of women. Further, 63 per cent of the respondents working in wood factories acknowledged the existence of channels to complain, but only 51 per cent of those engaged in food factories stated the same.

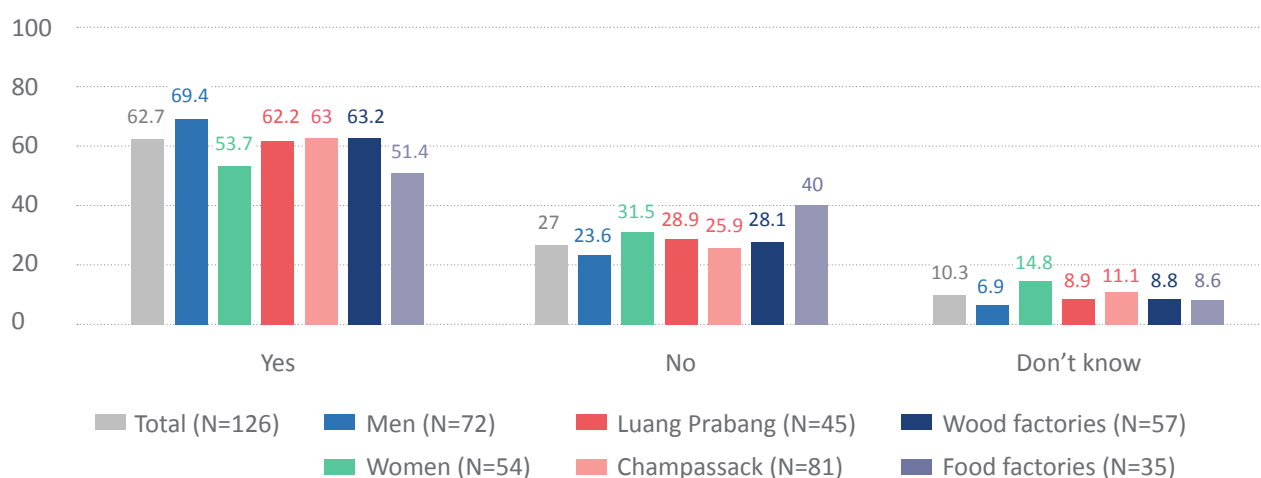
No questions related to complaints mechanisms were asked in the irregular-migrants survey.

49 International Labour Organization (ILO): *Workers' Housing Recommendation, 1961 (No. 115)* (Geneva, 1961).

50 Ibid.

51 Ibid.

Figure 49: Whether regular migrant workers had opportunities to raise concerns about their employment conditions, in total, by gender, province in Lao PDR and type of work in Thailand (%)



Almost all of the 79 regular migrant workers referred to one or both of two available channels to file complaints, namely via staff representatives (58 per cent), or via supervisors and/or employers (44 per cent). Two respondents suggested there were 'other' opportunities, with one noting that a 'Lao labour team' visited and spoke to the supervisors and employers about their concerns. However, recruitment agencies, labour inspectors, other authorities, trade unions or civil society organizations played no significant role in this context.

Fifty-eight of the same 79 respondents did make use of opportunities to raise concerns and, among these, 79 per cent reported that the conditions improved thereafter, whereas 19 per cent noted that there were no changes. Another respondent highlighted that, whilst adjustments were made at first, the conditions changed back to their original status after some time.

According to the 2002 MLSW Guideline, recruitment agencies are required to provide protection to regular migrant workers while these are abroad (see table 1). Further, the new Lao Labour Law adopted in 2014 has introduced opportunities for labour disputes with international character to be heard by competent authorities in the Lao People's Democratic Republic.<sup>52</sup> In Thailand, the LPA stipulates that workers including migrant workers are entitled to file a complaint against their employers with the Labour Inspector in the locality of their work, if the companies violate the employees' payment entitlements.<sup>53</sup> This, however, appears to be a very limited framework for complaints. Additionally, the Thai Government maintains a hotline, 1694, providing information to and receiving complaints from both Thai and migrant workers about their employment, including in English, Burmese and Khmer.<sup>54</sup>

Based on the responses provided to this study, it is unclear whether regular migrants are aware of such channels in either country, or if they feel empowered enough to draw upon them. Indeed, a 2017 ILO report on access to justice for migrant workers notes that not a single complaint was documented by the Migrant Worker Resource Centres (MRCs) in the Lao People's Democratic Republic over a period of four years. Established in 2011, MRCs provide legal assistance to migrant workers and their families in seeking redress for abuses during recruitment and employment, and in accessing social protection benefits. However, various challenges including procedural uncertainties and insufficient outreach have inhibited the filing of complaints.<sup>55</sup>

52 Ministry of Labour and Social Welfare (MLSW): *Labour Law* (Vientiane, 2013).

53 Ministry of Labour (MOL): *The Labour Protection Act B.E. 2541* (Bangkok, 1998).

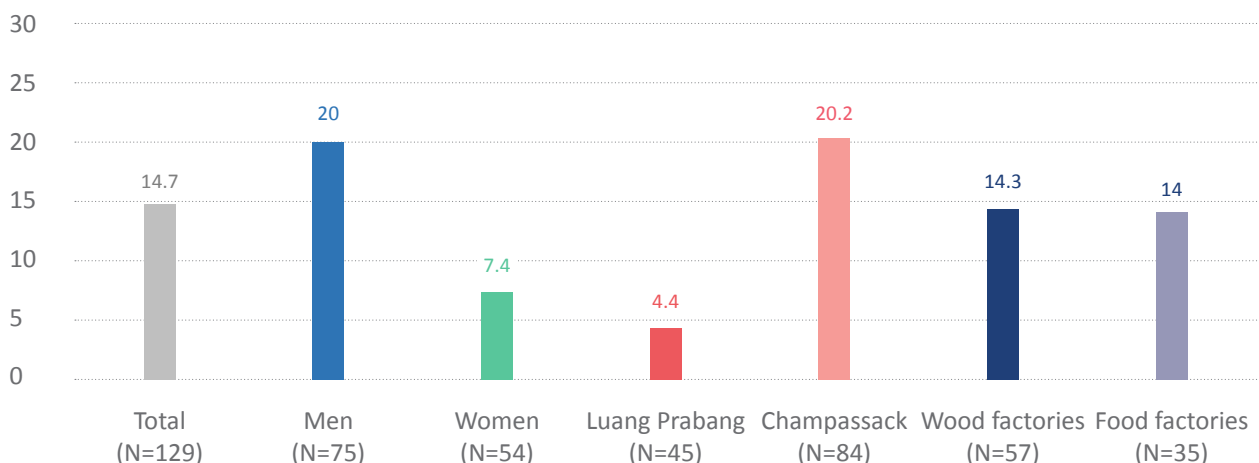
54 Ministry of Labour (MOL): *1694 Hotline Has The Answers* (Bangkok, 2015). In 2016, the Thai Department of Employment also introduced the website 'Help Me' providing services similar to those of the 1694 hotline in Thai and five foreign languages. The website can be accessed here: <https://www.doe.go.th/helpme>.

55 International Labour Organization (ILO): *Access to justice for migrant workers in South-East Asia* (Bangkok, 2017).

## Constraints to leave employment

The regular migrant workers were asked if they felt constrained to quit their jobs, if they wanted or when they tried. While 85 per cent did not experience such restrictions, 15 per cent noted that they did (see figure 50). Higher proportions of men than women, and of respondents from Champassack than from Luang Prabang, felt constrained in this respect.

Figure 50: Regular migrant workers who felt constrained to quit their jobs, in total, by gender, province in Lao PDR and type of work in Thailand (%)



Nine out of the 19 respondents referring to restrictions noted constraints through the employer/supervisor (such as fear of financial penalties, of deportation and of physical violence), with seven pointing to financial constraints, such as insufficient financial resources to return home. Whilst the responses lack depth to fully assess the nature of the perceived restrictions, references to menaces of penalty are of serious concern. Such practices are considered to be indicators of forced labour and human trafficking, and require further investigation and appropriate responses.

The irregular migrant workers were asked a similar but different question, namely whether their employer would have allowed them to quit their job, making comparisons between the two populations difficult. Whilst 84 per cent confirmed that this was the case, 7 per cent noted that they would not have been able to do so, with 9 per cent saying that they did not know.



## Ratings of key working conditions

The regular migrant workers were asked to rate ten employment-related variables on a scale of 1 ‘very bad’ to 5 ‘very good’, seven of which were also answered by the irregular migrant workers (see table 4).

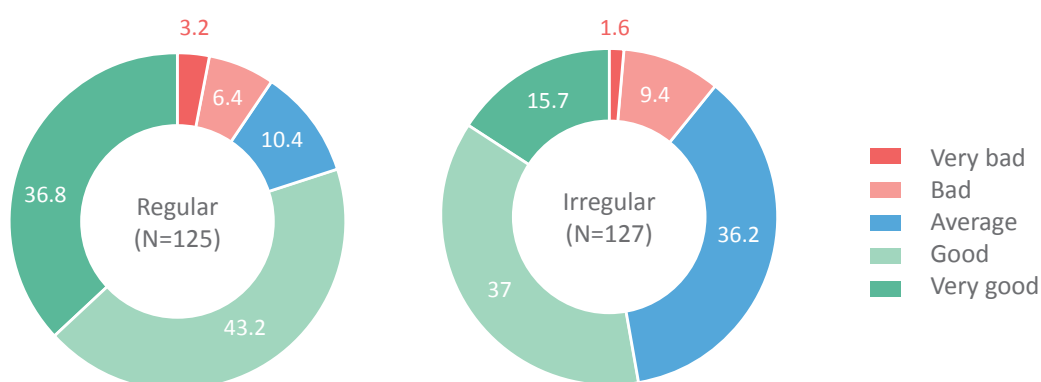
Table 4: Questions on employment conditions and whether they were included in both surveys

On a scale of 1 to 5, how would you rate the following during the time working in your job in Thailand?	Whether irregular migrant workers were asked this question
Weekly working time (hours/day and days/week combined)	Yes
Payment terms (salary, frequency of payment, overtime pay, etc.)	No
Treatment by boss/supervisor	Yes
Freedom of movement (to leave the workplace and move around outside the workplace)	Yes
Physical violence at the workplace	Yes
Sexual and/or other harassment at the workplace (e.g. unwanted physical contact, offensive remarks, public humiliation, threats, etc.)	No
Food/water supplies	Yes
Safety at work	Yes
Holiday/sick leave provisions	Yes
Living conditions	No

## Weekly working time

There were differences between the regular and the irregular migrant workers, and how they rated their weekly working time (see figure 51). Eighty per cent of the former gave a score of 'good' or 'very good', compared to only 53 per cent in the irregular-migrant survey. Still, 10 per cent of the regular and 11 per cent of the irregular migrant workers provided ratings of 'bad' or 'very bad' in this respect.

Figure 51: Ratings of weekly working time, by survey (%)



Among the regular migrant workers, average ratings were consistent<sup>56</sup> based on gender, but differences existed for province in the Lao People's Democratic Republic and type of work in Thailand. The mean score in Luang Prabang at 4.4 was substantially higher than in Champassack at 3.9, and so were the average ratings of workers in food factories compared to those in wood factories (4.3 versus 4.0).

Figure 52: Average ratings of weekly working time among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 (very bad) to 5 (very good)

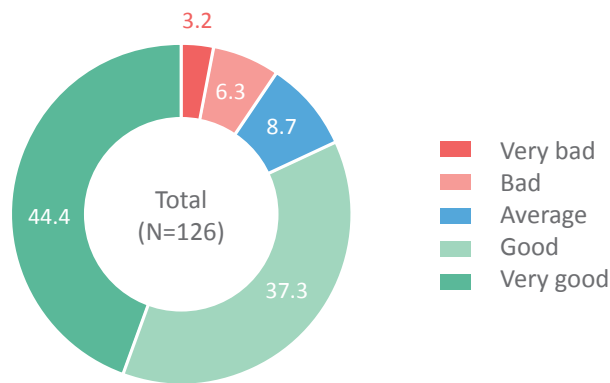


<sup>56</sup> Differences in ratings that are equal to or larger than .3 within the variables of gender, province in Lao PDR and type of work in Thailand are specified in the analysis for all ten employment-related factors.

## Payment terms

More than 80 per cent of the regular migrant workers rated their payment terms in Thailand as 'good' or 'very good'. Nine per cent gave an 'average' score, with another 10 per cent describing the payment terms as 'very bad' or 'bad'. The irregular migrant workers were not asked this question.

Figure 53: Ratings of payment terms among regular migrant workers, in total (%)



Results were consistent based on type of work in Thailand, but there were variations for gender and province in the Lao People's Democratic Republic. On average, women rated the payment terms better than men (4.3 as against 4.0), and so did respondents in Luang Prabang compared to those in Champassack (4.5 to 4.0).

