

‘Whether you go illegally or legally in the end it’s the same, you’re cheated’

-

A study of formal and informal recruitment practices of Lao workers migrating to Thailand.

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Glossary of Acronyms

ASEAN	Association of South East Asian Nations
CI	Certificate of Identity
DfID	Department for International Development (United Kingdom)
ILO	International Labour Organisation
ILO/TICW	International Labour Organisation/Trafficking in Children and Women
IOM	International Organisation for Migration
MoFA	Ministry of Foreign Affairs
MoLSW	Ministry of Labour and Social Welfare
MoU	Memorandum of Understanding
SPSS	Statistical Package for Social Sciences
UNIFEM	United Nations Development Fund for Women

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Chapter 1

Studying Migrant Recruitment Practices from the Lao PDR to Thailand: An introduction

This Chapter situates the Lao research component presented in this report within ILO/TICW's regional research project on recruitment practices. It introduces some main working definitions and presents an overview of estimates of Lao migrant workers in Thailand. Lastly, current efforts to regularise labour migration between the Lao PDR and Thailand are situated in current global, regional and national climates.

1.1 Background to the research

This report presents the findings of research conducted on recruitment practices for labour migration from the Lao PDR to Thailand. The research was commissioned by the International Labour Organisation's Sub-regional project to combat Trafficking in Children and Women (ILO/TICW) and forms part of a subregional ILO/TICW research project.

The Lao, Cambodian and Thai research components have followed a shared research design. However, the findings and analysis presented in this report are limited to the Lao component of the research only. The research has worked with the following two-fold hypothesis:

1. Migrants receive better protection through legal/formal channels
2. Licensing of recruitment agents provides the best outcome in a cross-border context

In addition, the research has concentrated on the following objectives:

- Provide an outline of the current legal and regulatory framework governing recruitment practices for migration, including an analysis of the current implementation of the MoU on Employment Cooperation;
- Estimate the overall size of formal recruitment for cross-border employment, identifying the factors determining the relative shares of formal and informal recruitment in the organization of labour migration;
- Compare services, costs and satisfaction with formal and informal recruitment processes;
- Analyse the demand by workers and employers for formalised recruitment services and informal recruitment processes;
- Assess how current recruitment practices are impacting on migrants' migration experience and conditions of employment;

- Present concrete and specific policy recommendations aimed at improving recruitment processes to maximise the gains of migration of both sending and receiving countries and to protect the rights of migrant workers.

The above listed objectives are formulated in order to gain a greater and more detailed understanding of migrant recruitment practices in the Mekong Sub-region.

1.2 Some working definitions

As part of the regional orientation of the research project a few essential working definitions were established at a regional level. The regional research design defined ‘formal recruiters’ as any natural or legal person or enterprise, licensed by the State to provide one or more of the following labour market services:

- Services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationship which may arise there from.
- Services consisting of employing workers with a view to making them available to a third party
- Other services related to job seeking, determined by the competent authority after consulting the most representative employers’ and workers’ organizations, such as the provision of job-related information, that do not set out to match offers and applications for employment.

However, in this research report ‘formal recruiters’ refers exclusively to the nine licensed recruitment agencies that operate in the Lao PDR, and their official agents. Subsequently, the term ‘formally recruited migrant’ refers to a migrant recruited by one of the nine recruitment agencies. Next, the term ‘informal recruiter’ is defined as any natural or legal person or enterprise, not licensed by the State to provide labour market services. An informal recruiter may include any of the following sub-categories:

- Unlicensed private employment agencies
- Informal broker
- Social networks

As described in Chapter 2, the Lao research has not been able to directly research informal recruiters and thus excludes this in its analysis. However, the research has covered migrants who were recruited by ‘informal recruiters’, these migrants are referred to as ‘informally recruited migrants’. However, it must be emphasised that ‘informally recruited migrants’ and ‘formally recruited migrants’ are not clear-cut categories. As Skeldon has observed, it is probably more accurate to speak of a ‘continuum of facilitation’ (Skeldon 2000: 10). This not only recognises a continuum stretching from official and transparent to criminal controlled channels, but also appreciates that formal channels may incorporate informal elements and vice versa.

Further, the term ‘migrant worker’ refers, according to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families

(1990) to ‘a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national’ (art. 2.1).

Lastly, an employer of foreign workers is any natural or legal person or enterprise whose primary place of employment are located outside the State of the migrant worker and who seeks to engage, has engaged or had engaged the migrant worker in remunerated activity under a written or oral contract (Van der Linden 2005). In this report however, the shorter term ‘employer’ or ‘Thai employer’ is more frequently used.

1.3 Estimates on labour migration from the Lao PDR to Thailand

South-East Asia has a long history of various forms of migration, such as migration for trade, work, religion or cultural exchange. Stephen Castles argues that this has ‘led to complex links between areas and ethnic groups’ (Castles 2004: 17). Castles further notes that

the Asian economic boom and the resulting uneven development... has led to significant flows of migrant workers from countries with large labour surpluses and stagnant economies to countries with rapid economic growth and declining fertility

This observation describes the socio-economic context of migration flows from Lao PDR to Thailand particularly well.

Estimates presented by the International Organization for Migration (IOM) on the Asian region concur with Castles’ qualitative description. The IOM describes the Asian region as an extremely mobile region (IOM 2005: 103). Within the South-East Asian region, the IOM highlights the position of Thailand in particular since it is both a major sender of migrants to areas within the region and beyond, as well a receiver of migrants. It further notes that estimates suggest that the bulk of the migrants working in Thailand do so without the required documents and have often entered the country through irregular channels (IOM 2005: 110).

Current migrations from the Lao PDR and Thailand reflect much of the above. It takes myriad forms, ranging from migration for purposes of work to visiting relatives who live on the other side of the border. With regard to labour migration, this is often ‘a normal and longstanding part of life’ in areas that share a border with Thailand and it hardly ever goes through official border checkpoints, as a research project on young migrants conducted in northern Lao PDR concludes (SCUK *et al.* 2004: 1).

The Lao border with Thailand runs for nearly 2,000 km from the most southern province of Champassak all the way to Bokeo province in the North-West of the Lao PDR. The Mekong River forms the border for most parts, yet, some provinces share land borders with Thailand. The sheer length of the border turns any attempt of strict border control into a futile exercise. Hence, any figure on the number of Lao people crossing the Thai border is at best an informed guess.

Furthermore, figures from official border checkpoints tell very little about the purpose with which Lao people enter Thailand. Lao citizens may for example cross the border

legally using various documents such as papers issued by local authorities, border passes, passports, or even without any documents on days when restrictions are temporarily lifted (e.g. shared festivals or market days). Yet, once in Thailand the purpose of ‘visit’ may intentionally or accidentally turn into a labour migration project. Hence, legal entry into Thailand may turn into an illegal stay, or into an engagement with ‘employment’ which is illegitimate on the basis of the documents used for entering Thailand.

In light of the above Thai data on registered Lao migrant workers in Thailand is necessarily only a partial reflection of actual reality. Yet, to date the Thai round of registration is the most thorough exercise on quantifying the magnitude of Lao workers in Thailand.¹ Hence, data from these Thai rounds of registration of undocumented migrant workers sketch an image of the scale and distribution of Lao migrant workers in Thailand. Following the 2004 round of registration 99,352 Lao workers who were eligible for work permits had by mid-December 2004 applied for such a work permit. Table 1 below shows the distribution across sectors:

Table 1: Application for work permits by eligible Lao workers in Thailand by mid-December 2004 (following the 2004 round of registration)

Type of work	Number of registered workers	%
On fishing boats	2,634	2.7
Fish processing	1,013	1.0
Agriculture	16,795	16.9
Construction	8,442	8.5
Domestic Service	31,449	31.7
Other	39,019	39.3
Total	99,352	100

Adapted from World Bank (2006: 56)

Data from the 2004 round of registration further shows that most of the work permits were issued to Lao migrant workers who worked in Bangkok (37%), followed by a considerable proportion who worked in the Central region of Thailand (24%), the eastern region (15%), and the north-eastern region (12%) (Huguet and Sureporn Punpuing 2005: 32).

However, the figures presented above are not more than a rough indication of the actual size and distribution of Lao workers in Thailand. First, only 63% of all the Lao, Cambodian and Myanmar migrants who came forth for at the first (and costless) step of the registration process actually completed the process and obtained a work permit by mid-December 2004 and are thus included in the figures above (Huguet and Sureporn Punpuing 2005: 37). Second, even though the initial step of the registration process was at no cost, there remain plenty of good reasons to believe that at best only a good proportion of the Lao workers in Thailand came forth to register and are thus taken note off at all.

¹ The Thai rounds of registration targeting undocumented Cambodian, Myanmar and Lao migrant workers in Thailand is explained in more detail in Chapter 3 (3.1.1).

Despite all its shortcomings, the figure of 99,352 Lao workers who obtained a work permit following the 2004 round of registration can be used as a benchmark to evaluate the contribution of recruitment agencies in quantitative term. Data provided by the Lao Ministry of Labour and Social Welfare (MoLSW) covering the period of 1st January 2006 till 3rd January 2008 shows that a total number of 7,835 Lao migrant workers have been authorised by the Lao authorities to work abroad.² Out of this total figure, 7,521 Lao migrants were recruited and sent abroad by the nine recruitment agencies that are licensed to do so, and a further 314 went independently. This suggests that only a very small proportion of Lao migrant workers working in Thailand chose to go through formal channels.

1.4 Situating efforts to regularise labour migration from Lao PDR to Thailand

Large numbers of Lao migrants who work in Thailand without the required documents combined with a seemingly constant provisioning of NGO and media accounts of various degrees of exploitation suffered by such Lao migrant workers (see e.g. Beesey 2004; Charoensutthipan 2005) have rightly instilled a sense of urgency to address the fate of Lao migrant workers in Thailand. One possible subsequent approach is to regularise migrants' position. However, De Genova observes in his review article on migrants' 'illegality' and 'deportability' that efforts to address migrant workers' illegal status (like the rounds of registration in Thailand) are in themselves embedded in processes that produce illegality and regimes of discipline (De Genova 2002: 429).

Furthermore, when analysing efforts to address the fate of migrant workers, as is done in this research, note must be taken of the wider climate in which these operate. For example, despite much talk about migrants' rights the Universal Declaration on Human Rights is rather ambiguous about migration. It states in Article 13 (2) that 'everyone has the right to leave any country, including his own, and to return to his country'. Hence, the Universal Declaration does *not* include a right to work in a country other than one's own, or an obligation that a third country should accept migrant workers. However, it is important to note that flows of capital, which in most cases subsequently need labour, are subject to quite different governing frameworks.

The poor ratification record of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families serves as a further indication of the reluctance to extend rights to migrants in an inclusive manner. It has taken the Convention over 13 years to collect the minimum number of 20 ratifications or accessions to enter into force following its adoption in 1990. As of August 2007, the ratification status of the Convention consists of 28 Signatories and 37 Parties (13 ratifications and 24 accessions), virtually all are from 'sending countries' for which ratification or accession holds very few consequences.³

² This figure is an aggregate figure of migration to all countries, not only Thailand. However, migration to Thailand probably comprises the greatest proportion.

³ The Lao PDR and Thailand are not among the Signatories or the Parties. Cambodia signed the Convention on 27th September 2004 but has not yet ratified or acceded.

Given the political unpopularity of far-reaching and all-inclusive efforts to address the situations of migrant workers, a next-best effort constitutes selective measures that address certain groups of migrant workers in certain places. The current MoU on Employment Cooperation between the Lao PDR and Thailand and the role of recruitment agencies within this must partly be understood in such a light.