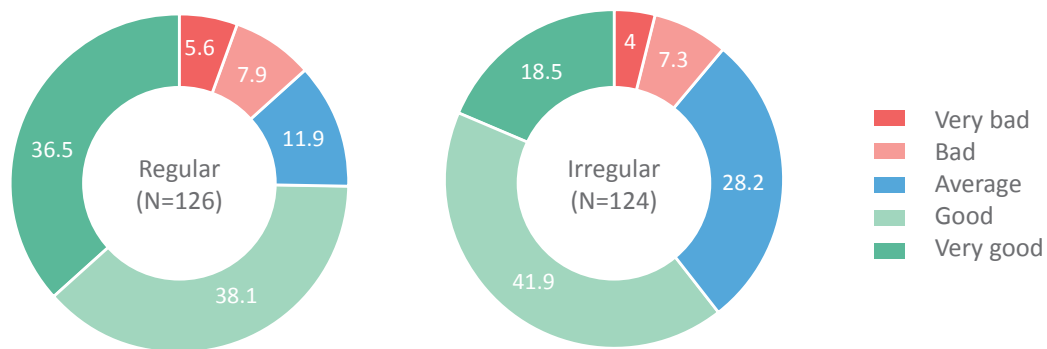
Figure 54: Average ratings of payment terms among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 (very bad) to 5 (very good)



## Treatment by boss/supervisor

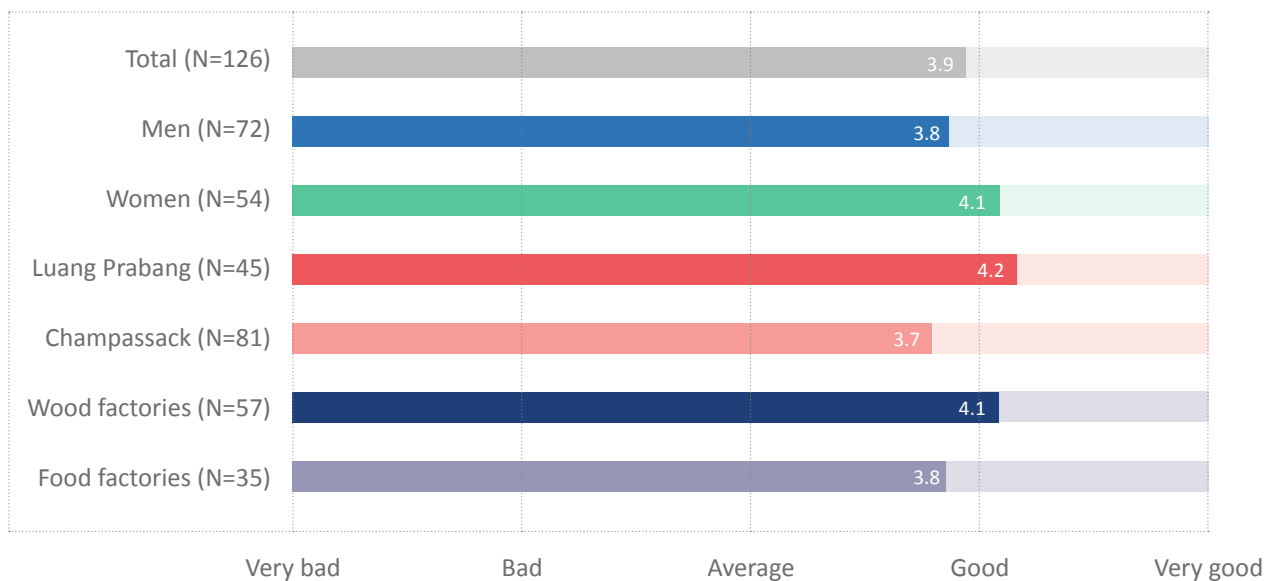
The regular migrant workers were more positive about the treatment from bosses/supervisors (see figure 55), with three-quarters rating their behaviours as 'good' or 'very good', as against 60 per cent among the irregular migrant workers. At the same time, more than 10 per cent of both populations scored the ways in which they were treated as 'very bad' or 'bad'.

Figure 55: Ratings of treatment from boss/supervisor, by survey (%)



Among the regular migrant workers, there were differences for all the key variables of gender, province in the Lao People's Democratic Republic and type of work in Thailand. On average, women assessed their treatment from bosses/supervisors better than men (4.1 to 3.8), and so did respondents in Luang Prabang compared to Champassack (4.2 versus 3.7) and workers in food factories than those in wood factories (4.1 to 3.8).

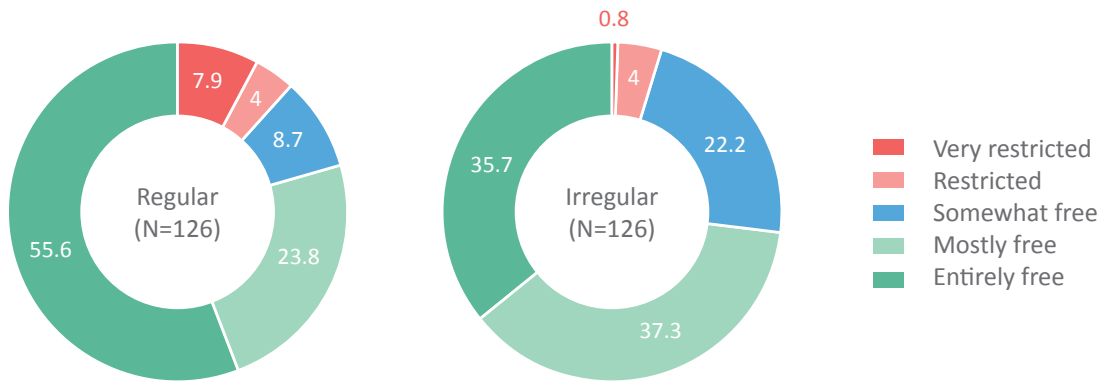
Figure 56: Average ratings of treatment from boss/supervisor among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 'very bad' to 5 'very good'



## Freedom of movement

Higher proportions of the regular migrant workers rated their freedom of movement related to the workplace as more but also as less restricted compared to the irregular migrant workers (see figure 57). Twelve per cent of the former indicated that their ability to move freely was 'very restricted' or 'restricted', as against 5 per cent of the irregular migrant workers. At the same time, 79 per cent of the regular migrant workers described their freedom of movement as 'mostly' or 'entirely free', which also applied to 73 per cent of the irregular migrant workers.

Figure 57: Ratings of freedom of movement at the workplace, by survey (%)



In the regular-migrant survey, the results were consistent based on province in the Lao People's Democratic Republic and type of work in Thailand, but genders differed in their assessment of freedom of movement, with women providing a higher average rating than men (4.3 to 4.0).

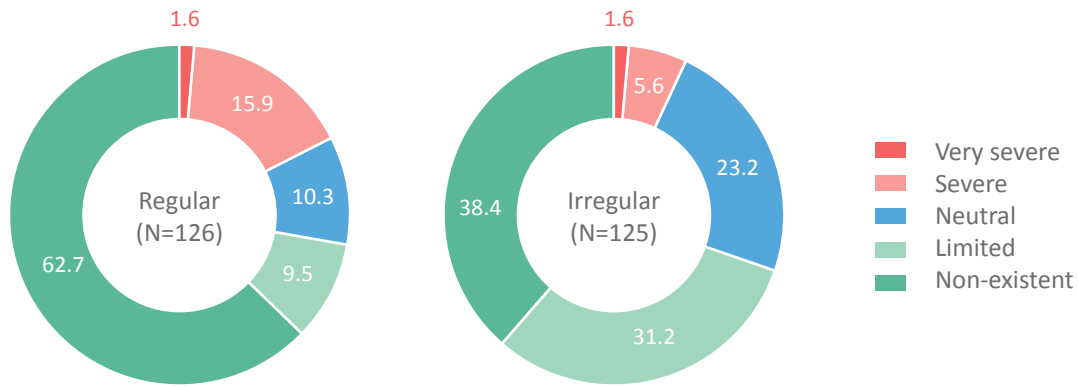
Figure 58: Average ratings of freedom of movement at the workplace among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 'very restricted' to 5 'entirely free'



## Physical violence at the workplace

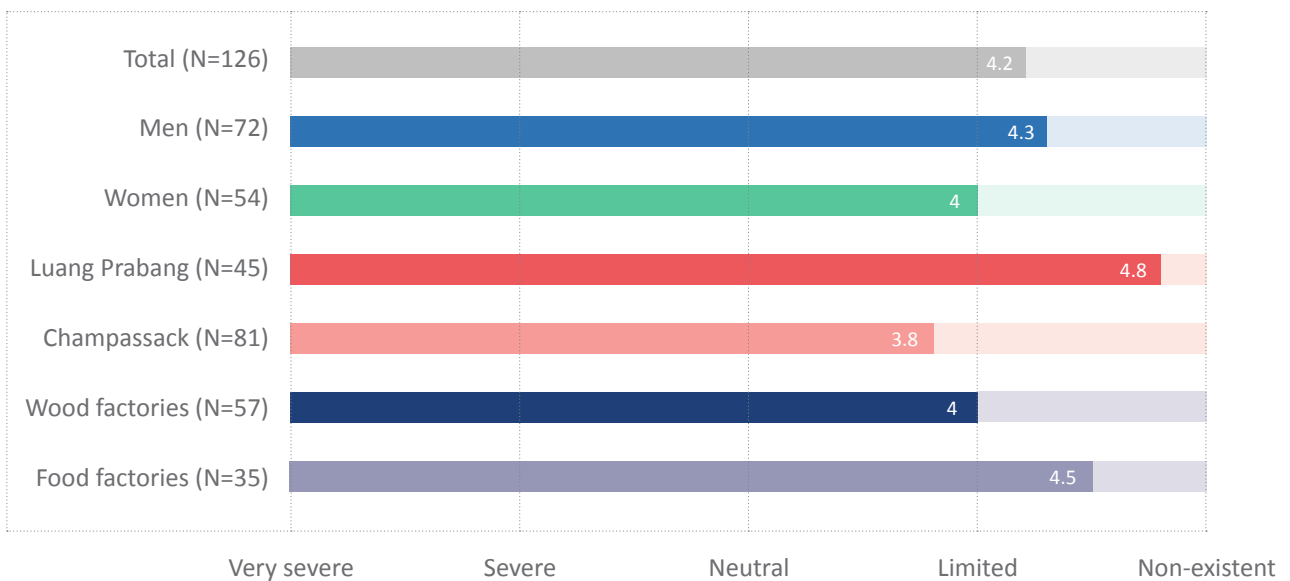
Eighteen per cent of the regular migrant workers scored the level of violence as 'very severe' or 'severe', compared to 7 per cent among the irregular migrant workers. At the same time, 63 per cent of the former assessed the physical violence at work as 'non-existent', which was only applicable to 38 per cent of the irregular migrant workers.

Figure 59: Ratings of physical violence at the workplace, by survey (%)



Among the regular migrant workers, there were variations for all the key variables of gender, province in the Lao People's Democratic Republic and type of work in Thailand. On average, women assessed physical violence as more prevalent than men (4.0 to 4.3), with even more pronounced differences between respondents from Champassack and Luang Prabang (3.8 to 4.8), and those working in wood factories compared to food factories (4.0 to 4.5).

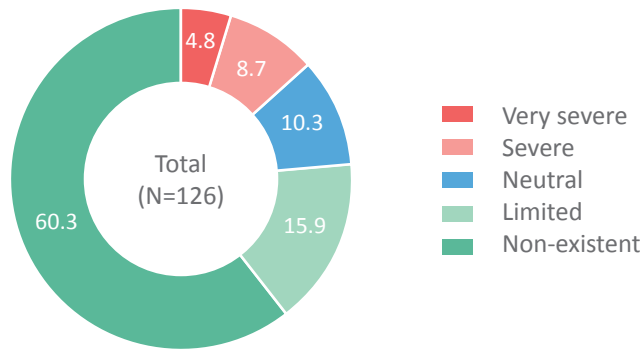
Figure 60: Average ratings of physical violence at the workplace among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 'very severe' to 5 'non-existent'



## Sexual and/or other harassment at the workplace

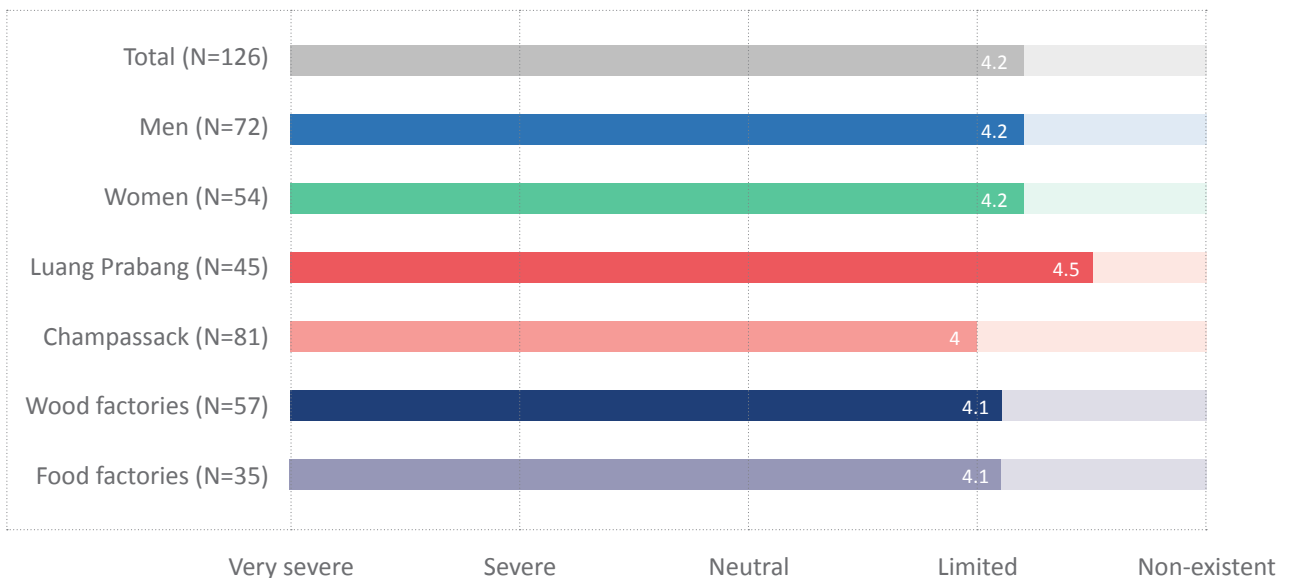
Sixty per cent of the regular migrant workers said that sexual and/or other forms of harassment did not exist at their workplace, and a further 16 per cent noted that these were 'limited'. However, this left 14 per cent of respondents describing such practices as 'very severe' or 'severe'. The irregular-migrant survey did not include this question.

Figure 61: Ratings of sexual and/or other harassment at the workplace among regular migrant workers, in total (%)



Findings were consistent based on gender and type of work in Thailand, but there were variations at the provincial level. On average, respondents from Luang Prabang rated the level of harassment at work as less prevalent than their counterparts in Champassack (4.5 to 4.0).

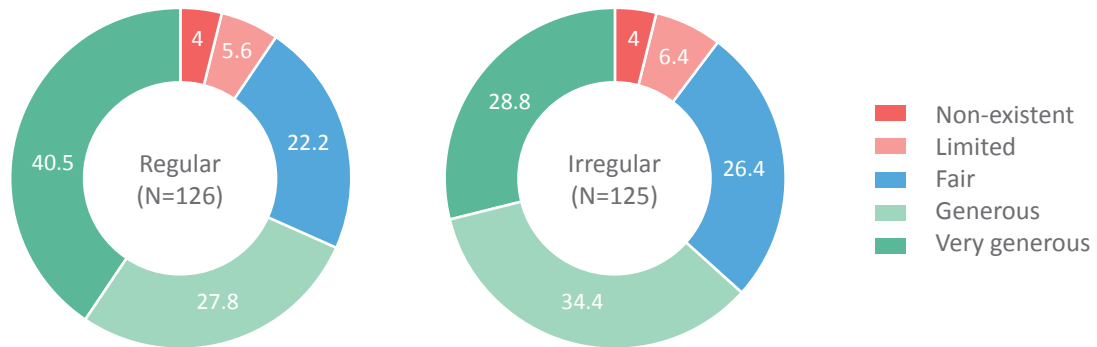
Figure 62: Average ratings of sexual and/or other harassment at the workplace among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 'very severe' to 5 'non-existent'



## Food and water supplies

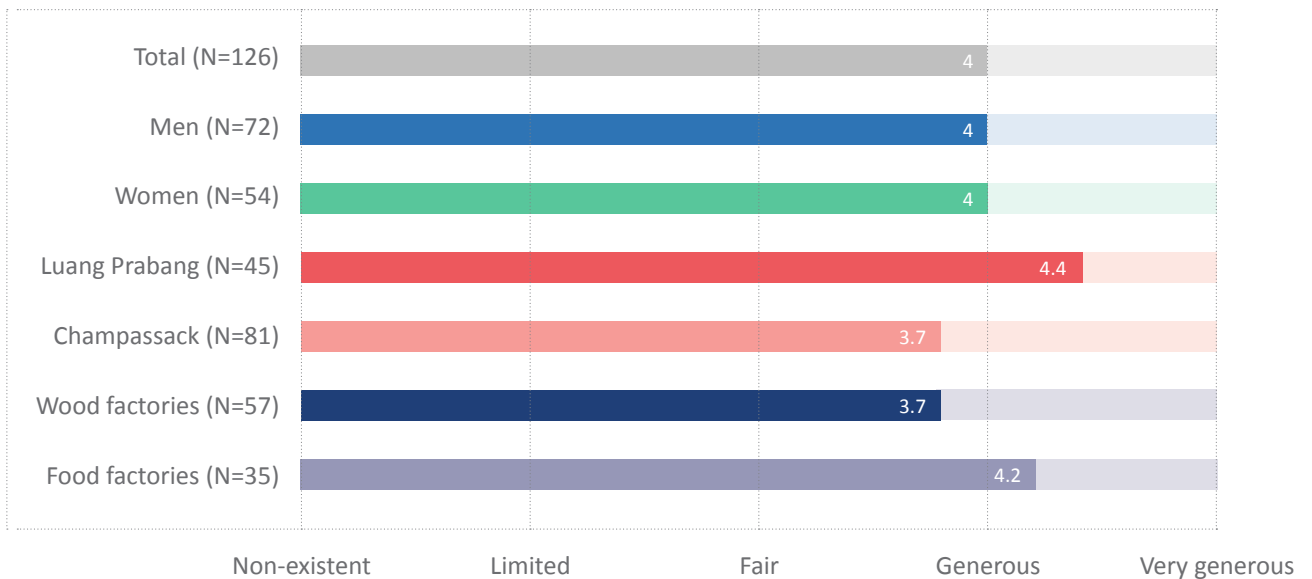
Ten per cent of both regular and irregular migrant workers indicated that provisions of food and water, where these were considered employed-related conditions, were 'non-existent' or 'limited', although, on average, the former were somewhat more positive about the circumstances encountered. In fact, 41 per cent of the regular migrant workers described the supplies as 'very generous'.

Figure 63: Ratings of food and water supplies at work, by survey (%)



In the regular-migrant survey, results were consistent based on gender, but differences existed for province in the Lao People's Democratic Republic and type of work in Thailand. On average, respondents from Luang Prabang rated the food and water supplies as significantly better than those from Champassack (4.4 to 3.7), and the same was true for workers in food factories compared to their peers in wood factories (4.2 to 3.7).

Figure 64: Average ratings of food and water supplies at work among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 'non-existent' to 5 'very generous'

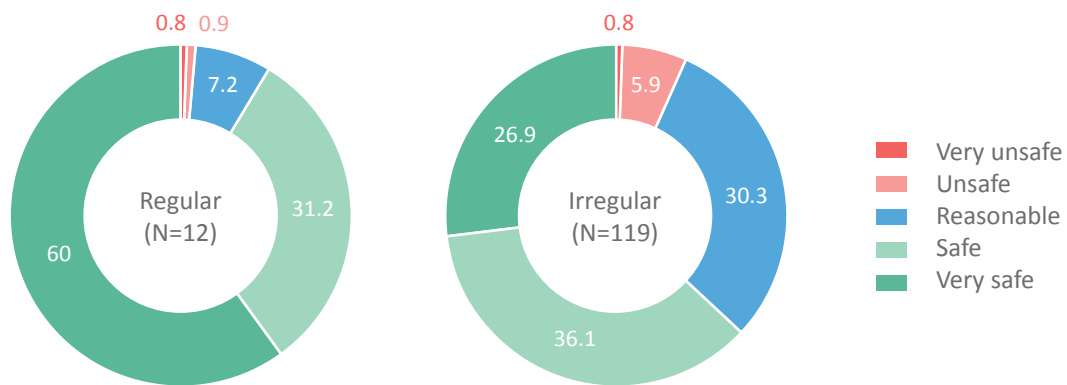




## Safety at work

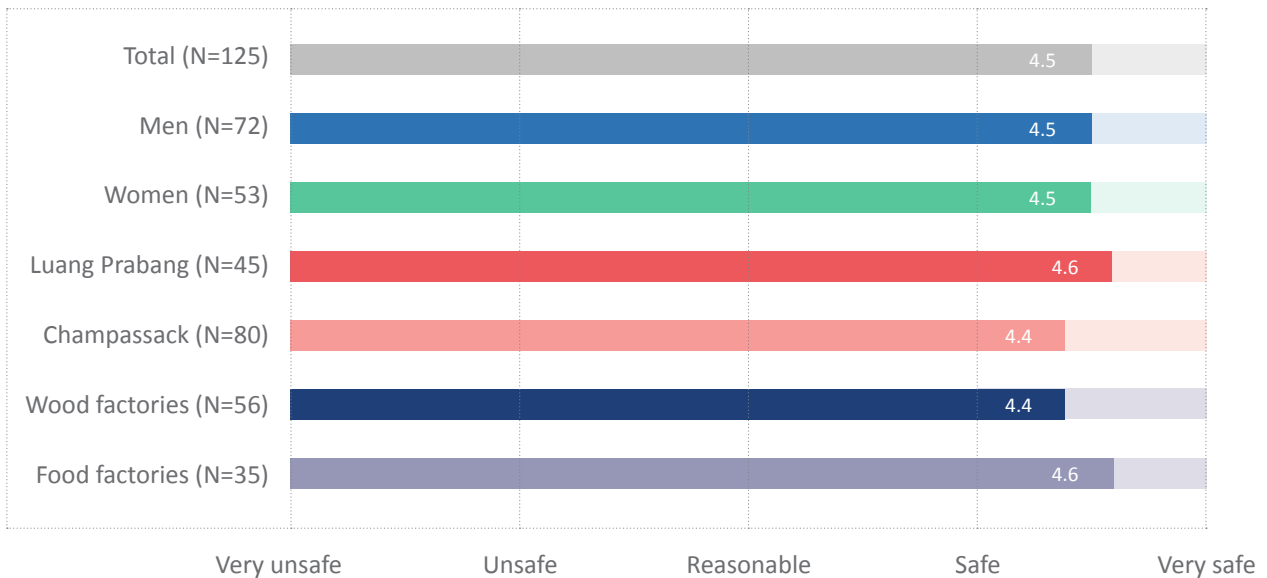
The regular migrant workers were markedly more positive about safety at their workplaces (see figure 65). 91 per cent rated their work as 'safe' or 'very safe' as against 63 per cent of the irregular migrant workers, and only 2 per cent of the regular migrant workers described their jobs as 'very unsafe' or 'unsafe' compared to 7 per cent among the latter.

Figure 65: Ratings of safety at work, by survey (%)



Among the regular migrant workers, findings were consistent for all the key variables of gender, province in the Lao People's Democratic Republic and type of work in Thailand (see figure 66).

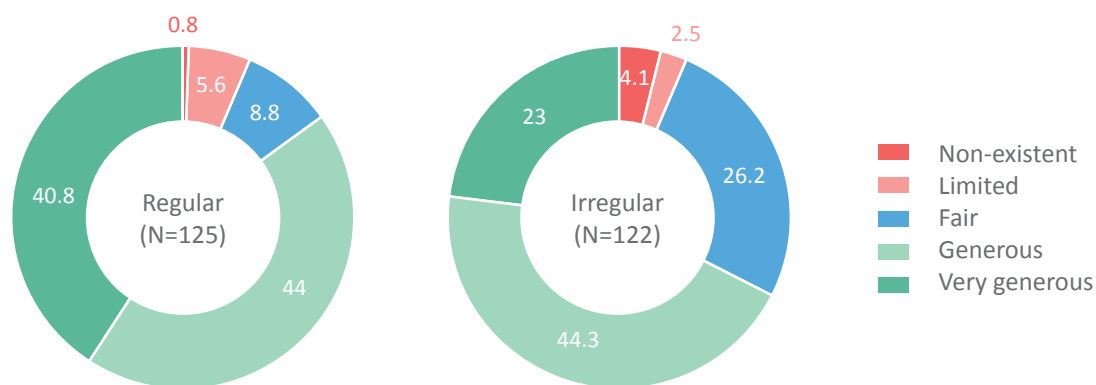
Figure 66: Average ratings of safety at work among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 (very unsafe) to 5 (very safe)



### Holiday and sick leave provisions

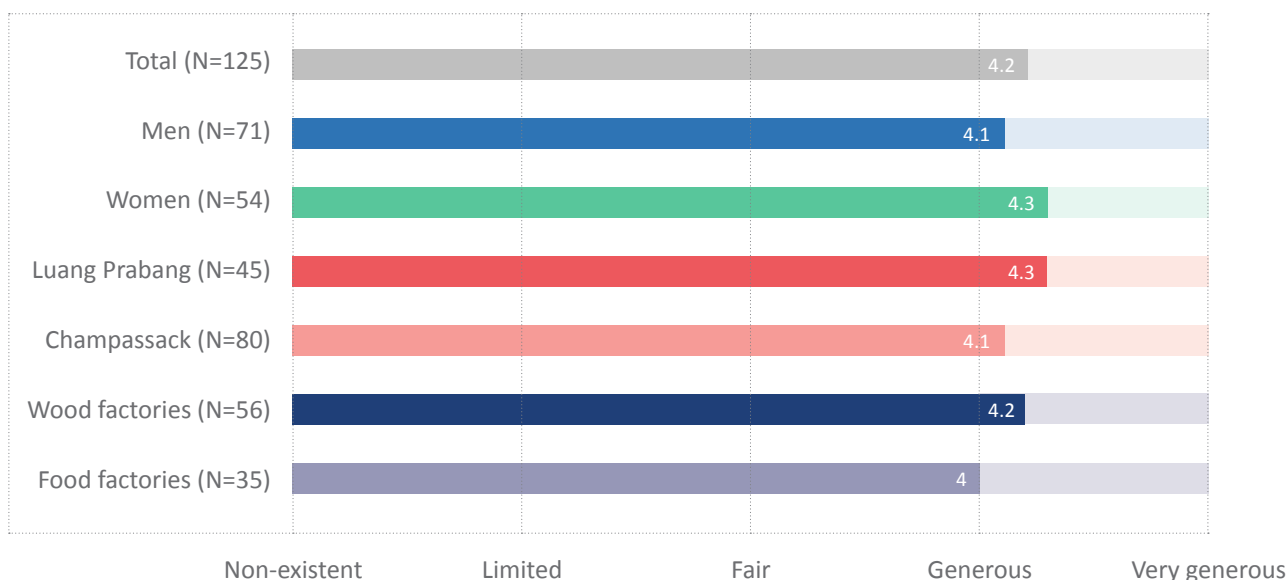
A greater proportion of the regular migrant workers rated their leave provisions positively (see figure 67), with 85 per cent indicating that these were ‘generous’ or ‘very generous’, compared to 67 per cent of the irregular migrant workers. Still, 6 and 7 per cent respectively noted that holiday and sick leave were either ‘non-existent’ or ‘limited’.