In addition, efforts to regularise Lao migrant work in Thailand are also a logical extension of processes of politico-economic change in the Lao PDR and its subsequent renewed position in the South-East Asian region. Following the establishment of the Communist Lao People Democratic Republic in 1975, in the midst of the Cold War, official relations with neighbouring Thailand were extremely sensitive with the 1987 brief border war as a case in point (Khien Theeravit and Adisorn Semyaem 2002). However, from the late 1980s this gradually changed when Lao PDR embarked on a more market-oriented route of development and started (re)opening its borders with Thailand. Subsequently, the Lao PDR slowly transformed its regional position from a primary orientation on the former Soviet bloc, to increased regional integration (Jerndal and Rigg 1999). The current importance attached to regional integration is best illustrated by Lao PDR's accession to the Association of South-East Asian Nations (ASEAN) in 1997.⁴

1.5 Organisation of the report

The report is organised as follows. Chapter 2 presents the methodology the research has employed and highlights the subsequent limitations. Chapter 3 presents an analysis of the legal framework governing formal recruitment of Lao migrant workers complemented with material collected from recruitment agencies. Chapter 4 presents an account and analysis of migration as experienced by formally recruited and informally recruited Lao migrant workers in Thailand. Lastly, Chapter 5 concludes the report and draws some policy recommendations.

⁴ In this regard, mention must be made of the ASEAN Declaration on the protection and promotion of the rights of migrant workers following the 12th ASEAN summit in Cebu (The Philippines) in January 2007. However, a Declaration is significantly lower in status than a Convention.

Chapter 2:

Research Strategy: Sampling, Methods, and Limitations

This Chapter sets out the rationale for the selection of study sites, selection of research subjects, the methods used and the overall methodology employed. In addition, this Chapter also reflects on the limitations that follow from the methodological choices and from other constraints faced by the research team.

2.1 Selection and characteristics of respondents

For purposes of compatibility with the Cambodian and Thai component of the research project, the sample of the Lao research component was to a great extent defined externally. In line with the regional research design the Lao sample included four distinct categories of respondents: (1) returned Lao migrant workers who have worked in Thailand; (2) recruiters of Lao migrant workers to Thailand; (3) Lao government officials; and (4) other key stakeholders.

2.1.1 Returned migrant workers

The research has limited itself to returned migrant workers who have worked in three sectors only; construction, manufacturing or food processing. A total of eighty-five returned migrants were interviewed. Sixty-five were recruited through informal channels, and twenty were recruited through recognized recruitment agencies.

Formally recruited migrant workers were selected and identified on the basis of provincial level administration. Recruitment agencies are required to inform provincial authorities about the migrants recruited from the concerned provinces.⁵ Hence, the research team visited provincial authorities in Champassak and Savannakhet province and took note of those migrant workers that were marked as ‘returned’ and had worked in the concerned sectors. With name, village details and passport picture of the concerned formally recruited returnees the research team managed to trace thirteen formally recruited returnees in Champassak province (three districts, four villages)⁶ and another seven in Savannakhet province (two districts, four villages)⁷. In Vientiane province only informally recruited migrant workers were interviewed.

Informally recruited migrant workers were necessarily selected differently. Provincial authorities in Champassak and Savannakhet Province short-listed a number of villages with known and high levels of migration to Thailand. The five informally recruited migrant workers interviewed in Vientiane were all found through personal (research)

⁵ The MoU on Employment Cooperation between the Royal Thai Government and the Government of the Lao PDR stipulates in Article 8 that both the Lao and Thai Government ‘will maintain a list of workers benefited from this MOU. The list will be kept and record the return of the workers until 4 years after the recorded date of return’.

⁶ Ten out of thirteen were found in two villages.

⁷ Again, four out of seven come from one village.

networks of the research team. The suggested villages in Champassak and Savannakhet province were visited by the research team where they further relied on the help of head of villages, village population and returned migrants to identify informally recruited migrants who had returned from working in one of the three concerned sectors in Thailand.

While this method put the research team in contact with sixty-five informally recruited migrant workers its difficulties are well-known, which were further exacerbated by the tight timeframe within which the research had to be conducted. Deputy Director General of the MoLSW's Labour Department, Mr Thongdeng Singthilath highlights in an interview with the Vientiane Times some of the difficulties also encountered by the research team. He comments that often 'parents lied to local authorities that their children were working in Vientiane, when in fact they were working in Thailand' (Somsack Pongkhao 2007). He also noted that 'when we ask these people [villagers] where their son or daughter is, they usually tell us they're living or working with relatives, or travelling in other provinces. We have no way of disproving this' (Panyasith Thammavongsa 2006).

The eighty-five returned migrant workers constitute in overall terms a gender-balanced sample.⁸ Female-male ratios are 0.55 : 0.45 and 0.49 : 0.51 amongst formally recruited and informally recruited migrant workers respectively. The research team was not able to achieve a similar representation with regard to the sectors the migrants had worked in, in Thailand. The research team found only very few formally recruited returned migrant workers who had worked in construction. Similar problems arose concerning informally recruited migrant workers. The research team found that most informally recruited migrant workers had worked in Thailand as domestic workers, gardeners or sellers. Only with much effort, the research team was able to find informally recruited migrant workers who had worked in construction, manufacturing or food-processing.

Informally recruited migrant workers and formally recruited migrant workers further differed in terms of time spent working in Thailand. In the Lao context recruitment organisations have only started sending migrant workers to Thailand since late 2005 (Vientiane Times 2005). Following an initial trial with 30-50 workers who were sent out on a one-year contract, subsequent migrant workers were in principle sent out on two-year contracts.⁹ Hence, when the fieldwork was carried out the research team was only able to contact formally recruited migrant workers who had returned prematurely. In fact, all of the formally recruited migrant workers had returned within one year and some had only worked in Thailand for a few months. Table 2 below describes the above in more detail.

⁸ Further disaggregation by sex (e.g. across sectors, and socio-economic characteristics) is not done since the sample is too small to draw any meaningful conclusions from such an exercise.

⁹ The MoU on Employment Cooperation between the Royal Thai Government and the Government of the Lao PDR stipulates in Article 9 that 'unless otherwise specified, each worker will receive a two-year work permit'.

Table 2: Distribution of migrant workers across sectors and time spent in Thailand

		Formally recruited (n=20)	%	Informally recruited (n=65)	%
Sector (Thai)	Manufacturing	13	65%	33	51%
	Food-processing	4	20%	20	31%
	construction	3	15%	12	18%
Duration of migration	>1 year	20	100%	37	57%
	1-2 years	0	-	14	22%
	2-5 years	0	-	10	15%
	5 years<	0	-	4	6%

In socio-economic terms the formally recruited migrant workers are overall slightly older and more often married than the informally recruited migrant workers. This is probably explained by the fact that recruitment agencies are by law prohibited from recruiting migrant workers who have not yet reached the age of eighteen. This is also a likely explanation for the slight differences in household size between formally recruited and informally recruited migrant workers. In terms of educational attainment no great differences can be observed between formally and informally recruited migrant workers. Yet, it is of interest to note that both categories include individuals with no education at all as well as individuals with post-secondary education, thus covering the entire educational scale. Table 3 below describes the above in more detail.

Table 3: Characteristic of returned migrant workers

Characteristics		Formally recruited (n=20)		Informally recruited (n=65)	
		Number	%	number	%
Marital status	Single	3	15%	22	34%
	Married	16	80%	41	64%
	Divorced	1	5%	1	2%
	widowed	0	0%	1	2%
	TOTAL	20	100%	65	100%
Age	>17	0	0%	5	8%
	17-25	12	60%	27	42%
	26-35	6	30%	24	37%
	36<	2	10%	9	14%
	TOTAL	20	100%	65	100%

Education ¹⁰	No education	2	10%	15	23%
	Primary level	4	20%	21	32%
	Lower secondary	8	40%	19	29%
	Higher secondary	2	10%	8	12%
	Post-secondary	4	20%	2	3%
	TOTAL	20	100%	65	100%
Household size	2 persons	0	0%	2	3%
	2-5	10	50%	26	40%
	6-8	7	35%	31	48%
	9-10	3	15%	6	9%
	TOTAL	20	100%	65	100%

2.1.2 Recruiters

With regard to recruiters, the research had planned to conduct interviews with twenty recruiters in total. This would include all nine recruitment agencies and eleven informal recruiters. Yet, in practice it proved impossible to conduct interviews with informal recruiters within the given time-frame. Unlike formal recruiters who recognize themselves as such and who can easily be accessed at recruitment agencies, informal recruiters are much harder to contact. In this respect, it is important to note that the definition of informal recruiters presented is a very broad one, including individuals that are in reality seen as friends and not as recruiters at all. Hence, when the research team inquired about several types of informal recruiters, people in the research villages may not have shared this understanding. In addition, conducting formal research activities about social activities that border or fall into the sphere of unlawful practice is likely to yield poor results.¹¹ Since the research team stayed in most villages not longer than a day there was not sufficient time to build up the required levels of rapport to take away suspicion.

As a result, the research has not been able to talk to any informal recruiter. The research team has only collected some sporadic information on informal recruiters through secondary channels, such as migrants' experiences with their informal recruiters, and from accounts of villagers and local authorities. Given this lack of data, this report had to omit a specific section on informal recruiters. However, the migrant accounts presented in Chapter 4 do present some indication of the role of 'informal recruiters' in informal recruitment processes.

¹⁰ Data was collected in terms of completed educational years. Table 3 is thus a simplified representation based on educational levels. This means the respondents have not necessarily completed the educational level under which they are grouped.

¹¹ See also section 2.1.1 on selection and characteristics of returned migrant workers.

In the Lao PDR nine recruitment agencies operate currently. Six of these agencies are run as private companies and three are state-run. Eight recruitment agencies have their head-offices in Vientiane and one (state-run) has its office in Bolikhamsay province. The research team has conducted interviews with seven out of the nine recruitment agencies. The two agencies not covered by the research are the one in Bolikhamsay province (due to travelling distance) and one privately run recruitment agency in Vientiane which was said to have sent only few migrant workers to Thailand.

2.1.3 Government representative and other stakeholders

The research also included government officials from the Lao Ministries of Labour and Social Welfare, Foreign Affairs and Immigration Department (Ministry of Public Security). The government officials interviewed were selected from national level, provincial and district level. This was supplemented with informal interviews with local authorities such as heads of villages.

Lastly, four stakeholder interviews were conducted with representatives from (1) the Commercial and Industrial Chamber; (2) the Lao Trade Union; (3) Lao Women's Union; and (4) the Lao Revolutionary Youth Union.

2.2 Geographical coverage and timeframe

The eighty-five informally and formally recruited returned migrant workers interviewed come from the following three provinces: Vientiane Province, Savannakhet Province and Champassak Province. Savannakhet and Champassak province are situated in the South of the Lao PDR and border with Thailand. Previous research has confirmed that from Savannakhet and Champassak province significant migration to Thailand takes place (MoLSW and ILO-IPEC/TICW 2003). Therefore Savannakhet and Champassak were included in this research. Vientiane Province, which also borders Thailand, was included since nearly all recruitment agencies are located in Vientiane Capital.

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Interviews with the eighty-five returned migrant workers were done over twenty-five days in May 2007. Also in May 2007 six provincial and district level government officials were interviewed. For these purposes the research team spent ten days in Savannakhet province where thirty-nine returned migrants were interviewed in two districts and ten villages. Another ten days in Champassak province where forty-one returned migrants were interviewed across five districts and twelve villages. Lastly, five days were allocated for interviewing five returned migrant workers in Vientiane Capital located in two districts, five villages. It must further be noted that all in-depth interviews (see section on methods) were conducted with migrant workers from Savannakhet and Champassak province only. The geographical coverage of the research is summarized in Table 4 below.

Table 4: Geographical coverage

Province	Districts visited	Number of villages visited; number of respondents
Champassak Province	Bachiangchaleunsook	2 villages; 9 respondents
	Pakse	1 village; 4 respondents
	Pathoumphone	1 village; 5 respondents
	Phonthong	5 villages; 16 respondents
	Sanasomboun	3 villages; 7 respondents
Savannakhet Province	Champhone	8 villages; 37 respondents
	Khanthabouly	2 villages; 2 respondents
Vientiane Capital	Pakngum	3 villages; 3 respondents
	Xaythany	2 villages; 2 respondents
Total:		

3 provinces	9 districts	27 villages; 85 respondents
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During a second period of fieldwork (June 2007) interviews with seven recruitment agencies, four government officials and four stakeholders were conducted. All interviews conducted during the second period of fieldwork took place in Vientiane.