Figure 67: Ratings of holiday and sick leave provisions, by survey (%)



In the regular-migrant survey, results were consistent for all the key variables of gender, province in the Lao People’s Democratic Republic and type of work in Thailand (see figure 68).

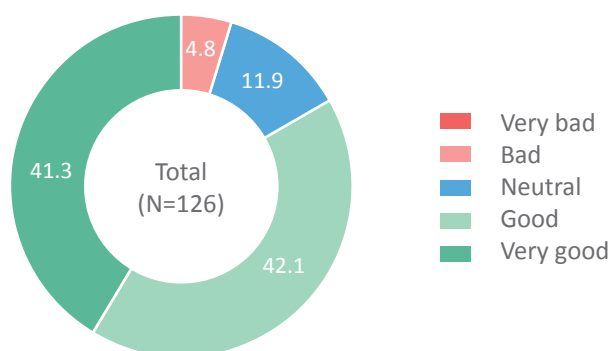
Figure 68: Average ratings of holiday and sick leave provisions among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 (non-existent) to 5 (very generous)



## Living conditions

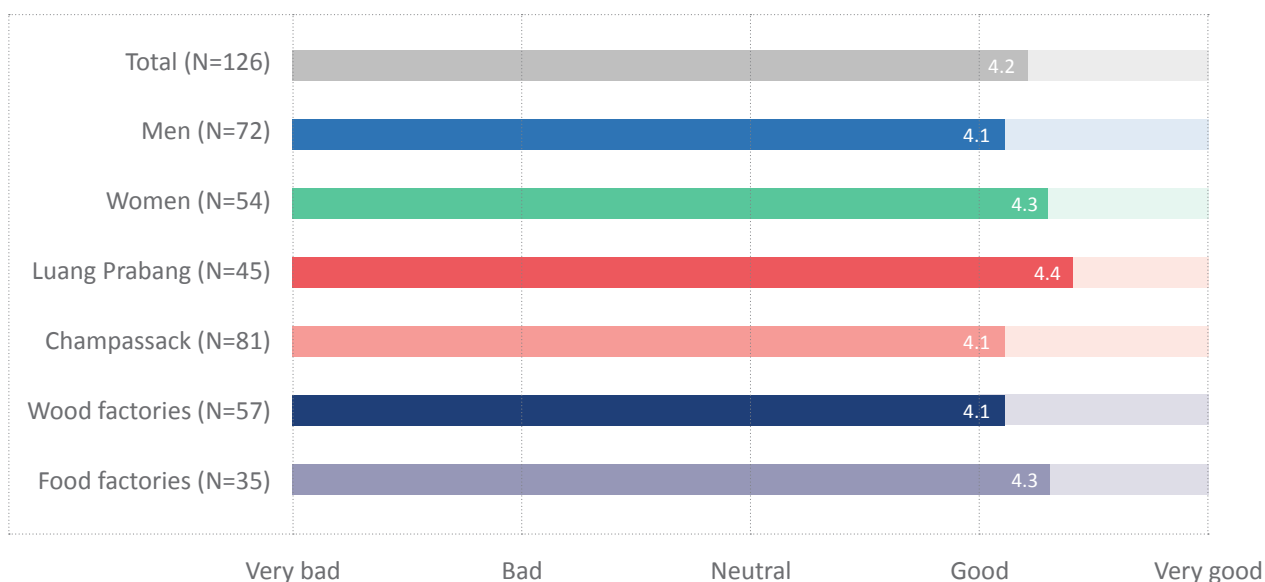
About 83 per cent of the regular migrant workers rated their living conditions in Thailand as ‘good’ or ‘very good’, and none provided a score of ‘very bad’ although 5 per cent noted that the conditions were ‘bad’. The irregular-migrant survey did not include this question.

Figure 69: Ratings of living conditions among regular migrant workers, in total (%)



Findings were consistent based on gender and type of work in Thailand, but variations existed for province in the Lao People’s Democratic Republic. On average, respondents from Luang Prabang rated their living conditions as better than those from Champassack (4.4 to 4.1).

Figure 70: Average ratings of living conditions among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 ‘very bad’ to 5 ‘very good’



It is worth highlighting that, among the regular migrant workers, average ratings in Luang Prabang were better than in Champassack for all ten employment-related variables above, and in seven out of ten cases significantly so. Similarly, workers in food factories scored eight out of ten employment conditions better than those in wood factories, with substantial differences in four variables. Whilst differences were less pronounced in the regular-migrant survey based on gender, women on average viewed their employment conditions slightly better than men, the notable exception being ratings for physical violence at work.

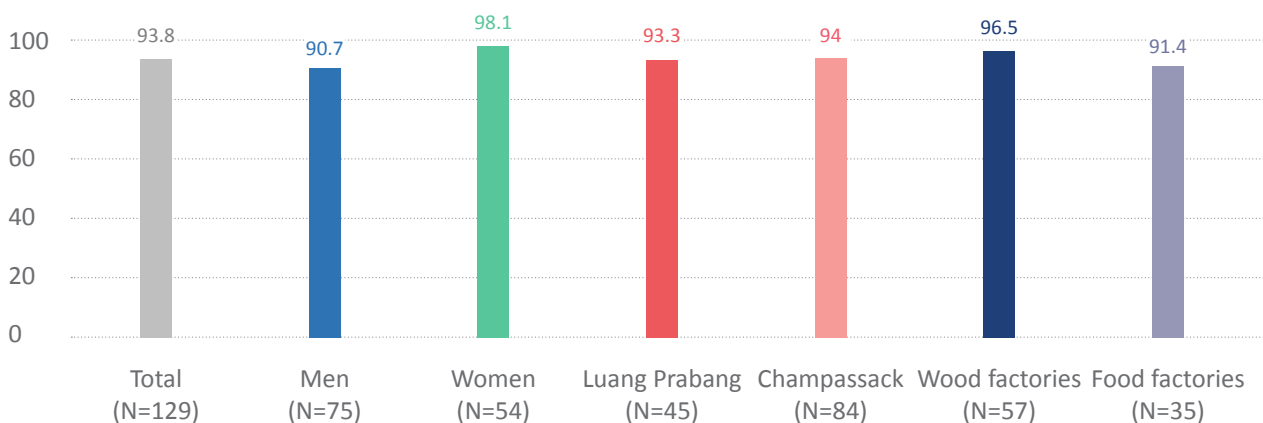
Further, the regular migrant workers scored all seven employment-related variables included in both surveys better than the irregular migrant workers.

Some of the variables analysed above relate to fundamental human rights enshrined in international law (for example, freedom of movement); others including payment terms, working time, physical violence or forms of harassment, if experienced as very negatively, may be indicators of coercion or exploitation in the context of human trafficking and forced labour. It is of concern that, for many variables, 10 per cent or more of respondents, irrespective of immigration status, described negative or very negative conditions, although the nature of these assessments requires further evaluation.

### Remittances sent home

About 94 per cent of the regular and 78 per cent of the irregular migrant workers reported sending remittances back home in support of their families and/or dependents. Among the former, results were consistently above 90 per cent across genders, provinces in the Lao People’s Democratic Republic and types of work in Thailand, with higher proportions of women than men (98 to 91 per cent) and more workers in wood than food factories (97 versus 91 per cent) remitting money.

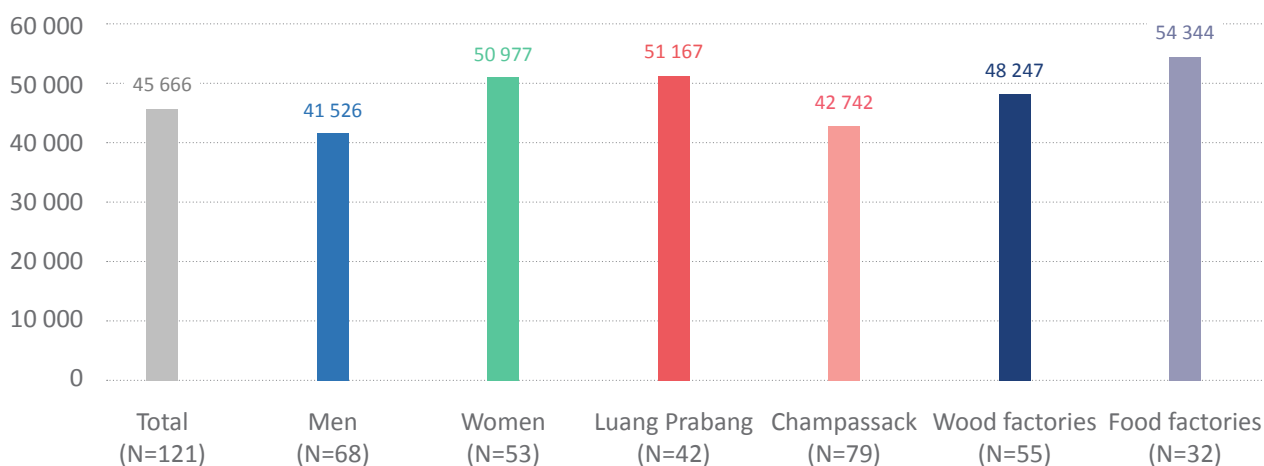
Figure 71: Regular migrant workers indicating that they sent remittances back home during their time working in Thailand, in total, by gender, province in Lao PDR and type of work in Thailand (%)



The average amount of remittances sent back to the Lao People’s Democratic Republic per person and year among regular migrant workers was THB45,666 THB. However, there were differences for all the key variables of gender, province in the Lao People’s Democratic Republic and type of work in Thailand. Women sent more money home per year than men (THB50,977 to THB41,526), and this despite overall earning less in Thailand. Further, respondents in Luang Prabang recorded higher annual average transfers than those in Champassack (THB51,167 to THB42,742), and the same was true for workers in food factories compared to wood factories (THB54,344 to THB48,247).<sup>57</sup>

57 It is also worth noting that variations existed with respect to the number of remittances made per year and the amounts sent per time. Respondents from Luang Prabang sent more money back home per time, but transferred fewer remittances per year than those from Champassack, and the same was true for workers in food factories as against those in wood factories.

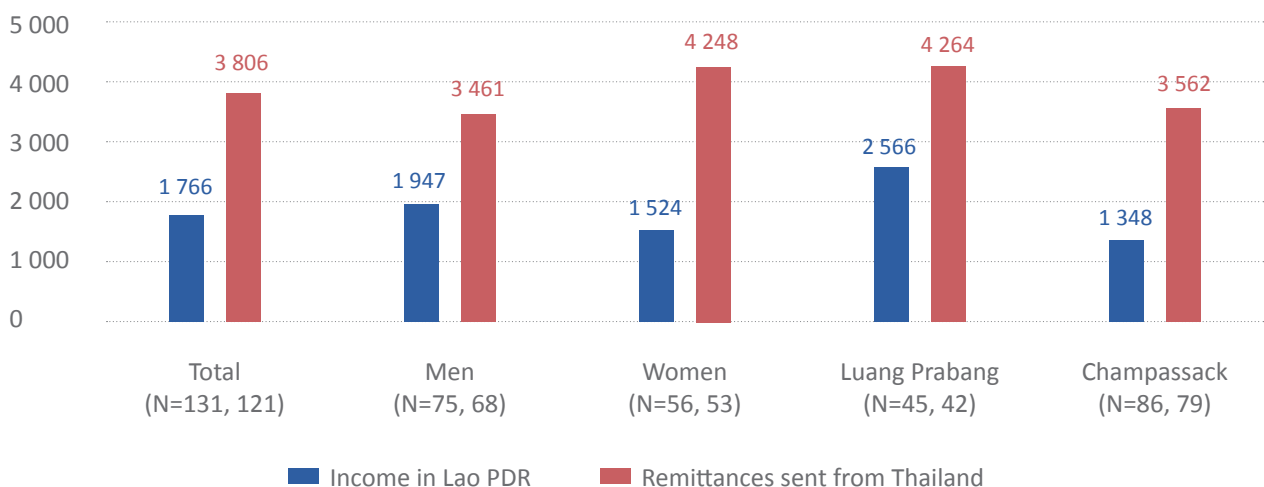
Figure 72: Average annual remittances per person among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand (in THB)



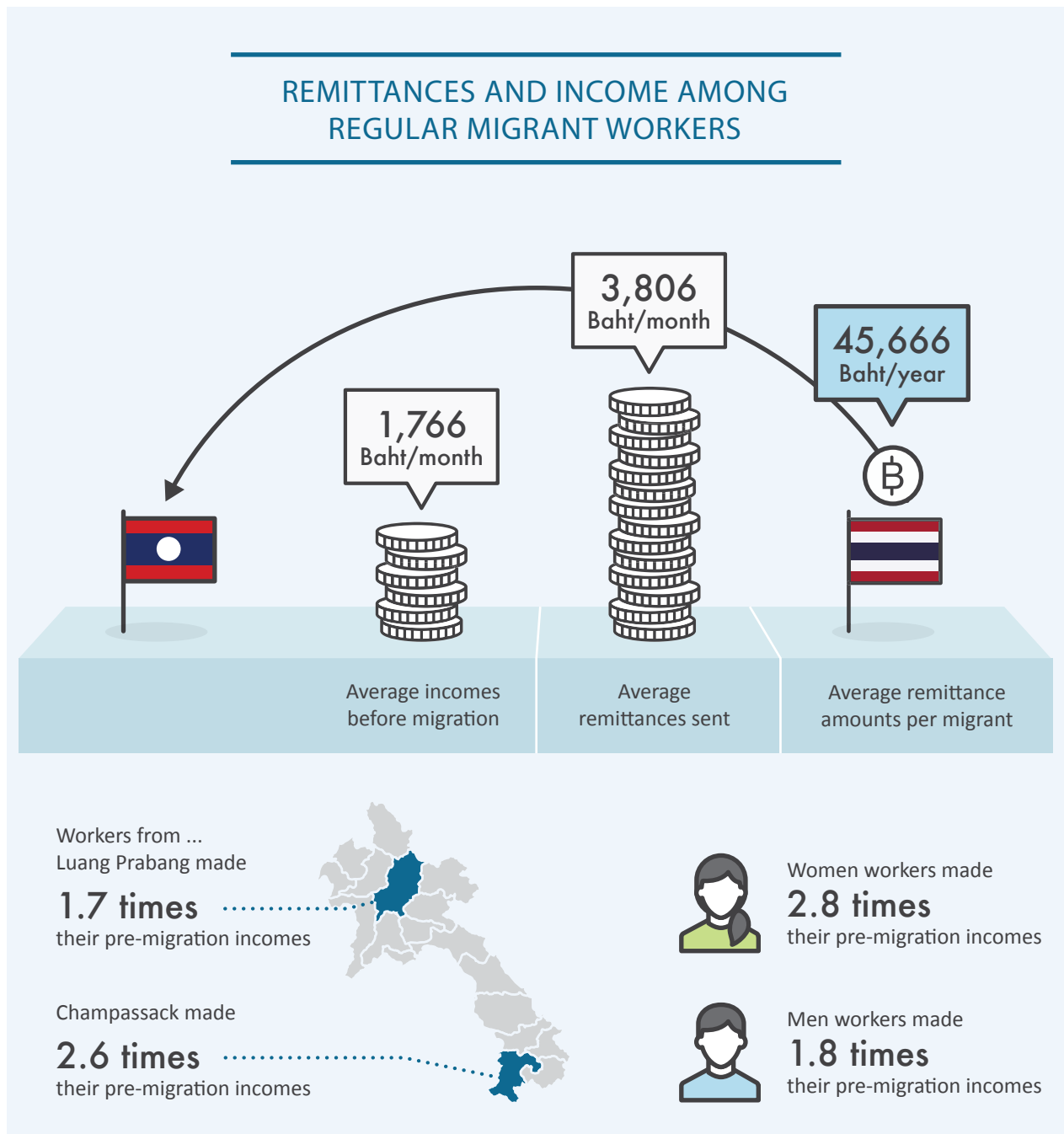
Further, comparing income levels in the Lao People’s Democratic Republic prior to migration and remittances sent back from Thailand among regular migrant workers reveals striking financial benefits associated with the respondents’ stays in Thailand. Overall, average remittances per month and person amounted to THB3,806 THB as against THB1,766 in monthly earnings back in the Lao People’s Democratic Republic, i.e. more than twice the amount of money. Further, whilst remittances are typically sent in support of others, monthly incomes back home are likely to also have to provide for the respondents themselves.

The ratio was particularly favourable towards remittances among women, for whom money sent home exceeded salary levels in the Lao People’s Democratic Republic by a factor of 2.8, compared to 1.8 for men. Further, respondents from Champassack recorded a ratio of 2.6 in favour of remittances, whilst their counterparts in Luang Prabang sent money home at a rate of 1.7 of their incomes in the Lao People’s Democratic Republic prior to migrating to Thailand.

Figure 73: Average levels of income in Lao PDR before migrating and of remittances sent from Thailand among regular migrant workers per month, in total, by gender and province in Lao PDR (in THB)



Still, money sent by Lao migrants overall remains at modest levels given the size of the country's diaspora community compared to its population – the Lao People's Democratic Republic ranked 110 out of 167 countries for remittances in 2016, with resources sent amounting to 0.74 per cent of the country's GDP, or around US\$116 million.<sup>58</sup> This suggests that there remain potentially significant, untapped resources for public and private development gains that may be unlocked by further facilitating remittances.



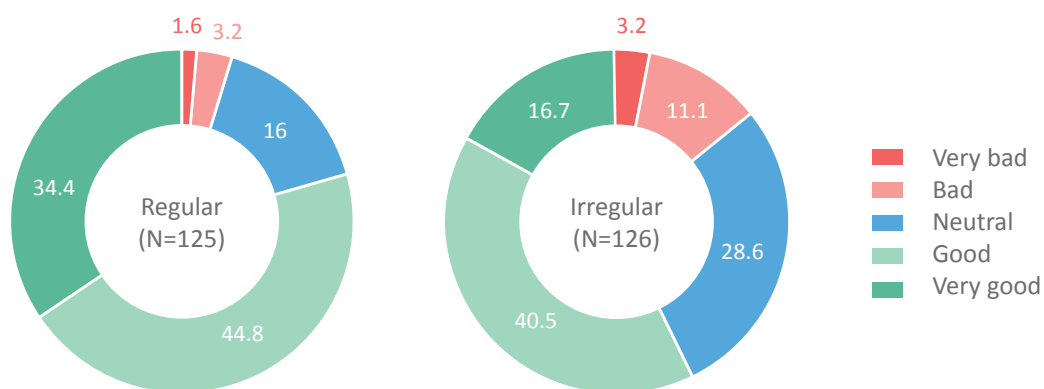
58 TheGlobalEconomy.com: 'Remittances, percent of GDP – country rankings' *TheGlobalEconomy.com* (Atlanta, 2016) <[https://www.theglobaleconomy.com/rankings/remittances\\_percent\\_GDP/](https://www.theglobaleconomy.com/rankings/remittances_percent_GDP/)> [accessed 18 Mar. 2018]; World Bank: 'Personal remittances, received (current US\$)' *World Bank* (Washington D.C, 2018) <<https://data.worldbank.org/indicator/BX.TRF.PWKR.CD.DT?locations=LA>> [accessed 19 Mar. 2018].

## Quality of life in Thailand

The regular migrant workers, on average, rated their quality of life in Thailand significantly better than the irregular migrant workers (see figure 74). Close to 80 per cent of the former indicated that their lives were ‘good’ or ‘very good’ compared to 57 per cent of the irregular migrant workers, while 5 per cent of the regular migrant workers described their quality of life as ‘very bad’ or ‘bad’ as against 14 per cent among the latter.

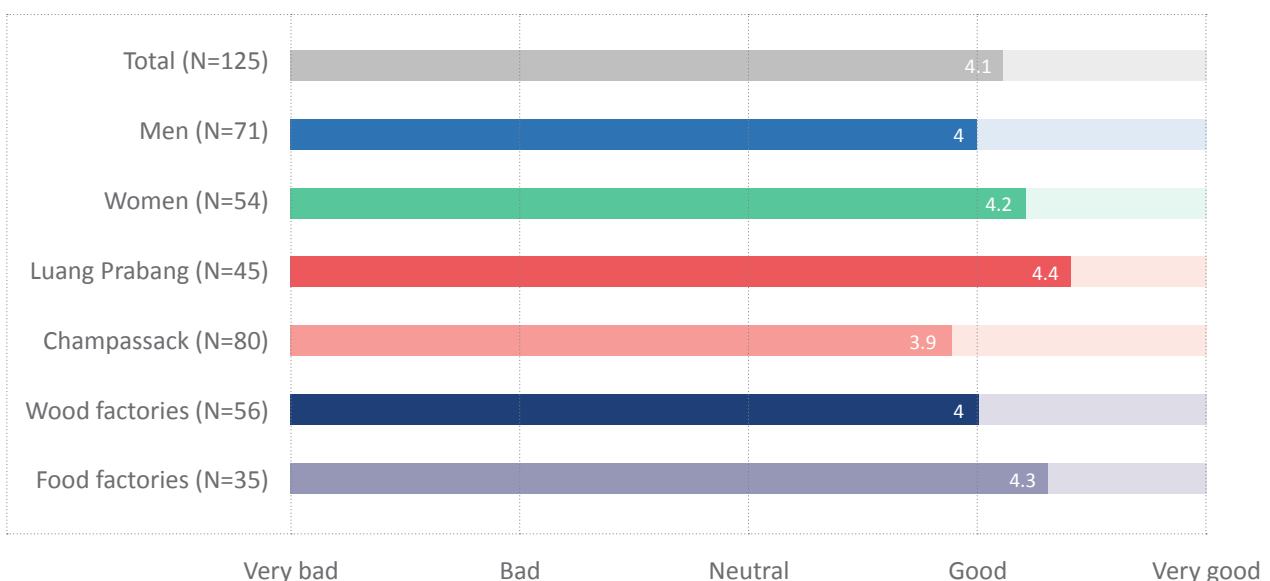
Further, comparing respondents’ quality of life prior to and during their migrant work experience, both regular and irregular migrant workers scored their lives in Thailand as significantly better. For regular migrant workers, the mean rating for Thailand, on a scale of 1 ‘very bad’ to 5 ‘very good’, was 4.1 as against 2.8 in the Lao People’s Democratic Republic prior to departure, whereas the irregular migrant workers, on average, scored their lives in Thailand at 3.6 compared to 3.1 in the Lao People’s Democratic Republic.

Figure 74: Ratings for quality of life while in Thailand, by survey (%)



In the regular-migrant survey, there were variations based on province in the Lao People’s Democratic Republic and type of work in Thailand. On average, workers in food factories rated their life in Thailand as better than those in wood factories (4.3 to 4.0), and so did respondents from Luang Prabang than their peers from Champassack (4.4 to 3.9) (see figure 75).

Figure 75: Average ratings of quality of life in Thailand among regular migrant workers, in total, by gender, province in Lao PDR and type of work in Thailand, from 1 (very bad) to 5 (very good)



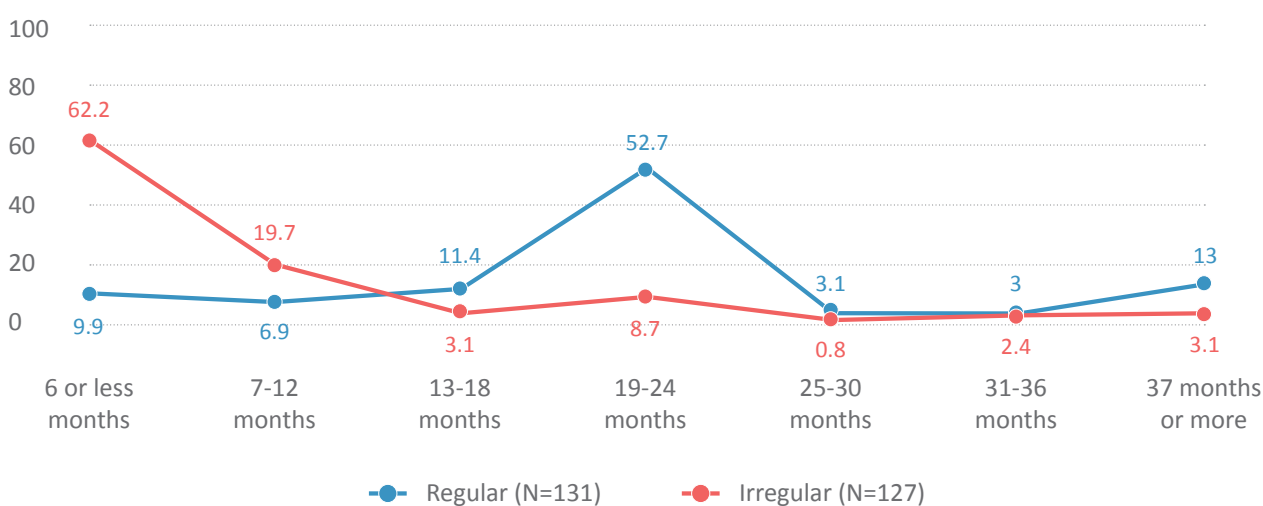
## Duration of employment

There were marked differences between regular and irregular migrant workers, and the average time they spent working in Thailand (see figure 76). The mean duration among the former was 23 months, close to the maximum initial period of employment (two years) under the 2002 MOU<sup>59</sup> (see table 1), whereas the irregular migrant workers only stayed for an average of 11 months.

However, variations were significant at the individual level; most of the irregular migrant workers, that is 62 per cent, worked in Thailand for six months or less, and another 20 per cent between seven and 12 months. Conversely, 53 per cent of the regular migrants worked between 19 and 24 months (most in fact exactly two years), and another 14 per cent for more than three years.

The average duration of employment among regular migrant workers was consistent, between 23 and 25 months, based on gender, province in the Lao People's Democratic Republic and type of work in Thailand.

Figure 76: Actual duration of employment in months, by survey (%)



Thirty-four per cent of the regular migrant workers indicated that their duration of employment was not as long as originally agreed, with 31 providing additional information on the reasons, such as health problems – in some cases related to themselves, in others to family members – pregnancies/births, homesickness as well as dissatisfaction with the conditions of employment, but also extensions of their contracts.

<sup>59</sup> The MOU allows for an extension of work for up to 24 months.