2.3 Methods

The research has used two types of interviews. Standard questionnaire based interviews were conducted with all eighty-five returned migrant workers in the Lao language (see Annex 1). The standard questionnaire is mainly composed of closed questions with the aim of generating comparable quantitative data across the Cambodian, Lao and Thai research component. Interviews lasted between 40 and 60 minutes each and were conducted by two researchers, one doing the questioning, one taking notes.

In-depth interviews were conducted with ten returned migrant workers (five formally recruited, five informally recruited). Selection for in-depth interviews was done ‘on the way’. When respondents responded well to the standard questionnaire and seemed to have additional and relevant stories to tell, the standard questionnaire session evolved into an in-depth interview. For in-depth interviews the researchers primarily selected returned migrant workers who had faced problems when working in Thailand. Each in-depth interview last between 1 and 2 hours. In-depth interviews were based on research guidelines (see Annex 2) which allowed the respondents to reflect more freely on a various dimensions of their migratory experience. In-depth interviews were tape-recorded and in summary transcribed in Lao language before translation into English.

The precise distribution of the type of interviews conducted across sector and type of recruitment is presented in Table 5 below.

Table 5: Type of interview by sector

Sector	Type of Interview	Formally recruited	Informally recruited	Total
Construction	Standard (in-depth)	3 (3)	12 (0)	15 (3)
Manufacturing	Standard (in-depth)	13 (1)	33 (4)	46 (5)
Food-processing	Standard (in-depth)	4 (1)	20 (1)	24 (2)
Total	Standard (in-depth)	20 (5)	65 (5)	

For the recruiters a similar strategy was adopted, employing both closed questionnaire based questions as well as open question allowing more in-depth responses (see Annex 3).

Interviews with government officials were based on research guidelines (see Annex 4), and thus rather open in character.¹² Interviews with government representatives served to generate an understanding of the legal and policy frameworks governing migrant

¹² The guidelines were slightly adapted in order to be of relevance to the various ministries. The guidelines were also used (in a slightly adapted form) for the interviews with other key-stakeholders.

recruitment practices in the Lao PDR as well as to document perceived weaknesses and strengths of the current regulatory framework.

The primary data collected through the two types of interviews was complemented with available secondary data. Secondary data consists of relevant data obtained from earlier studies presented in published and unpublished sources, as well as additional relevant information obtained from media and literature.

2.4 Research process

The model questionnaires and interview guidelines were first developed at regional level, and adapted during a research and methodology workshop conducted in Bangkok. Next, the questionnaires and research guidelines were pre-tested in both English and Lao language and the research team received further training in various aspects of research.

Actual fieldwork was carried out in May and June 2007. The data obtained with the standard questionnaires was entered into, and analysed with SPSS (Statistical Package for the Social Sciences). The information obtained during the in-depth interviews was tape-recorded, then transcribed and translated and coded manually. Initial findings of the research were presented and discussed with the Cambodian and Thai research team at a workshop in Bangkok in May 2007. Next, a draft report was produced which was presented in November 2007 at a national level workshop in Vientiane. During this workshop representatives from international organisations, Lao governmental bodies, and representatives from Lao recruitment agencies provided comments on the draft report. The final report presented here has attempted to reflect on the comments received at the various stages of the research process and is drafted by the lead-researcher in collaboration with an external consultant.

2.5 Scope and limitations of the research

As with any piece of work of this nature, the research has had to deal with several constraints. However, a few constraints need specific emphasis since they seriously delimit the scope of the research. First, the regional objective was to test the two-fold hypothesis that (1) migrants receive better protection through legal/formal channels, and (2) that licensing of recruitment agents provides the best outcome in a cross-border context. However, for reasons outlined above, the research team was only able to contact formally recruited migrant workers who had returned prematurely. In fact, all of the formally recruited migrant workers had returned within one year. Although motivations for early returns differed between migrants, all early returns were born out of some form of dissatisfaction with the migratory experience. Consequently, the research has only covered a very specific category of formally recruited migrant workers; early and dissatisfied returnees.

This skewed sample makes it impossible to respond in any absolute terms to the two-fold hypothesis that has initiated the research. At best, the research presents an insight into experiences with recruitment agencies of a rather particular group of formally recruited

migrant workers, and how this compares with experiences of some informally recruited migrant workers.

Secondly, the selection of respondents has been done in such a way that the figures presented in the report do not bear any statistical relevance beyond the actual cases studied. Thirdly, the qualitative data obtained from both types of returned migrant workers, and particularly the informally recruited migrant workers, has to be treated with some care. The qualitative data was obtained in ‘one-off’ interviews. Hence, the researchers have not had the necessary time to build up a relation of mutual trust which is essential for obtaining relatively reliable data, particularly if it concerns social practice which borders on, or slips into the sphere of unlawfulness. Also, and for similar reasons, the scope for triangulation at a local level was extremely limited. Fourthly, all returned migrant workers interviewed were ethnic Lao.¹³ The research can thus not comment on the important question of ethnicity and migration.

Despite the limitations set out above, the research presents a valuable contribution to the understanding of various forms of recruitment processes of Lao workers migrating to Thailand. It is one of the first pieces of research conducted in the Lao PDR that comprehensively reviews the legal framework for formal labour recruitment for purposes of labour migration. It is a first appraisal of the functioning of recruitment agencies in the Lao PDR in comparison with informal alternatives. In addition, the research is unique in the sense that it has brought together academics from the National University of Laos, Lao policy makers and law-enforcers, and representatives from the international community at several stages of the research on the issue of formal and informal recruitment of migrant workers. The subsequent discussions are of an on-going nature and are therefore only partly captured in this report.

¹³ Use of the term ‘ethnic Lao’ here does not mean however that the migrant workers stem from one ethnic group solely.

Chapter 3

Formal Recruitment of Lao Migrant Workers: Regulations, views and practice

This Chapter situates the practice of formal recruitment of Lao migrant workers within its governing regulatory framework and subsequently locates it institutionally. Next, on the basis of available figures the Chapter discusses the current functioning of formal recruitment agencies which is complemented with qualitative accounts from the recruitment agencies themselves. Lastly, the Chapter discusses a recent governmental intervention regarding recruitment of Lao migrant workers through formal channels.

3.1 Formal recruitment practices: The regulatory framework

3.1.1 From Bangkok Declaration to MoU on Employment Cooperation

The Bangkok Declaration on Irregular Migration (April 1999) has provided important direction to the current regulatory framework covering labour migration from the Lao PDR to Thailand through formal channels. Prior to this, efforts to address the status of Lao migrants working in Thailand illegally were initiated by the Thai government. An example of such an effort is the round of registration conducted in 1996 (World Bank 2006: 62). Also the next round of registration of Lao workers working illegally in Thailand, conducted in 2001, was a Thai initiative in which the Lao PDR's role was merely one of a concerned third party as is expressed by the Prime Minister's Office Notice No. 2427 'On the preparation to solve the problems faced by Lao workers working illegally in Thailand' (2001).

The Bangkok Declaration was supported by ministers and representatives from twenty-nine nation-states from the Asia-Pacific region, including the Lao PDR. In a joint statement the representatives expressed concern over international migration and 'irregular/undocumented migration' in particular. The Declaration expressed awareness that international migration 'is rooted in human history' and 'closely associated with social and economic aspirations of each country and region'. The Declaration further recognised, with the Asian economic crisis still freshly in mind, that processes of 'globalization and liberalization' are likely to increase levels of international migration which provides both an 'opportunity and challenge for governments in the region'. Hence, while respecting the 'sovereign rights and legitimate interests of each country' the Declaration declared an intent of 'orderly management of migration' based on 'concerted efforts of countries concerned, whether bilaterally, regionally or otherwise'.¹⁴

In the spirit of the Bangkok Declaration the Royal Thai Government and the Government of the Lao PDR signed two and a half years later (October 2002) a Memorandum of

¹⁴ With reference to Preamble note (1), (2) and (5), and Declaration note (2) of the Bangkok Declaration on Irregular Migration.

Understanding on Employment Cooperation (MoU on Employment Cooperation). The MoU on Employment Cooperation initiated a two-phase process aiming to legalise employment of Lao workers in Thailand.

The first phase concentrated on legalisation of irregular Lao workers already working in Thailand. Following the 2004 round of registration conducted by the Thai ministry of Immigration, Lao officials came over to Thailand to interview registered migrants who claimed to come from the Lao PDR. The registered migrants were issued with Certificates of Identity (CI) if confirmed as Lao citizens. CIs in effect regularized the workers' immigration status and allowed them to apply for a work permit (World Bank 2006: 63).¹⁵

According to the Vientiane Times a team of more than 30 Lao officials have been working from April till September 2007 in order to legalise the 96,000 Lao workers identified by the last round of Thai registration. When the project came to an end in September 2007, the Vientiane Times reports that the Lao team had managed to issue CIs to 68,000 Lao workers already working in Thailand (Somsack Pongkhao 2007).

The second phase of the legalisation of Lao workers in Thailand consists of the development of 'a system in which private recruitment companies recognized by each government will help match labor demand and supply with respect to the immigration and labor laws of both countries, and international labor conventions' (World Bank 2006: 64), and is the focus of this report.

3.1.2 Implementation of the MoU on Employment Cooperation

The MoU on Employment Cooperation describes in very general terms the institutional framework for employment of Lao workers in Thailand through recruitment agencies. It identifies the Thai MoLSW and the Lao MoLSW as authorised agencies to carry out the MoU (Article 2).¹⁶ The process of labour migration from the Lao PDR to Thailand is in more detail described in Prime Minister Decree 68/2002 on 'Export of Lao Workers Abroad' (2002), and in guidelines No. 2417/MoLSW 'on Implementation of Decree on Export of Lao Workers Abroad' (2002). In addition, document number 3824/MoLSW sets out a series of restrictions on the recruitment of certain types of professions for labour abroad (2002).¹⁷

¹⁵ Huguet & Sureeporn Punpuing (2005: 36-38) describe the registration process of irregular Lao workers in great detail. In summary, during July 2004 the Thai Ministry of Immigration required Lao, Cambodian and Burmese irregular migrant workers to register at district level. Initial registration was at no cost and could be done by the employer. Registration allowed the concerned worker to remain in Thailand till 30 June 2005. A next step required the workers to report at district offices where they were photographed and fingerprinted for identification. Subsequently, application for work permits could be submitted after a compulsory health check was conducted and a compulsory health insurance was obtained. It must thus be noted that only the very first step in the process (actual registration) was free of charge. The subsequent steps in order to obtain a work permit involved expenses.

¹⁶ The MoU is reproduced in Annex 1 in Vitit Muntarbhorn(2005).

¹⁷ A recent UNIFEM study presents a thorough analysis of the policy framework concerning migration from the Lao PDR to Thailand (Inthasone Phetsiriseng 2007).

Prime Minister Decree 68/2002 outlines in Article 1 the main motivations for sending Lao workers abroad. Through regularisation of labour migration the Lao government aims to expand the quantity and variety of work places available to Lao workers with the pragmatic objectives of aiming to upgrade skills of Lao workers, and to acquire further knowledge and expertise in technical and professional respects (2002).

The Decree further outlines the criteria Lao workers must meet in order to be considered for recruitment through formal channels. Article 3 stipulates that migrants must hold Lao citizenship, be 18 years or older on the date of application, must have completed primary school education, be in good health, and be a good citizen (2002). In practice this means that potential migrants must minimally have a family book to prove their age and citizenship (or an ID card or passport), a school-leaving certificate, a criminal clearance reference from local authorities, and they should undergo health checks which are organised by the recruitment agencies.

Document 3824/MoLSW (2002) provides a further set of limitations regarding the recruitment of Lao workers abroad. Part 2 of document 3824/MoLSW lists three categories of vocations that are banned from labour migration. This concerns 1) unskilled workers such as cleaners, domestic workers, porters, etc; 2) vocations that are inappropriate and incompatible with the Lao tradition, culture and law, such as work in the sex-sector, work with narcotics and illegal political activities; 3) dangerous occupations such as open-sea fishing, exposure to radio-active radiation, etc.