## End of work and return to the Lao People's Democratic Republic

### Journey back

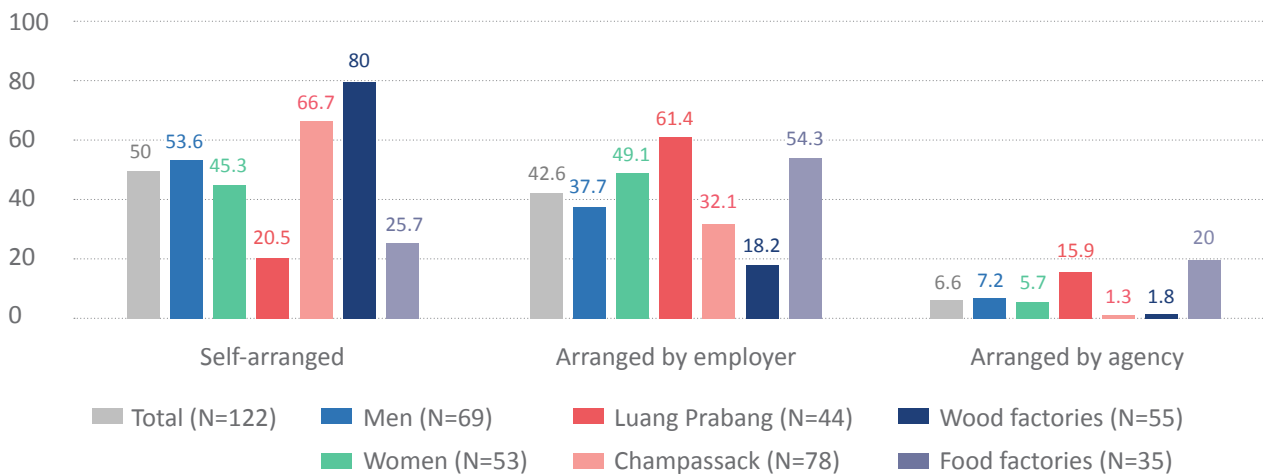
Most regular migrant workers, i.e. 95 per cent, immediately returned to the Lao People's Democratic Republic upon leaving their workplace. Five per cent tried to find other work in Thailand before returning home, with four individuals succeeding and staying longer.

Asked who arranged their return to the Lao People's Democratic Republic, 50 per cent of those who went back immediately said that they did so on their own, whereas 43 per cent had their trip organized by their employers. Another 7 per cent suggested that the recruitment agencies arranged for their return to the Lao People's Democratic Republic.<sup>60</sup>

There were differences in this respect based on gender, province in the Lao People's Democratic Republic and type of work in Thailand. Variations were modest between men and women, with a higher proportion of men organizing the journey on their own, whilst arrangements through the employers were more prevalent among women.

However, the differences were more pronounced at the provincial and employment level, with 67 per cent of the respondents from Champassack compared to 21 per cent in Luang Prabang, and 80 per cent of workers in wood factories versus 26 per in food factories self-organizing their return trip.

Figure 77: Arrangements for the return to Lao PDR of the regular migrant workers who went back immediately, in total, by gender, province in Lao PDR and type of work in Thailand (%)

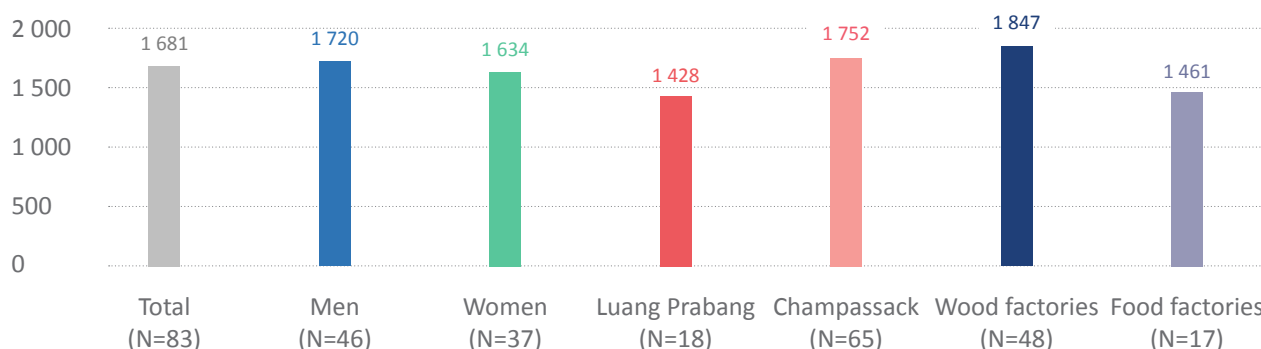


Among the regular migrants who returned to the Lao People's Democratic Republic immediately, 83 said that they paid money for their journey back, beyond what they may have been charged otherwise for this purpose already. Their costs ranged from THB600 to THB4,500 with an average of THB1,681. No further data on who these fees were paid to, and for what purpose, was collected.

The mean return expenses of respondents from Champassack (THB1,752) and those working in wood factories (THB1,847) were higher than for those from Luang Prabang (THB1,428) and workers in food factories (THB1,461). Such differences may have been influenced by the greater distance that respondents from Luang Prabang possibly had to cover compared to their counterparts from Champassack.

<sup>60</sup> One respondent, a man from Luang Prabang, noted that the Lao Embassy arranged his return.

Figure 78: Average payments for the return journey among regular migrant workers who went back to Lao PDR immediately and had related travel costs, in total, by gender, province in Lao PDR and type of work in Thailand (THB)



Further, seven respondents indicated that they had to make payments at the Lao-Thai border, ranging from THB400 to THB1,500. These may have been factored into the return costs indicated above in some but not in all cases, thus suggesting additional expenses for a few interviewees.<sup>61</sup>

In the 2002 MOU, the two countries committed to cooperating in sending workers home, but the nature and scope of the collaboration remained undefined. In practice, half of all regular migrant workers did not appear to benefit from any return arrangements by third parties.

Moreover, authorities in the host country were to set up a deportation fund under the MOU (see table 1), to which migrant workers had to compulsorily contribute 15 per cent of their monthly salaries. These resources were supposed to be returned to the workers with interest as their stay in Thailand came to an end. The research did not identify any indication of the collection or use of these resources. Further, a 15 per cent salary deduction per month is significant, especially given overall low-income levels for migrant workers from the Lao People’s Democratic Republic. It is worth noting that the new MOU signed in 2016 does not include any reference to this fund.

### Recommendation of recruitment agency

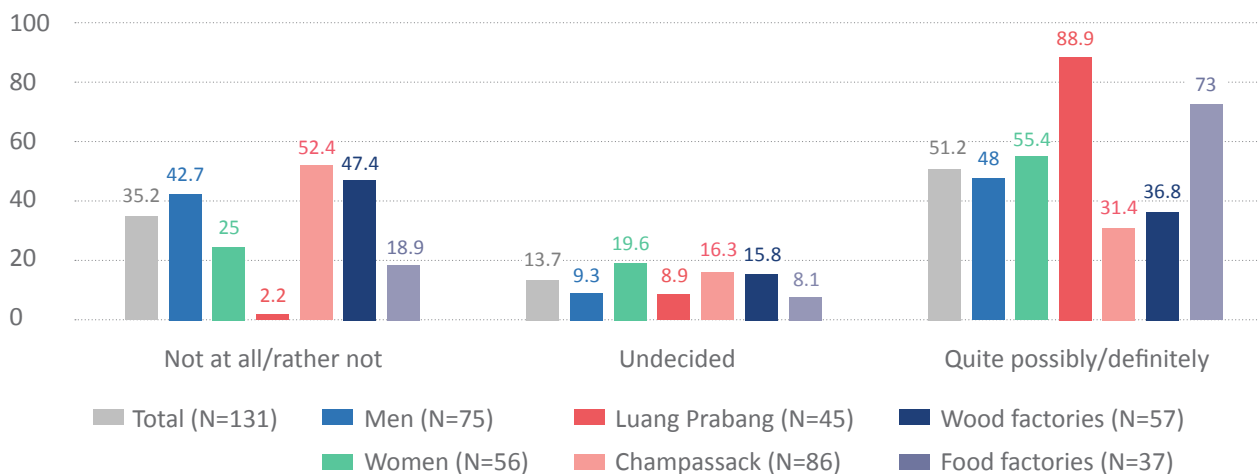
Asked to what extent they would recommend their recruitment agency to friends or relatives, 51 per cent of the regular migrant workers said ‘quite possibly’ or ‘definitely’, while 35 per cent responded ‘not at all’ or ‘rather not’; another 14 per cent were undecided.

There were variations for all the key variables of gender, province in the Lao People’s Democratic Republic and type of work in Thailand, albeit to different degrees. Women, on average, were slightly more positive about their recruitment companies, with 55 per cent compared to 48 per cent of men stating that they would ‘quite possibly’ or ‘definitely’ recommend their agencies.

However, differences were more pronounced at the provincial and employment levels; that is, while 89 per cent of respondents in Luang Prabang would ‘quite possibly’ or ‘definitely’ recommend their agency, this only applied to 31 per cent in Champassack. Further, 73 per cent of workers in food factories as against 37 per cent in wood factories reported ‘quite possibly’ or ‘definitely’ recommending their recruitment companies.

61 Another respondent was arrested at the border, with a sister reportedly paying THB23,000 for his release. It is unclear, however, what he was held/arrested for.

Figure 79: Extent to which regular migrant workers would recommend their recruitment agency to friends or relatives, in total, by gender, province in Lao PDR and type of work in Thailand (%)



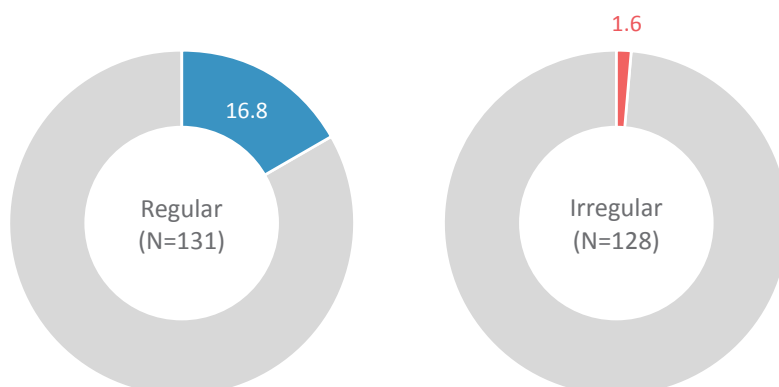
### Claiming compensation

About 17 per cent of the regular compared to 2 per cent of the irregular migrant workers wanted to claim compensation due to their labour migration experiences (see figure 80). However, there were differences in the questions asked; whilst the regular migrant workers responded on whether they would like to seek compensation from their recruitment agency in the Lao People’s Democratic Republic; from their employer in Thailand; and/or from any others, the irregular migrant workers were only asked if they generally wanted to seek compensation.

Among the regular migrant workers, 15 men and seven women wanted to claim compensation, with four from Luang Prabang and 18 from Champassack reflecting the overall more positive labour migration experiences of respondents in the former. Further, this included seven workers in food and ten in wood factories.

Asked from whom they would like to seek payments, ten regular migrant workers referred to their respective recruitment agencies in the Lao People’s Democratic Republic; six to their employers in Thailand; and another six to others, such as their supervisors or heads of different departments/divisions. The irregular migrant workers were not asked for these details.

Figure 80: Respondents who wanted to claim compensation because of their labour migration experience to Thailand, by survey (%)

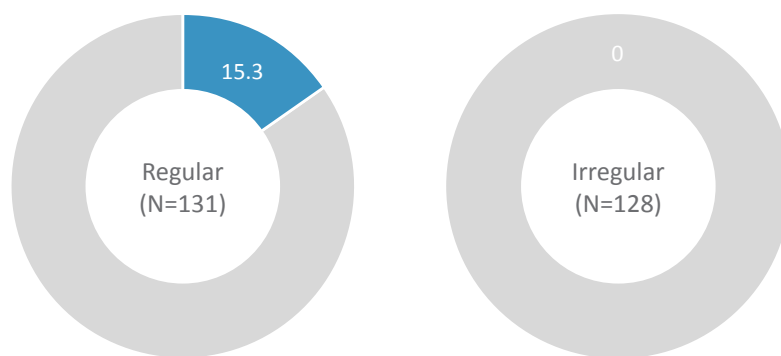


The 2002 MLSW Guideline stipulates that migrant workers have the right to file complaints, if they don't receive the benefits as agreed (see table 1). However, only the Lao Labour Law as revised in 2014 has introduced opportunities for 'labour disputes with international characteristics' to be heard by competent authorities.<sup>62</sup>

### Seeking criminal charges

About 15 per cent of the regular compared to none of the irregular migrant workers wanted to bring criminal charges against others for their labour migration to Thailand (see figure 81). This included 13 men and seven women, with four from Luang Prabang and 16 from Champassack. The latter again reflected the overall more positive migrant work experiences of respondents in Luang Prabang. Further, seven of them worked in food and nine in wood factories.

Figure 81: Respondents who wanted to bring criminal charges against others because of their labour migration experience to Thailand, by survey (%)



Among these 20 respondents, eight wanted to seek criminal proceedings against their recruitment agency in the Lao People's Democratic Republic; one against the employer in Thailand; and 11 against 'others,' often individuals associated with the employer, such as heads of different departments.

It is interesting that a larger proportion of the regular migrant workers wanted to seek compensation and bring criminal charges despite overall better labour migration experiences. A possible explanation may be that they felt more empowered to do so than the irregular migrant workers given their immigration status. Further, they perhaps had higher expectations with respect to recruitment practices and employment conditions having abided by all procedures in their labour migration.

62 Ministry of Labour and Social Welfare (MLSW): *Labour Law* (Vientiane, 2013).



## 6. Summary

The summary is divided into the four key sections of the analysis and provides a synopsis of their main findings. Where relevant, it highlights differences based on survey, gender, province in the Lao People's Democratic Republic and type of work in Thailand.

### Background and pre-departure conditions

The demographics of the regular and irregular migrant workers were similar. Results were broadly consistent with respect to the age when they started working in Thailand, with more than 10 per cent in both cohorts migrating when they were still children. Higher proportions of children were identified originating from Champassack than Luang Prabang among the regular migrants, and from Champassack compared to Saravan in the irregular-migrant survey. In both surveys, children were more represented among women than men.

Further, the educational levels of the respondents were limited, with 31 per cent of the regular and 20 per cent of the irregular migrant workers not having completed any formal education. In the regular-migrant survey, men were more likely than women to not have finished any schooling (36 to 25 per cent), whereas more women than men only completed primary education (50 per to 20 per cent).

Most respondents in both surveys were working in agriculture prior to migrating to Thailand. In addition, higher proportions of regular migrant workers were employed in construction, whilst more irregular migrant workers were unemployed in the Lao People's Democratic Republic. Further, in the regular-migrant survey, a greater share of women than men were working in agriculture, whereas all those in the construction sector were men.

The mean monthly income of the regular migrant workers in the Lao People's Democratic Republic was THB1,766, with 18 per cent indicating that they had no steady income. In the same survey, respondents in Luang Prabang earned almost twice as much as those in Champassack (THB2,566 compared to THB1,348), whilst men, on average, earned more than women (THB1,947 versus THB1,524).

The regular migrant workers, on a scale from 1 'very bad' to 5 'very good', rated their quality of life in the Lao People's Democratic Republic at an average of 2.8 and, as such, less favourably than the irregular migrant workers at 3.1. Among the former, respondents from Luang Prabang viewed their lives as significantly worse than those in Champassack (2.5 compared to 3.0).

## Recruitment process

The analysis of the recruitment process is only based on the regular-migrant survey, unless otherwise indicated.

Most regular migrant workers first heard about labour migration options via recruitment agencies through the companies themselves (62 per cent), followed by information from family, friends or the community (22 per cent), and media channels (16 per cent). The agencies were a more important source of information for respondents in Champassack, whereas media channels and family/friends played a greater role in Luang Prabang. Further, recruitment agencies and the media were more significant for men than women, whilst the reverse was true for family/friends.

The recruitment agencies were chosen primarily because they were the only agencies that respondents were aware of (86 per cent), followed by recommendations received from others (21 per cent). A higher proportion of respondents in Champassack than in Luang Prabang selected their agency because it was the only one they knew of, whereas in the latter a more substantial share suggested that their chosen agency promised many and good services.

Whilst 59 per cent of the respondents did not pay any fees directly to their recruitment agency, the others covered charges for various items such as brokerage, passports, pre-departure training, transportation or medical/health checks, which ranged from THB600 to THB30,000. There were distinct patterns at the provincial level, with only 14 per cent of interviewees from Champassack paying directly to their agencies as compared to 93 per cent from Luang Prabang.

Eighty-nine per cent of the regular migrant workers stated that they signed a contract with their respective recruitment agency and prior to departure. Among these, merely 40 per cent received a copy of the agreement, including higher proportions in Luang Prabang than in Champassack. Further, more than two-thirds of those who signed contracts did not fully or at all understand the terms and conditions. This applied to a larger share of respondents in Champassack than in Luang Prabang.

The most important reason for the lack of understanding was the complicated terminology (43 per cent), followed by respondents simply not having read the agreement (36 per cent). Others noted that the contract was not in a language that they could read (15 per cent), or that they were not given enough time to study it (11 per cent). The language factor was more important among women than men, and in Champassack than in Luang Prabang, whereas the time factor was a bigger concern in Luang Prabang than in Champassack.

Further, none of the regular migrant workers signed an agreement with their employer upon arriving in Thailand. Whilst, at the time of the research, this was not in contradiction to national legislation in the two countries or their bilateral MOU on Employment Cooperation, enforcing working conditions in the destination country as agreed in the country of origin remains problematic.

Seventy-three per cent of the regular migrant workers reported receiving pre-departure training in the Lao People's Democratic Republic. This applied to 68 per cent of men compared to 80 per cent of women, and to 89 per cent of respondents in Luang Prabang as against 65 per cent in Champassack. According to the 2002 MLSW Guideline, every Lao migrant worker is required to undergo pre-departure training before being sent abroad. 78 per cent of those who received pre-departure training said that it lasted half a day, with another 20 per cent having a full-day training.

The mean waiting time for the journey to begin following an agreement with the recruitment agency was four months (122 days), but there were noteworthy variations at an individual level. Whereas 9 per cent left after 30 or fewer days, 20 per cent had to wait six months or longer – in some cases almost two years. Men waited an average of 12 days longer than women, and respondents in Luang Prabang 39 days more than their counterparts in Champassack.

These periods were significantly longer than official estimates of 55 days, from the time that an employer identifies a vacancy to the actual arrival of the migrant worker, and likely an important factor in migrant workers' choice of regular or irregular migration channels.

## Working and living conditions in Thailand

There were marked differences in the working and living conditions in Thailand between the regular and irregular migrant workers, with the regular migrant workers, on average, being more positive about both aspects. However, respondents in the two cohorts also expressed various degrees of concerns.

Forty-four per cent of regular migrant workers were employed in wood and 28 per cent in food including seafood factories. With another 7 per cent engaged in fabric factories and 11 per cent in other factories, a total of 90 per cent worked in different types of production facilities. In contrast, only 39 per cent of the irregular migrant workers were involved in factory work in Thailand, with service (33 per cent), construction (14 per cent) and domestic work (9 per cent) constituting significant other sectors of employment. It is worth noting that the Government of the Lao People's Democratic Republic considers domestic work to be 'unskilled' and, as such, does not recruit for this sector through licensed recruitment agencies.

Among the regular migrant workers, a greater proportion of women than men worked in food and wood factories, whereas more men than women were employed in transport- and storage-related jobs. Further, respondents from Luang Prabang were predominantly engaged in food factories, while those from Champassack mainly worked in wood factories.

Eighty-seven per cent of the regular migrant workers said that their jobs were the same as previously agreed with their recruitment agencies; 8 per cent noted that the question was not applicable as their work had not been defined prior to departure; and another 5 per cent suggested that their jobs were different from what had been agreed. All those who indicated that their work was not in line with previous agreements were men. Further, higher proportions of respondents from Luang Prabang than Champassack reported that their jobs were the same as previously agreed with the recruitment agencies. Major disadvantageous differences between agreed and actual working conditions are considered to be an indicator of forced labour and human trafficking.

The mean monthly salary after deductions among the regular migrant workers was THB6,667, whereas the irregular migrant workers' 'actual salary' averaged THB6,864. The former was 3.8 times higher than the regular migrant workers' mean income in the Lao People's Democratic Republic prior to migrating. In the regular-migrant survey, men, on average, earned THB526 more per month than women, and respondents from Luang Prabang benefitted from an extra THB793 compared to those from Champassack. Moreover, respondents employed in food factories earned THB877 more per month than their peers in wood factories.

A significant number of respondents were paid below the wage floor of about THB7,200 per month at the time of data collection. Payment terms below minimum wages are considered to be an indicator of exploitation in determining forced labour and human trafficking.

For 80 per cent of the regular migrant workers, the actual amounts received were the same as agreed with the recruitment agency. Six per cent noted that the question was not applicable, as their salaries had not been previously established, and 14 per cent said that their salaries were not in line with prior agreements. A higher proportion of respondents in Champassack compared to those in Luang Prabang noted that their salaries were not in line with previous agreements, and similar tendencies were true for workers in wood factories versus those in food factories.

There were marked differences between regular and irregular migrant workers with respect to the hours worked per day in Thailand. 95 per cent of the former had a regular eight-hour working day, whereas this applied to only 28 per cent of the irregular migrant workers. Instead, 67 per cent of the latter spent longer hours working, many significantly so. Further, 99 per cent of the regular migrant workers indicated that they worked six days per week, as compared to 36 per cent of the irregular migrant workers. Among the latter, the majority (63 per cent, including 70 per cent of all men and 55 per cent of all women) worked seven days a week.

Ninety-six per cent of the regular migrant workers indicated that their passports were retained by their employer or supervisor, with 35 per cent reporting that they were unable to access them if wanted. 40 per cent of men versus 28 per cent of women suggested that they could not get hold of their passports from their employer/supervisor when needed, and so did 44 per cent of respondents from Champassack compared to 18 per cent from Luang Prabang. Disparities were most pronounced by type of work in Thailand, with 52 per cent of interviewees in wood factories as against 14 per cent in food factories not able to access their passports from employers or supervisors if wanted.

Confiscation of identity documents is considered to be an indicator of forced labour and human trafficking. While passport retention was not specifically outlawed in Thailand at the time of data collection, the government has since introduced legislation prohibiting this conduct.

Sixty-three per cent of the regular migrant workers suggested that there were opportunities to raise concerns about their employment conditions if wanted. However, whereas 70 per cent of the men noted that there were such opportunities, this only applied to 54 per cent of the women. Further, 63 per cent of the respondents working in wood factories acknowledged the existence of channels to complain, but only 51 per cent of those engaged in food factories stated the same. Almost all 79 regular migrant workers referred to one or both of two available channels to file complaints, namely via staff representatives or supervisors and/or employers. Recruitment agencies, labour inspectors, other authorities, trade unions or civil society organizations did not seem to play a significant role in this context.

According to the 2002 MLSW Guideline, recruitment agencies are required to provide protection to regular migrant workers while these are abroad. Further, the new Lao Labour Law adopted in 2014 has introduced opportunities for labour disputes with international character to be heard by competent authorities in the Lao People's Democratic Republic. In Thailand, the LPA stipulates that workers including migrant workers are entitled to file a complaint against their employers with the labour inspector in the locality of their work, if the companies violate the employees' payment entitlements. Based on the responses provided to this study, it is unclear whether regular migrants are aware of such channels in either country, or if they feel empowered enough to draw upon them.

Respondents in the regular-migrant survey were asked if they felt constrained to quit their jobs, with 15 per cent noting that they did. Higher proportions of men than women, and of respondents from Champassack than from Luang Prabang, felt constrained in this respect. The irregular migrant workers were asked a similar but different question, namely whether their employer would have allowed them to quit their job, and 7 per cent noted that they would not have been able to do so.

The regular migrant workers assessed ten variables related to work and life in Thailand from 1 'very bad (or equivalent)' to 5 'very good' (or equivalent), seven of which were also administered in the irregular-migrant survey. Among the former, the average ratings for all ten were better in Luang Prabang than in Champassack, and workers in food factories scored eight out of ten better than those in wood factories. Further, whilst differences in the regular-migrant survey were less pronounced based on gender, women viewed their employment and living conditions slightly better than men, the notable exception being ratings for physical violence at work. Finally, the regular migrant workers scored all seven employment-related variables included in both surveys better than the irregular migrant workers.

Some of these variables relate to fundamental human rights enshrined in international law (for example, freedom of movement); others including payment terms, working time, physical violence or forms of harassment, if experienced as very negatively, may be indicators of coercion or exploitation in the context of human trafficking and forced labour. Against this background, it is of concern that, for many variables, 10 per cent or more of respondents, irrespective of their immigration status, described negative or very negative conditions.

Ninety-four per cent of the regular and 78 per cent of the irregular migrant workers reported sending remittances back home in support of their families and/or dependents. Among the former, results were consistently above 90 per cent across genders, provinces in the Lao People's Democratic Republic and types of work in Thailand, with higher proportions of women than men and more workers in wood than in food factories remitting money.

In the regular-migrant survey, the average amount of remittances sent back to the Lao People's Democratic Republic per person and year was THB45,666. Women sent more money home per year than men (THB50,977 to THB41,526 despite earning less in Thailand. Further, respondents in Luang Prabang recorded higher annual average transfers than those in Champassack (THB 51,167 to THB42,742), and the same was true for workers in food compared to wood factories (THB54,344 to THB48,247).

Average remittances per month and person among the regular migrant workers came to THB3,806 as against THB1,766 in monthly earnings back in the Lao People's Democratic Republic, more than twice the amount of money. Moreover, for women, the money sent home exceeded their salary levels in the Lao People's Democratic Republic by a factor of 2.8, compared to 1.8 for men; and respondents from Champassack recorded a ratio of 2.6 in favour of remittances, as against 1.7 for those from Luang Prabang.



Also noting that remittances are typically sent in support of others whereas monthly incomes back home are likely to have to provide for respondents themselves as well, the research points to significant financial benefits associated with regular labour migration from the Lao People's Democratic Republic to Thailand.

Moreover, there were marked differences between regular and irregular migrant workers based on the average time they spent working in Thailand. The mean duration among the former was 23 months, close to the maximum initial period of employment (two years) under the 2002 MOU, whereas the irregular migrant workers only stayed for an average of 11 months.

On average, respondents in the regular-migrant survey rated their quality of life in Thailand significantly better than those in the irregular-migrant cohort. Close to 80 per cent of the former indicated that their lives were 'good' or 'very good' compared to 57 per cent of the irregular migrant workers. Further, both regular and irregular migrant workers scored their lives in Thailand as significantly better than in the Lao People's Democratic Republic. In the regular-migrant survey, workers in food factories, on average, rated their life in Thailand as better than those in wood factories, and so did respondents from Luang Prabang than their peers from Champassack.

## End of work and return to the Lao People's Democratic Republic

Ninety-five per cent of the regular migrant workers immediately returned to the Lao People's Democratic Republic upon leaving their workplace. Asked who arranged their return, 50 per cent of those who went back immediately said that they did so on their own, whereas 43 per cent had their trip organized by their employers. Another 7 per cent suggested that the recruitment agencies arranged for their return. A higher proportion of men organized the journey on their own, whilst arrangements through the employers were more prevalent among women. However, the differences were more pronounced at the provincial and employment level, with 67 per cent of the respondents from Champassack compared to 21 per cent in Luang Prabang, and 80 per cent of workers in wood factories versus 26 per cent in food factories self-organizing their return trip.

In the 2002 MOU, the two countries committed to collaborating in sending workers home when their employment period came to an end, but the nature and scope of the collaboration remained unclear in this study. In practice, half of all regular migrant workers did not appear to benefit from any return arrangements by third parties. Moreover, authorities in Thailand were to set up a deportation fund under the MOU, to which migrant workers had to compulsorily contribute 15 per cent of their monthly salaries. These resources were supposed to be returned to the workers with interest as their stays in Thailand came to an end. The research did not identify any indication of the collection or use of these resources. It is worth noting that the new MOU signed in 2016 no longer includes any reference to the deportation fund.