The MoU and Prime Minister Decree 68/2002 outline the high-level, bureaucratic nature by which ‘demand’ and ‘supply’ of Lao migrant workers is established. Article 5 of the MoU states that the ‘competent authority’ identified by the Lao and/or Thai Government informs the other party about ‘labour needs, number of desired workers, duration, qualification, employment conditions and wages as proposed by concerned employers’. Subsequently, according to Article 6 of the MoU, the Lao ‘competent authority’ (in case of Lao workers migrating to Thailand) ‘will respond by sending a list of potential workers (name, hometown, reference, education, and other experiences)’. Next, Article 7 of the MoU states that the ‘competent authorities’ work with national immigration services in order to arrange the following:

- Visa/other travel document/arrangement¹⁸
- Work permit issuance
- Insurance of health insurance
- Contribution to the deportation fund¹⁹

¹⁸ As of 2006 Lao citizens do no longer require a visa for Thailand for visits not exceeding three months. Visa requirements do remain for visits exceeding 3 months and for working in Thailand.

¹⁹ Article 11 of the MoU stipulates that ‘workers will contribute 15% of their salary to deportation fund set up by the host country’. An analysis of the MoU on Employment Cooperation presented elsewhere refers to the ‘deportation fund’ as a ‘savings fund’ and clarifies that ‘workers shall receive their entire contribution [built up through monthly contributions] to the saving funds, plus interest earned, upon returning to their permanent address but must apply for this at least three months prior to returning. The Governments must then refund the amount owed to the worker within 45 days of his or her return...even workers whose employment is terminated prior to completion of their contract should have their contributions returned to

- Other taxes as per national regulations

Lastly, although Huguet and Sureeporn Punpuing (2005: 36) observed that the Thai-Lao MoU on Employment Cooperation does *not* speak of requirements of (employment) contracts, Guideline 2417/MoLSW makes explicit mention of three contracts. Moreover the need for three different contracts is re-emphasised in 3011/MoLSW (2007). According to these official documents, and confirmed by the interviews with recruitment agencies and government officials, the following contracts must be in place:

- A contract between the Lao workers and the recruitment agency (Article 7.3)
- A contract between the Thai employer and the Lao recruitment agency (Article 9.3)
- A contract between each individual Lao worker and the Thai employer (Article 9.4)

2417/MoLSW(2002) & 3011/MoLSW (2007)

3.2 Situating Formal Recruitment Agencies Institutionally

Currently, nine recruitment agencies operate in the Lao PDR. Three recruitment agencies are state-run enterprises and the remaining six operate as a private business. However, all nine recruitment agencies are subject to the same regulations, and their functioning must be understood within a single over-arching institutional framework that regulates formal labour migration from the Lao PDR to Thailand.

Formal recruitment of Lao workers is demand based. According to the Lao government official interviewed, Thai employers send a formal request for Lao workers to the Thai Ministry of Labour and Social Welfare (MoLSW). This request may specify particular characteristics of the Lao workers. The Thai MoLSW processes and screens the requests and sends it for further approval to the Thai Ministry of Foreign Affairs (MoFA). Once the request for Lao workers is approved by the Thai MoFA and MoLSW it is the responsibility of the Thai MoFA to communicate this request through diplomatic channels to partners in the Lao PDR.

In practice this means that the Thai MoFA sends the request for Lao workers to the Lao Embassy in Bangkok. The Lao Embassy in turn transfers the request to the Lao MoFA who screens and approves it before sending it on to the Lao MoLSW. Thus, while the MoU on Employment Cooperation identifies both the Thai and Lao MoLSW as an ‘authorized agency’ to carry out the MoU the MoFA in both countries play an essential role in the process of labour recruitment.

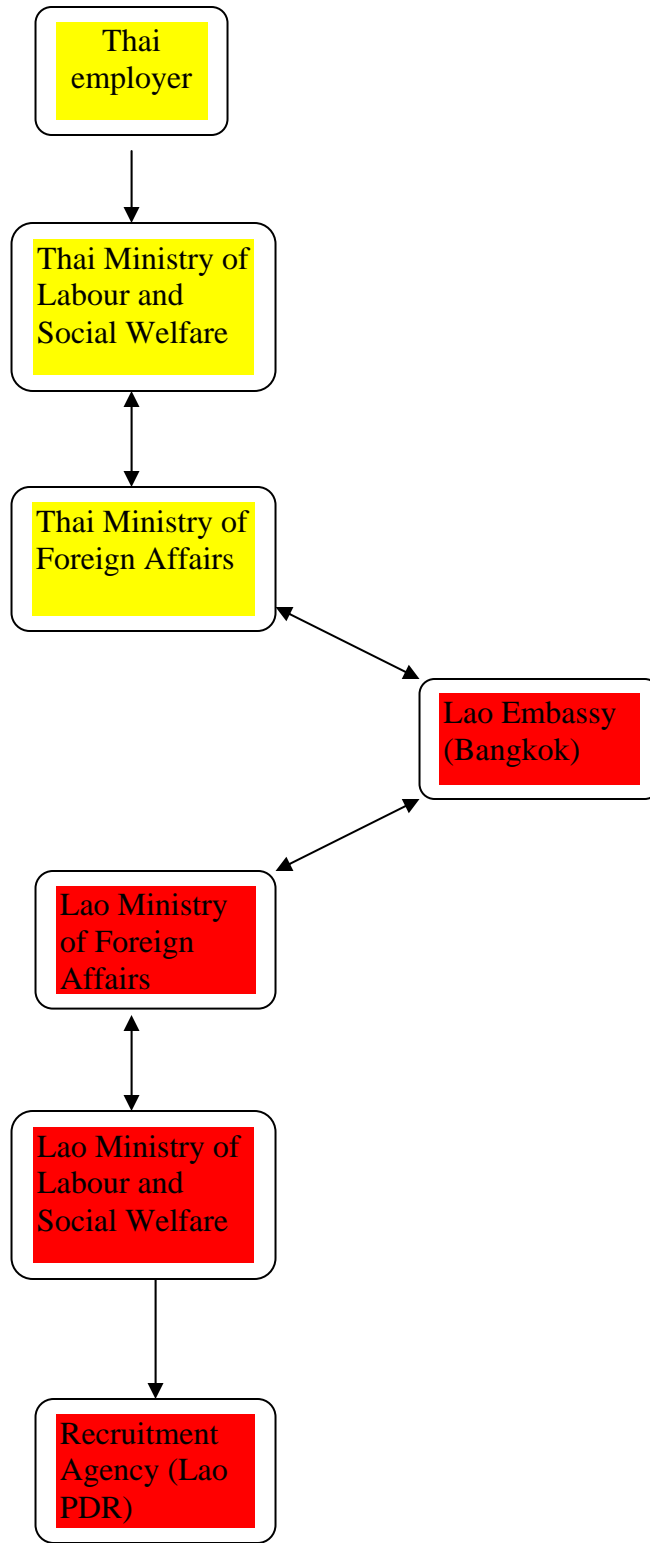
It is not till a request for Lao workers from a specific Thai employer has been processed and approved by four ministries and an Embassy that it reaches the Lao recruitment

them within 45 days’ (Huguet and Sureeporn Punpuing 2005: 36). However Prime Minister Decree 68 and Guideline 2417/MoLSW do not mention the deportation fund at all.

agencies.²⁰ Moreover, before any recruitment for a specific Thai employer can commence the concerned Lao recruitment agency and the concerned Thai employer must enter a contract that confirms the actual details of the request. Once all this is done, actual recruitment can start.

²⁰ Article 7.2 of Guideline 2417/MoLSW (2002) reads as follows: the labour recruitment agency has the right to conclude the contract with foreign companies or the employers in foreign countries *after* [my emphasis] authorisation by the relevant State organisations.

The institutional process described above is schematically represented below.



In addition to sending Lao migrant workers to Thailand the deputy head of the department of Labour at the Lao MoLSW explained that Lao recruitment agencies also work with requests for Lao workers from other Asian countries. Yet, the majority of requests for Lao workers come from Thailand (57%), followed by Malaysia (28.6%), with the remaining 14.3% from other Asian countries.

3.3 Formal Recruitment for Labour Migration: Some figures

The demand for Lao workers in Thailand as expressed through the formal channels outlined above is so far only met very partially by the Lao recruitment agencies. Table 6 below provides a more detailed overview of the distribution of requests for Lao workers (construction, manufacturing and food-processing only) as of June 2007, and the numbers of workers that have been sent by the seven recruitment agencies interviewed.

Table 6: Requests received and number of workers sent by recruitment agencies

Recruitment Agency (state/pvt)	Received request for Lao workers	Lao workers sent to Thailand				Recruits migrants from following provinces: ²¹
		Construction	Food-processing	Manufacturing	Total	
Deuansavan Employment Company (pvt)	0	0	0	0	0	All provinces
Inter-Labour (pvt)	1,000	0	692	0	692	CPK, KM, VTE, LP, XB, VTE-cap
Lanexang Labour State Employment (state)	1,395	60	41	20	121	SVK, XB
Lao State Employment Enterprise (state)	3,898	0	479	1,302	1,781	CPK, BLK, KM, SVK, SL, XK, AP, HP, VTE, LP, VTE-cap
Lao Labour Promotion (pvt)	2,500	0	450	600	1,050	All provinces
Sinxay Employment	1,000	100	400	120	620	VTE, VTE-cap, CPK,

²¹ CPK=Champassak; KM=Khammouane; VTE=Vientiane Province; VTE-cap=Vientiane Capital; LP=Luang Prabang; XB=Xayabouly; SVK=Savannakhet; BLK=Bolikhamstay; SL=Salavan; XK=Xekong; AP=Attapeu, HP=Houaphanh

Company (pvt)						SL
Xaya Employment (pvt)	2,000	48	236	0	284	CPK, SL, SVK, VTE-cap
Total	11,798	208	2298	2042	4636	

The figures presented in Table 6 above are provided by the individual recruitment agencies and differ slightly from the figures provided by the deputy head of department of Labour at the Lao MoLSW. According to his figures, the nine Lao recruitment agencies had by June 2007 sent a total of 9,412 Lao workers to Thailand. The workers are sent to work in construction (296), food-processing industry (2,386), the industrial sector (2,130), and to other sectors (4,600).²²

Table 6 illustrates the great difference between requests for Lao workers and the actual number of Lao workers sent to Thailand at both an overall level and at the level of individual recruitment agencies. In this regard it must be noted that at the time of interviewing, the sending of Lao workers to Thailand by Lao recruitment agencies was put on a temporary hold, despite outstanding requests (2007).²³ When the recruitment agencies were allowed to resume sending Lao workers to Thailand by August 2007 Thai requests for Lao workers had accumulated to 59,700 while Lao recruitment had only been able to respond with 6,546 workers, just over 10 % (Somsack Pongkhao 2007).

The wide gap between requests and supply can partly be explained by the way Thai requests are allocated to Lao recruitment agencies by the Lao MoLSW. Requests from Thai employers are presented to the Lao recruitment companies as indivisible assignments they can sign up for. Hence, when a recruitment agency takes up an assignment for 150 Lao workers and is only able to find 40 it creates an unmet demand of 110 workers. The Lao MoLSW is currently rethinking this practice and considering the option of multiple Lao recruitment agencies collectively working on one specific Thai request.

3.4 Formal recruitment: Perspectives from recruitment agencies

The seven recruitment agencies interviewed explained that they used a range of methods to attract Lao migrants for work in Thailand. Most commonly used methods are advertisement on TV, radio and in newspapers (5 out of 7 companies used this method) and active recruitment by agents who travel to provinces, districts and villages (6 out of 7 companies). Such official agents are issued with identification cards by the MoLSW. In addition 6 out of 7 recruitment agencies explained that they were approached by potential migrant workers themselves, and 2 out of 7 claimed to make use of intermediaries who recruited migrant workers on commission basis. A representative from the Trade Union

²² Use of slightly different categories is a possible explanation for this difference in figures, note for example the difference between ‘industrial sector’ and ‘manufacturing’. Also, the figures may refer to slightly different timeframes.

²³ Sending of Lao workers to Thailand was put on hold from 5th January 2007 till 8th August 2007 (see section 3.5 for further details).

in the Lao PDR claimed that such intermediaries receive around 500 Baht for each worker they provide to the recruitment agency. He furthermore argued that recruitment agencies often relied on such intermediaries since they constantly struggle to meet the demand for Lao workers through their regular channels.

In contrast to accounts of formally recruited migrant workers (see Chapter 4), the recruitment agencies claimed to take full responsibility for organising all the necessary documents for migration. Furthermore, according to the recruitment agencies the actual costs of the documents, as well as the additional expenses to cover the complicated organisational tasks required for organising the necessary documents, were the prime causes for the relatively high fee (at least 15,000 Baht) the recruitment agencies charge for recruitment.²⁴

A recent UNIFEM study presents the following break-down of costs, distinguishing between expenses that are made on the Lao side of the process and the Thai side of the process.²⁵

Table 7: Breakdown of costs in formal recruitment

Item	Expenses in Baht
Lao side	
Medical examination	570
Passport and Visa	1,330
Thai Visa:	
-single entry	2,000
-multiple entry	5,000
Work permit form	74
Training	500
Traveling	1,500
Total Lao side:	
Single entry visa/multiple entry visa	5,974/8,974
Thai side	
Medical examination	600
Social Security (5% p/months for 2 years)	4,493
Work permit	3,800
Total Thai side	8,893
Total with single entry visa	14,867
Total with multiple entry visa	17,867

²⁴ At the time of writing (January 2008) the exchange rates are as follows: 1USD=31.37 Thai Baht; 1USD=9,300 Lao Kip; 1 Thai Baht= 282 Lao Kip.

²⁵ Official statements on costs are difficult to obtain and subject to change. Hence, official statements on the breakdown of costs are likely to differ from source to source. The UNIFEM figures represented here were originally provided by Bounkham Sihalath from the Employment Promotion Division at the Department of Labour, Lao PDR. Also note that Lao migrants have to undergo medical examination twice to satisfy both the Lao and the Thai side of the process.

Adapted from UNIFEM's 'Gender Concerns in Migration in Lao PDR (Inthasone Phetsiriseng 2007: 86).

The recruitment agencies argued that most applicants don't have passports. Hence, the recruitment agency has to apply on behalf of the migrant for a passport. The actual cost of a passport lies around 1,500-2,000 Baht according to informants at the Ministry of Foreign Affairs. Yet, additional expenses are incurred since applications for passports require personal interviews which are currently only conducted in Vientiane, as is the printing and issuing of passports. Similar scenarios apply to health checks which recruitment agencies prefer to conduct in hospitals in the capital of Vientiane, rather than in the generally poorer equipped provincial or district level hospitals. Based on this, the recruitment agencies argue that they have to make considerable expenses to cover travel, accommodation and food for workers at the pre-migration stage.

Since most formally recruited migrants were not able to pay for the recruitment fees, the recruitment agencies interviewed explained that in practice the fees would frequently be deducted from the migrants' salaries once working. Details on deductions of salary would then be included in the contract. Deductions would be made monthly, for at least 5 months, but not exceeding 20 months.

At the time of interviewing, the recruitment agencies explained that pre-departure training as required by Article 8.5 of Guideline 2417/MoLSW (2002) constituted currently little more than a 2-3 hour session, basically evolving around information provisioning.²⁶ According to the recruitment agencies, one of the issues covered in such sessions is a lecture on how to open a bank-account. Yet, the recruitment agencies also offered the migrant workers the opportunity to channel money home for them.

With regard to monitoring and evaluation, the different recruitment agencies reported various practices. Each recruitment company claimed to have regular contact with the Thai employers whom they had sent Lao workers. The regularity of such contact varied from monthly contact to contact twice a year. Various means of contact were used, such as telephone calls and/or contact by email with the Thai employer. Further, some recruitment agencies explained that they appointed 'leaders' amongst the migrant workers who should act as spokespersons and get in touch with the Thai employer and/or the Lao recruitment agency in case of communal problems.

In case of serious problems that could not be solved by the Thai employers and the Lao migrant workers, the Lao recruitment agencies claimed to travel to Thailand in order to resolve the issue and if necessary repatriate the Lao workers. However, the Lao workers should first try to resolve themselves any dispute with the Thai employer. For this, some recruitment agencies offered to supply a Thai agent to act as an intermediary.

3.5 Functioning of formal labour recruitment: An initial formal appraisal

Lao recruitment agencies had to refrain from sending Lao migrants to Thailand from 5th January 2007 till 8th August 2007 (2007). This temporary ban was imposed following a series of complaints that the Lao MoLSW had received from provincial and district

²⁶ This is confirmed by the migrants' accounts presented in Chapter 4.

authorities and returned migrant workers about labour migration through recruitment agencies. Further sending of Lao migrant workers was put on a temporary hold in order to identify the exact problems, to review current practice and to find solutions for the identified problems.

This intervention demonstrates that information and complaints about formal recruitment of Lao migrant labour does indeed run through the formal channels of commands to the MoLSW, and that the MoLSW does not hesitate to act in case there is reason to do so. At the same time, imposing an 8 month ban on labour migration through formal channels necessarily exacerbates an existing problem further; the lengthy process between application for and commencing migrant work (see Chapter 4).

Document 3011/MoLSW announced the re-opening of formal labour migration. In addition, it also addresses a number of concerns about labour migration through recruitment agencies. Most significantly, document 3011/MoLSW lowers the ceiling set on recruitment fees charged by recruitment agencies. Guideline 2417/MoLSW had set a maximum charge for recruitment at 15% of the workers salary (2002). Document 3011/MoLSW lowers this to 5% (2007), and thus takes on board a widespread complaint about excessive charges of recruitment agencies.²⁷

Also, document 3011/MoLSW stipulates that recruitment agencies should establish branches at provincial and district level that work in close collaboration with the respective branches of MoLSW. This aims to address an apparently common problem in which informal brokers present themselves as being affiliated with formal recruitment agencies. Furthermore, the document presses recruitment agencies to apply stricter selection criteria for the recruitment of migrants in order to bring down the number of early returnees.

In addition, 3011/MoLSW reinforces a number regulations set out in earlier documents that have so far fallen short in implementation, such as contracts, monitoring systems, and pre-departure training.

An issue not specifically addressed by 3011/MoLSW, yet one that frequently resonated in interviews with government officials concerns the poor financial capital of the recruitment agencies. Article 6 of Prime Minister Decree 68 (2002) stipulates that recruitment agencies should have sufficient monetary deposits. Document 2417/MoLSW, Article 6.2, elaborates that recruitment agencies should possess funds sufficient to repatriate all Lao migrant workers by air travel in case of emergencies (2002). However, as observed by several government officials interviewed, this condition was hardly ever met.

²⁷ For example, officials from the Immigration Department in Champassak argued that the high fees charged by recruitment agency leave potential migrants with little choice other than migrating independently or through informal brokers.

Chapter 4

Formal and Informal Recruitment: Migrants' perspectives

This Chapter analyses the experiences of the two types of returned migrant workers studied; formally recruited migrants and informally recruited migrants. This Chapter draws on the material collected through the in-depth interviews and through the standard questionnaires and reflects on the various stages of the migration process. It must be re-emphasised that due to the methodological constraints outlined in Chapter 2, the analysis presented here cannot be extrapolated into a general comparison between the two types of recruitment.

4.1 Why do Lao migrants go to Thailand?

Formally recruited migrant workers and informally recruited migrant workers expressed little difference in their main motivations for migrating to Thailand. Both formally and informally recruited migrants were asked to list the primary, secondary and tertiary motivation for migrating to Thailand.²⁸ 18 Out of the 20 formally recruited migrants referred to economic problems such as lack of employment opportunities back home, to recover debts, and poverty as the main motivating factor. The economic realm also constituted the main motivation for most informally recruited migrants (40 out of 65) followed by stimuli provided by migrants' direct social network (14 out of 65). This includes positive stories about working in Thailand from returnees and familiarity with people who can assist in organising migrant work in Thailand.

Stimuli provided by migrants' direct social environment were by 8 (out of 20) formally recruited migrants recognised as the second most important motivation for migration, followed by an unspecified category of 'other motivations' (7 out of 20). A similar pattern emerged among informally recruited migrants. 28 Out of 65 informally recruited migrants, highlighted stimuli provided by the social environment as the second most important factor for migration, which thus constitutes the main secondary motivation. As a third motivating factor, amongst both formally and informally recruited migrants a pattern emerged in which most migrants referred to a desire for new experience and adventure. 7 Out of 20 formally recruited migrants expressed such a desire, and 22 out of 65 informally recruited migrants.

The responses to the questionnaire illustrate that migrants often have multiple reasons for migrations. Furthermore, it also illustrates that it is difficult to determine whether migration is mainly induced by push factors such as 'economic problems' or by pull factors such as 'new experiences', or by mere chance since a recruitment agent happens to show up. Amongst the returned migrants interviews it was often a combined working

²⁸ The standard questionnaire asked all returned migrants the following question: 'why did you decide to migrate'. Note was taken of the first, the second, and the third most important motivation.

of push and pull factors, embedded in the larger social context that induced migration as the following excerpts illustrate:

If no recruitment agency had come to my village I wouldn't have thought of going to work in Thailand. Yet, now that the opportunity came I decided to go because my family is poor and there is only farm work to do in my village. After the harvest there is nothing to do. Had there been work available in the province or the district I wouldn't have gone to Thailand.

(Excerpt from in-depth interview with twenty year old married woman from Champassak province who was recruited formally (together with her husband) and worked for six months in a pineapple can factory in Thailand)

We have a farm. We have some land and cattle and we are not poor and not rich. I went to Thailand to earn money to support my [three] children's education. I also wanted to improve the living conditions in my family and to build a new house.

My friends have worked in Thailand and they have now built a new house and even bought a car. They suggested me to work in Thailand as well. They told me that incomes in Thailand are high. I discussed the plan with my wife and she agreed.

Also, I have seen many young people from my village going to work in Thailand. They come home for a visit and go back to Thailand. It seemed very easy and I never thought I would have any problems.

(Excerpt from in-depth interview with 38 year old man from Champassak province who was recruited informally and worked in a furniture factory in Thailand for one year)

I had just finished mid-level business education when I went to Thailand together with my two sisters. Back home I could not find a job and I wanted to earn money. Also, I had never worked before and I just wanted to try the experience of working. In addition, the recruiter told us that we could continue our studies in Thailand. The Thai employer would pay 50% of the fees. This all sounded good, so we decided to go.

(Excerpt from in-depth interview with 22 year old single woman from Savannakhet province who was recruited formally and worked in a rubber factory for two months)

4.2 Migration to Thailand: Using formal or informal channels?

All returned migrants were asked about the aspects they had considered when choosing a formal or informal recruiter. However, care must be taken when interpreting the results. Most formally recruited migrants (16 out of 20) had learnt about recruitment for labour migration from agents of recruitment agencies (12), or through official notices (4). Hence, their responses are likely to reflect the advertisement campaigns of recruitment agencies and their agents.

Informally recruited migrants had mostly (40/65) learnt about recruitment through other (undefined) means thus excluding ‘labour agents’ (only 4/65), ‘word of mouth’ (only 16/65), ‘media’ (only 1/65) and ‘notices’ (only 3/65). Hence, their informational basis is different from the formally recruiting migrants, which makes a strict comparison problematic. Also, some informally recruited migrants may have had the opportunity to choose between different informal recruiters, while for others there may not have been such a choice. This necessarily sets reflections on considerations in a different contextual frame. In addition, for some the ‘recruiters’ are not regarded as recruiters at all but as friends in which case the entire question about ‘what do you consider when using a recruiter’ becomes an artificial one altogether. The latter is illustrated by the excerpt below:

From my village, many people go and work in Thailand. Some of my friends also worked in Thailand. When they came home for the Lao New Year (‘phi mai’) they encouraged me to join them. When I said yes they called their employer in Thailand and asked whether she needed any new workers. She wanted new workers so after the New Year celebrations I just went with my friends to Thailand.