Asked to what extent they would recommend their recruitment agency to friends or relatives, 51 per cent of the regular migrant workers said 'quite possibly' or 'definitely', while 35 per cent responded 'not at all' or 'rather not'; another 14 per cent were undecided. Whilst women assessed their recruitment companies slightly more positively than men, differences were more pronounced at the provincial and employment levels. 89 per cent of respondents in Luang Prabang would 'quite possibly' or 'definitely' recommend their agency as against 31 per cent in Champassack; and 73 per cent of workers in food factories compared to 37 per cent in wood factories reported 'quite possibly' or 'definitely' recommending their recruitment companies.

Further, 17 per cent of the regular compared to 2 per cent of the irregular migrant workers wanted to claim compensation due to their labour migration experiences. Among the former, there were 15 men and seven women, with four from Luang Prabang and 18 from Champassack. Seven of them worked in food and ten in wood factories. In addition, 15 per cent of the regular compared to none of the irregular migrant workers wanted to bring criminal charges against others for their labour migration experiences. This included 13 men and seven women, with four from Luang Prabang and 16 from Champassack. Seven worked in food and nine in wood factories.

It is interesting that a larger proportion of the regular migrant workers wanted to seek compensation and bring criminal charges despite overall better labour migration experiences. A possible explanation may be that they felt more empowered to do so than the irregular migrant workers given their immigration status. Further, they perhaps had higher expectations with respect to recruitment practices and employment conditions having abided by all procedures in their labour migration.



## 7. Recommendations

The following recommendations have been developed in response to the findings of this study and relate to both Thailand and the Lao People's Democratic Republic. Where implemented in Thailand, these will likely affect the broader population of migrant workers in the country, including particularly nationals of Myanmar and Cambodia.

### 1. Streamline and expedite the process for regular labour migration between the Lao People's Democratic Republic and Thailand

One of the key challenges in the regular labour migration channels between the Lao People's Democratic Republic and Thailand is the time it takes from enlisting the services of a recruitment agency to being able to start the job. This is further compounded by well-established irregular labour migration patterns that remain an attractive alternative, given the lower costs and time investment, especially for those with urgent economic needs. The Governments of the Lao People's Democratic Republic and Thailand are encouraged to improve current procedures, with a particular view towards simplification and acceleration. Additional investment through national budgets to ensure efficiency of regular migration processes is recommended.

### 2. Regulate the licensing of recruitment agencies and monitor their delivery of recruitment services

There were significant variations in migrant workers' experiences with recruitment agencies, with the analysis suggesting that some hiring practices were in contradiction to the policy framework governing labour migration between the two countries. The Governments of the Lao People's Democratic Republic and Thailand are encouraged to adequately and transparently regulate the recruitment industry including by specifying obligations of agencies and employers towards migrant workers, and to strengthen processes that allow migrant workers to lodge complaints when faced with fraudulent actions. Further, sanctions need to be levied against recruitment agencies that engage in abuse – including through referral to criminal justice institutions – whilst ethical hiring practices should be positively incentivized.

The introduction of a joint and several liability system is encouraged to reduce accountability gaps between Thailand and the Lao People's Democratic Republic, where the study found little to no enforcement of any liability against recruitment agencies, employers or irregular brokers. Under such an approach, all relevant parties (employers, recruitment agencies in countries of origin and destination) are jointly liable for abuses and exploitation that occur during the migration process, meaning that recruitment agencies can be held responsible for violations by employers, and vice versa. The Philippines provides a potentially applicable model.

Further, policy and practice should ensure that government officials (and members of their families) working on labour migration, immigration, licensing, passport and work permit issuance and related matters do not own or have commercial interest in recruitment agencies. Penalties for fraudulent actions through abuse of position should serve the broader notions of justice, thus increasing the incentive for ethical and transparent recruitment and related services.

The public's easy access to information about recruitment agency licenses and conduct including through reports from migrant workers using their services is recommended, and the creation of a recruitment industry body to promote ethical recruitment services is suggested for consideration. Recruitment agency associations provide a vehicle for self-regulation, monitoring ethical recruitment practices and codes of conduct, and can act as industry stakeholders in the development of law and policy. Comparable industry associations have been created in Cambodia, Myanmar and Viet Nam.

### 3. Review and enforce the contracting process of migrant workers

Some respondents reported not signing a contract prior to their departure. Further, among those who did sign an agreement, many did not fully or at all comprehend the terms, partly due to the complicated terminology, or potentially because of language and literacy challenges. In the contracts that were concluded, various key terms and conditions regarding work and life in Thailand remained unspecified. Moreover, a significant proportion of workers did not receive a copy of their contract for their own records, and none of the respondents signed an agreement with their actual employer in Thailand.

The 2002 MLSW Guideline requires that all migrant workers sign and receive a copy of their contract; that the agreement cover key aspects of the employment conditions, such as salaries; and that the document be written in a way that is clearly understandable. Relevant authorities, recruitment agencies and employers in both countries are encouraged to review the contracting process to ensure the Guideline is more adequately enforced, including through a tripartite consultative dialogue and with the involvement of former and prospective migrant workers.

Contracts need to be provided in a language that is understood by migrant workers, and the process must allow migrant workers the time to consider the terms of employment including through independent and unbiased review. Further, the enforceability of contracts in Thailand must be ensured, where contract substitution remains an issue. Recruitment and employment contracts should operate with joint and several liability clauses, so that recruitment agencies can be held responsible for working conditions in destination countries that do not adhere to the terms of their contracts, and vice versa.

### 4. Strengthen procedures to verify the age of prospective migrant workers

The findings suggest that Lao children appear to have been recruited for work in Thailand, including some at a very young age. Relevant authorities and recruitment agencies are encouraged to reinforce processes that help verify the age of prospective migrant workers. These include reliable birth registration and citizenship document procedures, which are needed to ensure that recruitment agencies and employers can trust the validity of identification documents.

### 5. Monitor and review pre-departure trainings

Pre-departure training is a requirement for all prospective migrant workers as per the 2002 MLSW Guideline, and the ability to deliver such classes is a condition of recruitment agency licensing. This study finds that not all migrant workers received pre-departure training and questions remain about its quality, partly because of the short programme duration. In 2014, a standardised pre-departure training curriculum was established in the Lao People's Democratic Republic with ILO support, a training-of-trainers was held, and deliberations on how to ensure all prospective migrant workers can access this training continue. Current legislative developments in the Lao People's Democratic Republic can be considered as an opportunity to review the utility of the pre-departure training programme to date with the involvement of migrant workers, and to make revisions as needed. The delivery of trainings through actors other than recruitment agencies is recommended for consideration during these revisions.

## 6. Ensure that all migrant workers have access to their identification and travel documents at all times

It is a serious concern that the passports of almost all respondents in the regular-migrant survey were retained by their employer or supervisor, and that more than a third did not have access to their documents even if wanted. Not being in possession of identification and travel papers seriously constrains freedom of movement, increases risks of arrest from authorities and can be an important factor in coercing workers to remain in jobs against their will. It is strongly recommended that relevant authorities in Thailand work with employers to ensure that workers retain their identification and travel documents at all times. Safe storage needs to be standard in employer-provided housing or as part of other provisions made for 24-hour access to these documents.

## 7. Strengthen monitoring of working conditions including by improving complaints mechanisms and labour inspections

Regular migrant workers, on average, reported better employment experiences in Thailand than irregular workers. Still, significant proportions in both groups highlighted various concerns related to wages and payment terms, working hours and overtime, nature of work, treatment from bosses/supervisors, freedom of movement, physical violence at work, sexual or other forms of harassments, and restrictions to quit their jobs. Relevant stakeholders are encouraged to strengthen monitoring of working conditions, and to work with companies/employers to make improvements as needed.

Most regular migrant workers suggested that there were opportunities to raise concerns, but these were almost exclusively available through staff representatives or directly with supervisors/employers. Recruitment agencies, labour inspectors, other authorities, trade unions or civil society organizations are encouraged to take a more active role in ensuring their labour rights. Migrant workers must have confidential and safe avenues for reporting incidences of abuse, harassment, violence or exploitation without fear of deportation, and access to the full range of resolutions available under Thai law including compensation. A 'firewall' between grievance processes and immigration authorities needs to be put in place to encourage lodgement of complaints.

## 8. Ensure consistent implementation of the 'zero fee' or 'employer pays' principle

Respondents had different experiences with respect to payments for labour migration procedures to Thailand. Whilst the majority noted that they did not directly pay the recruitment agencies, significant numbers did including at times high sums. Further, all regular migrant workers reported having deductions from their salaries, partly to pay for costs related to the labour migration process.

A 'zero fee' or 'employer pays' policy for all migrant workers, as enshrined in the ILO Private Employment Agencies Convention, 1997 (No. 181), the accompanying Private Employment Agencies Recommendation, 1997 (No. 188), and the 2016 ILO General Principles and Operational Guidelines on Fair Recruitment, should be legislated and enforced by both Thailand and the Lao People's Democratic Republic.

From 2016, Thailand has commendably taken steps in this direction, prohibiting recruitment agencies from charging fees to migrant workers, however the corresponding standard on the Lao side has not been legislated. At present, the implementation of the policy on the Thai side may risk payments being made in the Lao People's Democratic Republic; a situation that does not achieve the goal of reducing fees payable by migrant works, and which contravenes international standards on the recruitment of migrant workers.

## 9. Promote pay equality between women, men, migrants and nationals, and ensure that workers in informal sectors receive decent wages in line with agreements with their employers

Findings have revealed pay gaps between men and women, and identified payment terms that are at times well below minimum wage levels across all respondent groups. The Governments of the Lao People's Democratic Republic and Thailand are encouraged to promote and guarantee wage equality, and to ensure that at least minimum wage is paid to all workers – nationals and migrants; women and men; those employed in the formal and informal economy; and migrants with regular and irregular legal status.

Where contracts are signed in the Lao People's Democratic Republic prior to departure, wage provisions need to be scrutinised by recruitment agencies and competent authorities to ensure that Lao migrant workers receive pay

equality with Thai and other nationals, and that women earn the same salaries as men. For migrant workers accepting jobs in informal sectors, labour inspections need to be extended to help guarantee that they receive wages in line with their employment agreements, whether written or verbal.

#### 10. Repeal all gender-based restrictions on labour migration

There continues to be confusion around the availability of regular channels for Lao women to migrate for domestic work in Thailand. The analysis has only identified Lao domestic workers in the irregular- and not in the regular-migrant worker survey. Coupled with a corresponding lack of specific trainings, placement services and in-country support for Lao migrant women in domestic work, this contributes to various vulnerabilities including of abuse and exploitation.

In accordance with international standards and ILO conventions, the Government of the Lao People's Democratic Republic is encouraged to repeal all provisions that restrict labour migration on the basis of gender, including sectoral restrictions that unduly affect women. The Lao People's Democratic Republic has signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Its General Recommendation No. 26 calls on state parties to repeal bans that are sex-specific and discriminatory with respect to restrictions on women's migration, whether for age, pregnancy, marital or maternity status.<sup>63</sup>

It is recommended that authorities in the Lao People's Democratic Republic consult women migrant workers, through a tripartite social dialogue, as part of the process of lifting bans and putting in place protective mechanisms. Further, both governments are encouraged to sign and ratify the ILO Domestic Workers Convention, 2011 (No. 189)<sup>64</sup> and update national laws accordingly.

#### 11. Review the organization and costing of migrant workers' journeys home

In the 2002 MOU, Thailand and the Lao People's Democratic Republic committed to collaborating in sending migrant workers' home to the Lao People's Democratic Republic, though it remained unclear if this related to deportations or assistance for return travel upon contract completion. Many respondents noted that they organized their return themselves. Further, the MOU stipulated that a deportation fund be established, to which migrant workers compulsorily contributed 15 per cent of their monthly salaries – a prohibitively high proportion of already low wages. Yet, the research did not identify any indication of the fund's existence and the new MOU as revised in 2016 no longer includes references to such a mechanism. It is proposed that relevant authorities, recruitment agencies and employers review the organization and costing of migrant workers' return journeys. A migrant worker welfare fund, with a clearly defined purpose and well-managed monies to the benefit of migrant workers, is generally considered good practice. In establishing such a fund, however, care must be taken to ensure that costs are not passed on to migrant workers.

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63 Committee on the Elimination of Discrimination against Women (CEDAW): *General recommendation No. 26 on women migrant workers* (Geneva, 2008).

64 International Labour Organization (ILO): *Domestic Workers Convention, 2011 (No. 189)* (Geneva, 2011).

# Human trafficking vulnerabilities in Asia

## What's the Incentive?

### Comparing regular and irregular migrant work experiences from the Lao People's Democratic Republic to Thailand

Regular migration is often seen as the safest and most beneficial means of migrating for work. Little empirical work, however, has been conducted comparing the experiences of regular and irregular migrant workers, and assessing the associated migration outcomes. This report, informed by two surveys, considers the relative experiences of regular and irregular migrant workers travelling from Lao PDR to Thailand. It outlines the regulatory framework for labour migration between the two countries, evaluates regular migrant workers' experiences, and compares these with conditions faced by irregular migrant workers. The study covers respondents' backgrounds and pre-departure conditions; recruitment; working and living conditions in Thailand; and return to Lao PDR. Overall, it finds that regular labour migration has yielded more positive migrant work outcomes than irregular channels, though both regular and irregular migrant workers report numerous and varied challenges and decent work deficits during their migrant work experience.



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