(Excerpt form in-depth interview with 30 year old woman (now married) from Savannakhet who was informally recruited and worked for nine years in a garment factory in Thailand)

Despite this ambiguity, amongst both the formally and informally recruited migrant workers ‘trust and reliability’ was regarded as a prime consideration when choosing a formal or informal recruiter. Amongst the formally recruited migrants 18 (out of 20) listed this aspect as the prime consideration for choosing their formal recruiter. Amongst the informally recruited migrants ‘trust and reliability’ also constituted the primary consideration when choosing an informal recruiter (28 out of 65). This is not surprising since 45 (out of 65) informally recruited migrants stated that they were aware of the risks of using informal recruiters for migration.²⁹

Other primary considerations stated by the informally recruited migrants are ‘speed of the process’ (9 out of 65), and ‘costs’ (9 out of 65). These two categories are hardly referred to by formally recruited migrants. None of the formally recruited migrants listed speed and costs as a primary consideration, and only few gave it any importance as a second or third consideration. Amongst the informally recruited migrants, ‘speed’ and ‘costs’ also frequently featured as second and third consideration. With regard formally recruited migrants, this pattern contrasts with the earlier response on ‘motivations for migration’ where nearly all formally recruited migrants gave prime importance to ‘economic problems’.

Furthermore, although ‘speed’ was only sporadically listed as one of the three considerations when choosing a recruiter by formally recruited migrants, complaints about excessive waiting time featured in all in-depths interviews with formally recruited

²⁹ In comparison, only 6 (out of 20) formally recruited migrants claimed to be aware of the risks associated with going through informal recruiters.

workers and this is substantiated by other data obtained with the standard questionnaire. Eight (out of twenty) formally recruited workers had to wait six months or longer from the time of application till actual work in Thailand, while another 4 could not remember how much time had passed between application and starting work in Thailand. This was perceived as particularly problematic since the migrants had already signed a contract and thus felt they had to be ‘stand-by’ and could meanwhile not take up any other form of work that required some commitment in terms of time.

After signing the contract I had to wait eight months before I was sent to Thailand. This was too long. Especially since I could not start working with another company in the meantime because I had already signed a contract with the recruitment agency.

(Excerpt from in-depth interview with 22 year old single woman from Savannakhet province who was recruited formally and worked in a rubber factory for two months)

While most returned migrants were able to list three considerations with regard to choosing a recruiter, at the end of the day a considerable proportion of the returned migrants could not say with much certainty whether they had migrated using a formal or informal recruiter. Out of the 20 formally recruited migrants, 19 knew with certainty that they had used formal recruitment services while 1 was not sure about this. However, out of the 65 informally recruited migrants, 6 thought they had used formal recruitment services while only 35 claimed with certainty that they had not done so. The remaining 24 did not know whether their recruiter was licensed or not.

This indicates that some informal recruiters claim to represent licensed recruitment agencies. It furthermore suggests that for many of the informally recruited migrants the question whether they had gone through formal or informal channels was hardly relevant at the time of migration and may not have born any relation to the considerations for choosing a recruiter presented above. Lastly, going through formal channels may in practice be remarkably similar to going through some informal channels as the excerpt below illustrates:

I had almost forgotten about going to Thailand since nearly a year had gone by since I had filled in the forms with the recruitment agency. After the recruitment agency had informed me that I was going to Thailand a Thai person showed up at the village. He told me that he had come to collect me for work in Thailand, so I asked him about the name of the factory I was going to. He said he didn't know and that he had just been sent to collect me. I was very confused then because I thought I was going to migrate legally, yet all this looked very illegal. Fellow villagers urged that I should go anyway so I went but I felt deceived. Therefore I really think that only Lao people who work for the recruitment agency should come to collect workers, this was not right.

(Excerpt from in-depth interview with twenty year old married woman from Champassak province who was recruited formally (together with her husband) and worked for six months in a pineapple can factory in Thailand)

4.3 On the cost of recruitment

There are big differences in costs between going through informal and formal recruiters. Table 8 below illustrates that more than half of the informally recruited migrants don't pay anything to their 'recruiter', while those that do pay seldom pay more than 5,000 Baht. In contrast, most formally recruited migrant workers claimed they had to pay at least triple this amount.³⁰

Table 8: Fees paid for recruitment

Amount paid to recruiter	Formal recruits (n=20)	Informal recruits (m=65)
nothing	3	34
I can't remember	0	4
0-2500 Baht	5	9
2500-5000 Baht	0	14
5000-8000 Baht	0	2
15000-20000 Baht	11	0
does not apply	1	2
<i>TOTAL</i>	20	65

Differences in fees between formal recruiters and informal recruiters can easily be explained by the difference in subsequent costs that the two paths of recruitment involve. However, the in-depth interviews with formally recruited migrant workers revealed that in addition to the costs of formal recruitment, minimally 15,000 Baht, they had frequently made considerable additional costs themselves. Four out of the five formally recruited migrant workers who were interviewed in-depth explained that the agent (from the recruitment agency) had told them to organise many of the forms required by the recruitment agency themselves. For this they had paid between 400,000 and 800,000 Kip to local, district and provincial authorities.³¹ These amounts were in none of the cases deducted from the fee charged by the recruitment agency.

It is a well-known amongst migrants that recruitment agencies are considerably more expensive than informal channels of migrations. The question that thus emerges is why migrants still opt for formal channels although they are hardly able to pay the fees. In-depth interviews with formally recruited migrants reveal that costs are not seen as an obstacle since recruitment agencies offered the opportunity to cover the costs of formal recruitment initially, which the migrant could then reimburse from the salary earned Thailand. Secondly, unlike informal recruiters, the formal recruiters provided a formal offer (contract) of a relatively highly salary for a guaranteed period. Hence, the steep initial fees do in this light not seem an unbeatable hurdle as the following illustrates:

³⁰ The fact that some formally recruited migrants claimed they had paid nothing to their recruiter and others only relatively small amount contrasts with claims from recruitment agencies explaining that fees are at least 15,000 Baht. This disparity may be explained by the way the respondents have understood the question. Since most formally recruited migrants are unable to pay their fees prior to departure they may have reasoned that they paid nothing to their recruiter (in a literal sense), or only a little.

³¹ At a current rate of 282 Lao Kip to 1 Thai Baht this equals 1,418-2,836 Baht.

The representative from the recruitment agency said that he was looking for workers for several sectors. He said that the salaries in construction were highest (7,200 Baht per month), so I signed up for construction. He also explained that I could pay back the recruitment fee (18,000 Baht) while working. Every month the employer would cut 1,800 Baht from my salary so that after 10 months I would have paid back the fees already.

(Excerpt from in-depth interview with formally recruited 24 year old man (marital status not known) from Champassak province. He worked for two months in construction)

Information obtained through the standard questionnaire indicates that 15 (out of 20) formally recruited migrants entered loans to finance their migratory project; whereas only 29 (out of 65) informally recruited migrants did so. Table 9 below shows the different sources of credit. In the case of formal recruitment it was most often the recruiter who provided credit, in case of informal recruitment money was mostly borrowed from family members.

Table 9: Source of loan obtained for migration

Borrowed from:	Formal (n=15)	Informal (n=29)
recruiter	9	7
family	5	11
moneylender	1	1
other		10
TOTAL	15	29

4.4 Formal recruitment: Pre-departure training

A further major difference between formal and informal recruitment is the fact that formally recruited workers receive, as stipulated by the Lao legislation, pre-departure training and orientation. Twelve out of twenty formally recruited migrants had undergone such training and/or orientation. Yet, only 2 said that based on their experience they would recommend such training to other workers while 8 responded with a firm ‘no’, and others refrained from answering. In-depth interviews reveal that pre-departure orientation and training consisted mainly of very broad and brief ‘orientation’ sessions, despite the great need for focused training as is illustrated below:

Before I went to Thailand the recruitment company called me for a training and orientation session. However, it was not about training, we were only told how to talk to our boss and how to talk to other workers. I have complained about this. The recruitment agencies should improve on this and provide training based on the jobs we have to do, and not just tell us how to communicate with other people in Thailand. At least there should be some basic training about the job we are going to do!

(Excerpt from in-depth interview with formally recruited male migrant worker (age 46; married) from Champassak Province who worked in construction)

4.5 From the Lao village to the Thai place of work

The interviews with seven recruitment agencies confirmed little uniformity in the way travel for the formally recruited migrant workers was organised. Some recruitment agencies explained that their representatives escort the migrants to the Lao-Thai border from where a Thai agent would take over and bring the Lao migrants to their destination in Thailand. Others took the Lao migrants all the way from their village to the place of migrant work, while again other recruitment agencies paid Thai agents to organise the entire trip, including the part in Thailand.

The in-depth interviews with formally recruited migrant workers confirm this variety in the way the journey from the Lao village to the Thai place of work is organised. The in-depth interviews further illustrate that outsourcing part of (or the entire) journey to Thai agents creates an ironic situation since migrants had opted for formal channels of migrations for, amongst other things, the greater levels of trust and reliability they attach to licensed recruitment agencies. Yet, in practice a pattern emerges in which a third and unknown Thai party is responsible for a major part of the journey which dilutes the very basis of trust and reliability.

The discontinuity created by outsourcing part of the journey to a third party creates a significant difference with the journeys travelled by informally recruited migrants. Although the migrant journeys from Laos to Thailand differed greatly between informally recruited migrants as well, here the channels of migration were of a much more continuous character. The in-depth interviews illustrate that some informally recruited migrants may travel by themselves, yet they often had telephone numbers of familiar contact persons (e.g. Lao relatives or friends) in Thailand. In other cases informally recruited migrants travelled the entire journey in the company of their recruiter, friends or relatives to a place of work in Thailand.

In spite of this, whether journeys were of a continuous or discontinuous character the concerned migrant was often not in a position to exercise much agency if things were not going according to plan:

My friend worked in Thailand already. He worked in a chicken processing factory. He told me that I could earn 8,000 Baht per month in this factory and that food and accommodation would be provided for by the employer.

When I travelled to Thailand, I crossed the border by myself and continued to travel by public transport in Thailand. From the border I followed a route my friend had explained to me earlier. When I arrived at the said address my friend paid for the journey (1,500 Baht). My friend then took me by car to the factory. He paid again for the journey (6,500 Baht). When we arrived at the factory my friend collected the 8,000 Baht he had spent on my journey from the employer and explained that this would be deducted from my salary over a period of four months (2,000 Baht per month). However, when my friend was gone I found out that he had not delivered me at a chicken processing factory but at a furniture factory where they made doorframes and window frames.

Since my friend had left me there and I did not know anyone else in Thailand and neither did I know the place I had no choice other than staying. I worked at the factory for one year in total. My salary was 5,000 Baht and was cut each month for the entire year by 2,000 Baht. Some months my salary was even cut with 3,000 Baht, and I had to pay for food myself. I missed my family and children a lot and my salary was not enough to save any money. So I decided to run away from the factory and return to Lao PDR.

(Excerpt from in-depth interview with 38 year old man (married; 3 children) from Champassak province who was recruited informally and worked in a furniture factory in Thailand for one year)

The recruitment company promised me a job in food-processing and promised that I would earn 7,000 Baht per month and 8,000 Baht if I worked overtime. The employer would take care of food and accommodation as well as health care costs. The recruitment agency told that I would work from Monday till Saturday from 8am till 5pm. This all sounded good and I migrated with seven other men from my village. The Lao recruitment agency brought us to the Thai border and on the other side we were met by a Thai agent who took us further. We arrived somewhere late at night, so the next day when we continued travelling we thought that the Thai agent would deliver us at the factory. Yet, he dropped us off at a construction site. Since the Thai agent had all our documents we could do little else than stay.

The Thai agents handed over our documents to the employer, who explained that he would cut 4,000 Baht each month from our salary leaving us with only 900 Baht per month. We also had to pay for mosquito nets, blankets and medicine ourselves. After two months working I fell ill. My friends were also tired of working so one evening I ran away with 5 friends (one decided to remain behind at the construction site). One decided to look for other work in Thailand, so we travelled with five people back to the Lao PDR.

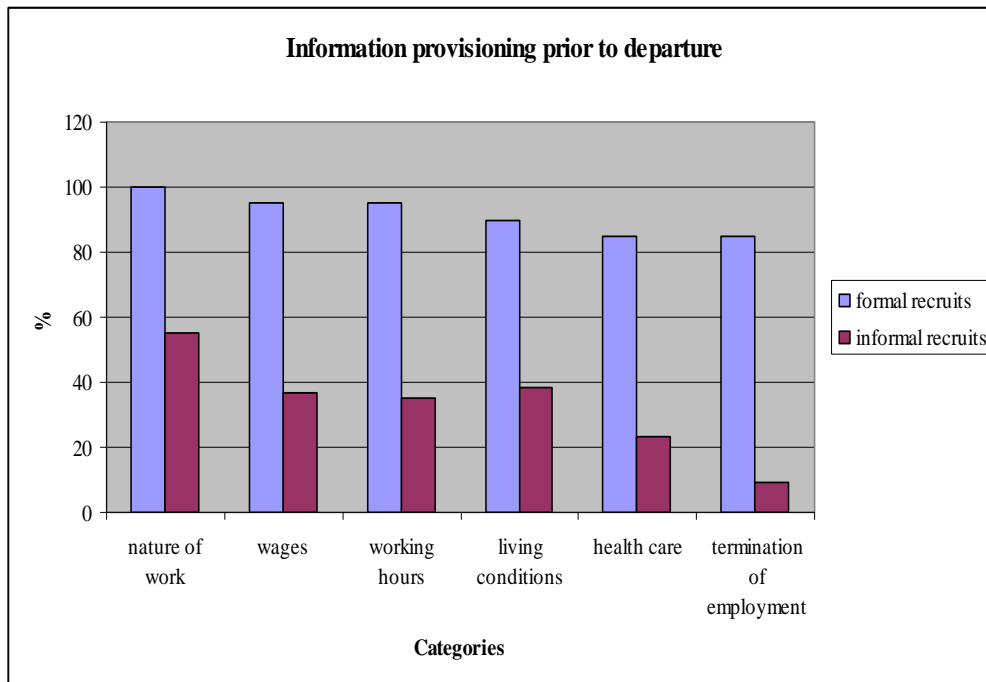
(Excerpt with formally recruited 45 year old married man (one child) from Champassak Province. He worked for two months in construction)

4.6 Upon arrival: Do the promises materialise?

The two excerpts above also illustrate that actual migratory situations can differ from the promises made to the migrants prior to departure. Among both the formally and informally recruited migrants the research team came across plenty of cases in which the actual migrant job differed dramatically from what the promises (or contracts) had suggested. However, when comparing differences between promises and actual experiences across the two types of migrants (formally and informally recruited), note must be taken of the fact that in general formally recruited migrant workers were provided with much more, and much more detailed information prior to departure than informally recruited migrants. This is visualised in Figure 1 below. The vast majority of the twenty formally recruited workers claimed to have received clear pre-departure information about the six areas listed below. This in contrast with the informally recruited migrants, amongst whom a considerable proportion claimed to have received, for

example, only limited or no information at all about a key dimension such as the nature of the job.

Figure 1



Ironically, the more and the more detailed information is provided prior to departure, the greater the scope will be for coming across aspects of the migratory experience that turn out different than promised.³² Hence, when both the formally recruited and informally recruited migrants were questioned on aspects of their migratory experience that were different than promised, all formally recruited migrants were able to comment while only some informally recruited migrants had received sufficient pre-departure information to actually pin down ways in which things were different than promised.

In fact, when it comes to informal recruitment it may not only be pre-departure information that is limited or lacking, the same may apply to knowledge about the actual terms and conditions of employment once working, as is illustrated below:

I got a job in a cake and cookie factory through my aunt's sister who was already working there. I worked from Monday to Saturday (Sundays off) from 8am till 5pm and I worked there for one year in total. Every month I got 2,500 Baht. This amount was fine and the job was also no problem for me. However, I don't know my actual salary. The employer said he cut something for accommodation [he

³² In addition, if more information is provided this also increases the chances of misunderstanding and misrepresentation of information. Deductions of salary may be an interesting case in point here. According to the MoU, employers should deduct money for a 'deportation fund' from the workers' salaries, yet, none of the returned formally recruited migrants referred to such funds in the interviews while complaints about arbitrary salary deductions featured frequently. Further research is needed to establish whether deductions for 'deportation fund' took place and if so, how such funds were subsequently managed.

stayed in a dorm with his relatives] but I don't know how much. Also, I think my employer gives part of my salary to the daughter of the younger sister of my mother. She has worked in Thailand for a long time already and she knows my boss well. So, I suspect she gets some of my salary.
(Excerpt from in-depth interview with informally recruited migrant worker from Savannakhet province who has worked for one year in a cookie and cake factory (he is a young unmarried man; exact age unknown))

Table 10 below shows the way in which formally recruited migrants' actual situation differed from the one that was promised.³³

Table 10: Ways in which reality differs from contract/promise

Category	Formal recruits (n=20)
nature of work	15
salary	16
working hours	14
overtime	6
rest-days	9
living conditions	15
risks and dangers	10
other	6

4.7 Once in Thailand: Reflections on freedom of movement

Apart from the working conditions, the research identified two other factors that affected the everyday lives of Lao migrant workers in Thailand.³⁴ First, many migrants complained about lack of freedom of movement related to a fear of arrest by the Thai police. Secondly, and in relation to this, migrant workers frequently complained that they could not change employer whilst in Thailand. Hence, they were often not in a position to change their situation much.

Both formally and informally recruited migrants complained about little freedom of movement. Only 3 out of the 20 formally recruited migrant workers claimed to have freedom of movement in Thailand. In this sense, the informally recruited migrants fared better. 49 Out of 65 informally recruited migrant workers claimed to have freedom of movement in Thailand.

³³ It should be re-emphasised here that all 20 formally recruited migrants returned home early, mainly due to negative experiences. Hence the complaints presented here may not be representative for all formally recruited migrants!

³⁴ A recent study funded by the Rockefeller Foundation on the quality of life of Lao migrant workers in Nongkhai Province and Muk Dahan Province in Thailand presents a far more detailed analysis of Lao migrants' qualitative experience of staying and working in Thailand (Kessarawan Nilvarangkul *et al.* 2006).

In cases in which freedom of movement was restricted, both formally recruited and informally recruited migrant workers claimed it was their employer who was responsible for this. Only 2 out of the 20 formally recruited migrant workers could keep their original ID documents whilst in Thailand; in 16 cases the ID documents were kept by the employer and in 2 other cases by another party. Again, informally recruited migrants seemed to fair better. Although only 19 informally recruited migrant workers claimed to have ID documents, they were much more likely to keep possession over the original documents whilst working in Thailand. Out of the 19 informally recruited migrant workers who were in possession of ID documents, 14 could keep the original copies with them whilst working and 5 had to give the original documents away (in 4 cases to their employer).

Being without ID documents significantly affected migrants' sense of freedom of movement negatively. This can be illustrated by the following excerpts from the in-depth interviews:

My employer kept my passport. When I wanted to leave the factory I had to ask my boss for a copy of my passport so that I could go out without too much fear of being arrested by the police.

(Excerpt from in-depth interview with twenty year old married woman from Champassak province who was recruited formally (together with her husband) and worked for six months in a pineapple can factory in Thailand)

I could not really go outside since I did not have any legal documents and was afraid that I would be arrested by the police. So when I wanted to go outside I had to inform my employer who would then send somebody to escort me in order to avoid being arrested.

(Excerpt from in-depth interview with 38 year old man (married; 3 children) from Champassak province who was recruited informally and worked in a furniture factory in Thailand for one year)

The disadvantage of migrating informally is a high risk of arrest by the Thai police because you don't have any documents [yet this never happened to her].

(Excerpt from in-depth interview with 30 year old woman (now married) from Savannakhet who was informally recruited and worked for nine years in a garment factory in Thailand)

Furthermore, since in most cases the documents of the formally recruited migrants were kept by their employers, they felt that they had little other choice than re-entering the Lao PDR illegally after they had run away from their Thai employer.³⁵ Hence, the formally recruited migrants had to return home through illegal channels out of fear of being arrested when crossing the official checkpoints without the proper documents.

³⁵ In this respect, a representative from the Immigration Department explains that people who are caught crossing the border illegally are fined 200,000 Kip and are kept in custody till they are collected by their relatives. If this does not happen within 15 days, a further 5,000 Kip is charged for every additional day to cover food expenses.

A considerable number of migrants felt that they could not change employer whilst in Thailand. Among the 20 formally recruited migrants 19 said that they could not change employer. Also, amongst the informally recruited migrants a considerable proportion (25 out of 65) claimed that they could not change of employer in Thailand. Here it is of particular importance to note how formal contracts can be used to delimit workers' ability to change employers:³⁶

My boss paid me only 600 Baht for each job, yet I found out that the firm charged 4,500 Baht for the job. I complained about this to my boss and I explained that 600 Baht was too little. My boss did not want to change my salary, and he told me that if I would run away he would keep my documents and call the police to get me arrested [the migrant worker ran away nevertheless].

He subsequently commented:

If you go with a recruitment agency you are stuck with your job till the end of your contract. Had I gone informally I would at least have been able to choose my own work and change it if it had turned out to be a bad job.

(Excerpt from in-depth interview with formally recruited male migrant worker (age 46; married) from Champassak Province who worked in construction)

However, even in cases in which Lao migrant workers were able to change employers this of course did not necessarily guarantee an improvement of the actual situation as the excerpt below illustrates:

The broker said we could earn 5,000 Baht per person working on a plantation in Thailand. This would be 10,000 for the two of us, and the employer would only cut our salary for the first month [3,500 Baht each]. Yet, in reality our total first month salary was cut. We decided to work for one more month to get at least some money for travelling. Next, we went to relatives who were already working in Bangkok, since we thought they would not be cheating on us.

In Bangkok we worked for three months in a restaurant together with our relatives. We cleaned dishes from early morning till late at night but we never received any salary. My husband then found work in a garage spray-painting cars, and I could work there as a cleaner. Here we worked for one month and again received no money. Our boss told us that he had spent all our salary already on our food and accommodation.

By now we were fed up and wanted to return to the Lao PDR. So we asked our boss for money for travelling. He gave us 500 Baht each for the journey.

(Excerpt from in-depth interview with 30 year old married woman (2 children) from Champassak Province who was informally recruited, together with her husband, to work at a rubber plantation. She subsequently worked in a restaurant and garage)

³⁶ In addition, some formally recruited migrants explained that were unaware of the actual content of the contracts since they had to sign them in a very rushed manner in the final minutes prior to departure to Thailand.

4.8 Post-migration: Returning home and looking ahead

All migrants interviewed for this study are returned migrants. Hence, all migrants had for some reason decided to stop working in Thailand and return to the Lao PDR. Hence, all returned migrants were able to reflect on their migratory experience, and based on this, frequently expressed interesting ideas with regard to possible future migratory projects. This sub-section analyses migrants' reflections on their migratory experience and how this translates into ideas about possible re-migration.

Overall, most formally recruited migrants found the entire process of obtaining migrant work in Thailand rather difficult and complicated (12 out of 20). In contrast, only 25 out of 65 informally recruited migrant workers shared this opinion. In addition, formally recruited migrants were in general much more dissatisfied with the services provided by the recruitment agencies, than the informally recruited migrants with their informal recruiters. Seventeen (out of 20) formally recruited migrants were dissatisfied with the services provided, whilst only 14 (out of 65) informally recruited migrants were dissatisfied with the services provided by their informal recruiter.

Moreover, the few formally recruited early returnees that nevertheless expressed satisfaction with their recruitment agency were not necessarily fully satisfied as is illustrated below:

I was sent to work in a rubber factory in Songkhla, although the recruitment agency had promised work in a food-processing factory. Work in the rubber factory was very hard and bad for my health. Although I used plastic gloves my fingers got affected by the chemical solution I was working with. My fingers got very painful, and the other workers experienced the same problem. We then complained to our employer, who reported it to the recruitment agency. The recruitment agency collected us and sent us back to the Lao PDR. Back home we received medical treatment and the recruitment agency has promised to find new work in Thailand. So I think that going with a recruitment agency is good since it brings safety. I think that had I gone illegally there may have been nobody to take me back home in case I had faced a problem like this. So even if I could earn more money going illegally I would still take a recruitment agency. It is safer!
(Excerpt from in-depth interview with 22 year old single woman from Savannakhet province who was recruited formally and worked in a rubber factory for two months)

Given the high level of dissatisfaction among formally recruited migrant workers it is surprising to see that still 7 formally recruited migrants claim that they will again use recruitment agencies for future migrations as is illustrated by Table 11 below. This paradox can possibly be explained by the fact that many formally recruited migrants expressed in the in-depth interviews that they felt that they must use the service of recruitment agencies again since they had not yet completed their two year contract and were thus still indebted to their recruitment agency.³⁷ This in fact, constituted a major

³⁷ Apparently there is also a practice of fining migrants who have returned before the end of their contract. The Trade Union representative who was interviewed explained to have received several complaints from

point of dissatisfaction among returned formally recruited migrant workers. Frequently formally recruited early returnees were re-approached by the recruitment agencies and told to be ready for a next trip. Yet, at the same time these subsequent trips did not materialise resulting in a situation in which returned formally recruited migrants felt that they could do little else than wait.³⁸

Table 11: Preferred channel of future migration

	Formal (n=20)	%	Informal (n=65)	%
recruitment agency	7	35	18	27.7
informal recruiter	0	0	3	4.6
independently	7	35	26	40.0
does not migrate again	2	10	9	13.8
no answer	4	20	9	13.8

It is further worth noting that a considerable proportion of both formally and informally recruited migrants would not use any recruiter for future migratory projects. Based on their current experience they feel comfortable that in the future they can do without any interference of recruiters, whether formal or informal:

*Since I returned early, the recruitment company urges me to migrate again. Yet, if the recruitment companies remain what they are now I would rather go by myself; that's much better. Especially, since it is very easy these days. We just make a passport and go and look for work. Once in Thailand you can do the registration and get a card, just like all the other people [referring to informal migrants].
(Excerpt from in-depth interview with twenty year old married woman from Champassak province who was recruited formally (together with her husband) and worked for six months in a pineapple can factory in Thailand)*

*A next time I would go to Thailand by myself. Since, now I know of many places where I can find work.
(Excerpt from in-depth interview with informally recruited migrant worker from Savannakhet province who has worked for one year in a cookie and cake factory (he is a young unmarried man; exact age unknown))*

For another group of migrants, there would simply not be another time. For some it was disillusionment with migration, others had found alternative employment in the Lao PDR, while again others had simply closed the chapter of migration successfully and continued with a more settled life.

early returned formally recruited migrant workers. According to him, recruitment agencies often imposed a fine of 4,000 to 5,000 Baht for early return. Further, indebtedness can be explained by the fact that Thai employers pay (according to the recruitment agencies interviewed) the full fee of recruitment to the Lao recruitment agency prior to sending the Lao workers to Thailand.

³⁸ From 5th January 2007 till 8th August 2007 (and thus at the time of interviewing) a ban was imposed on sending of Lao workers abroad by recruitment agencies (2007). However, none of the early returned formally recruited migrants showed awareness of this when complaining about the fact that they were waiting for re-migration.

*Now I work as a day-labourer doing agricultural work in the village. I don't want to work in Thailand again; I have seen that even my friends can cheat on me.
(Excerpt from in-depth interview with 38 year old man (married; 3 children) from Champassak province who was recruited informally and worked in a furniture factory in Thailand for one year)*

*I now work on a rubber plantation in Champassak and I earn 900,000 Kip per month. Also, my wife has started raising poultry and pigs. With this money my life has improved so I don't need to go to Thailand again. Also, I would not believe any story about Thailand again.
(Excerpt with formally recruited 45 year old married man (one child) from Champassak Province. He has worked for two months in construction)*

*I worked from 1997-2006 in a garment factory in Thailand. Every year for 'phi mai' [Lao New Year] I visited my village and gave money to my parents. They have now built a new house and bought rice-land. In addition, I have saved more than 100,000 Baht. When I returned last time I got married and got a baby. I am now planning to build my own house from the money I have saved and start a small shop in my village.
(Excerpt form in-depth interview with 30 year old woman (now married) from Savannakhet who was informally recruited and worked for nine years in a garment factory in Thailand)*

Chapter 5

Conclusion and Recommendations

This Chapter draws some final conclusions and policy recommendations based on the analysis of the research as presented in the previous Chapters. Conclusions and policy recommendations must be read with appreciation of the limitations presented in Chapter 2, and are limited to the research objectives presented in Chapter 1.

5.1 General conclusion

The research presented in this report has had to deal with many of the constraints inherent to research on social phenomena that border on or fall into the sphere of illegitimacy. One such a constraint is lack of reliable quantitative data. Nevertheless, the findings of the research suggest that at present the vast majority of Lao migrant workers in Thailand have found employment in Thailand through a wide-range of informal channels.

Recent figures from the Lao MoLSW state that a total number of 7,521 Lao migrant workers have since 1st January 2006 migrated through one of the nine licensed recruitment agencies that are currently operating in the Lao PDR.³⁹ Reasons for favouring recruitment agencies over alternative forms of migration include a greater level of trust and reliability attached to migration through formal channels as opposed to informal channels. Also, the legal status of labour migration obtained through recruitment agencies as well as promises of social security contributed to the attractiveness of recruitment agencies over informal channels of migration. Informal channels of labour migration to Thailand were favoured in terms of speed and costs over the formal recruitment agencies. The latter perceptions are substantiated by research findings, while empirical support for the perceived advantages of recruitment agencies is at best ambiguous.

Due to the methodological limitations outlined in Chapter 2, the research cannot conclude in any absolute terms whether or not migrants receive better protection through formal channels and whether or not recruitment agents provide a best outcome in cross-border contexts. However, despite the skewed sample that only included formally recruited migrants who had returned early due to dissatisfaction, the research can conclude that formal recruitment through recruitment agencies does certainly not guarantee an absence of exploitation, deception and mistreatment at any stage in the process of labour migration from the Lao PDR to Thailand. Or, according to an early returned formally recruited migrant worker:

Whether you go illegally or legally, in the end it's the same. You're cheated!
(Excerpt from in-depth interview with twenty year old married woman from Champassak province who was recruited formally (together with her husband) and worked for six months in a pineapple can factory in Thailand)

³⁹ In this report three different figures are stated on the number of migrants that have migrated through recruitment companies. On each occasion the source of the figure is indicated, and the differences are most likely caused by differences in timeframe of measurement. However, the bottom line is that despite variation in figures, only a small fraction of the total number of migrants go through formal channels.

Furthermore, a focus on early returned, formally recruited migrant workers illustrated that, like informal recruitment, formal recruitment can lead to a situation of indebtedness to the recruiter. This is exacerbated by the fact that fees for formal recruitment generally far exceed the price of informal recruitment services. Moreover, in case of formal recruitment this is put in black on white in a contract, leaving indebted early returnees with little other choice than remigration.

5.2 Policy recommendations

This section presents a series of policy recommendations based on the research findings presented in this report. The recommendations are divided in two categories. First a series of recommendations to improve formal recruitment of Lao workers based on the current regulatory framework. Secondly, some recommendations are presented that highlight the blind spots and limitations of the current regulatory framework.

5.2.1 Improving current practice

Chapter 3 has illustrated that the functioning of Lao recruitment agencies is heavily tied into high-level diplomatic relations. Current Lao-Thai diplomatic relations have improved significantly since the 1987 border dispute. However, it must be appreciated that present-day official Thai-Lao relations have evolved out of arbitrary colonial impositions and, more recently, dramatically different political systems (Evans 1999: 17-23; Supalak Ganjanakhundee 2007). Hence, despite the everyday similarities between many localities in present-day Lao PDR and Thailand official Thai-Lao relations have remained somewhat sensitive (see e.g. Supalak Ganjanakhundee 2007). In this respect the very existence of State licensed recruitment agencies and the MoU on Employment Cooperation are already remarkable achievements. Against this background and with hardly two years of practice the observed shortcomings and errors cannot come as a surprise and the nine recruitment agencies must for the time being be given the benefit of doubt.

The Lao MoLSW has already recognised many of the problems concerning formal recruitment of Lao migrant workers to Thailand. This research fully subscribes to and underscores the important policy guidelines issued in 3011/MoLSW (2007). This research supports in particular the following guidelines:

- Greater visibility and accountability of recruitment agencies at district and provincial levels in order to reduce the current lack of clarity between agents affiliated with recruitment agency and informal brokers.
- Inclusion of relevant and sufficient professional training as part of pre-departure orientation sessions.
- Ensuring that workers have not just signed contracts but are also familiar with the content. In very practical terms this would mean that migrant workers are given sufficient time to read and study the contract, e.g. by allowing the migrants to take the contracts home before signing them.

- Lowering of the fees charged for formal recruitment services. The proposed 5% of salary is a considerable improvement compared with the previous 15%.
- Implementation of effective monitoring systems of Lao migrants in Thailand. This may include creating a permanent position(s) at the Lao Embassy in Thailand concerned with Lao migrant workers in Thailand as was suggested by one of the government officials interviewed.

In addition, the research would suggest looking into the following policy related areas:

- Shortening the lengthy timeframe between application for labour migration and actual migration. During the workshop at which the initial findings of the Lao research were presented several useful and practical suggestions were made. Many of the official routines in the process of formal recruitment are currently Vientiane based (passport interviews and issuance, health checks, etc) and are spread out over time. Time and costs will be reduced if part of, or the entire, process could be carried out at provincial or district level, possibly in the form of ‘one-stop’ services, thus involving effective collaboration of several authorities.
- The direct and indirect costs of passports in the Lao PDR are relatively high, particularly if this is set off against average incomes in the Lao PDR (McKenzie 2007). Officials from the Lao MoFA explained at the presentation of the draft report that the direct costs of passports are largely externally defined, and are thus beyond the control of the Lao government. This is because the cost of printing passports has gone up significantly over recent years in order to meet renewed security standards put in place post-9/11. In this light, subsidies (possibly of an international nature) on passports seem justified in order to avoid migrant workers who wish to migrate through formal channels bearing the cost of international concerns over security and terrorism.
- Addressing the issue of ‘debt’ following early return. Currently, Thai employers pay the full fees for Lao migrant workers to the Lao recruitment agencies prior to migration on the understanding that the concerned migrant worker will perform the duties outlined in the contract for the full duration of the contract. In case of early return, the Thai employer claims back (part of) the fees paid to the Lao recruitment agency. The Lao recruitment agency subsequently puts pressure on the concerned migrant worker to pay the recruitment fees, thus creating a situation of indebtedness. If the Thai employer would instead of paying up-front, pay for the services of the Lao recruitment company on a monthly basis, the circle of indebtedness would not run as it currently does.
- Clarification on ‘repatriation fund’. The MoU on Employment Cooperation stipulates the creation of a repatriation, or savings fund. The Lao policy documents studied for this research do however not make any further mention of this, nor did the issue emerge in interviews with migrants or recruitment agencies. It needs to be established whether migrant who use formal recruitment services have paid into these funds, and if so, how the funds are managed and accessed by migrants once returned.
- Lastly, legal documents addressing labour migration from the Lao PDR to Thailand are all written in the Lao language and seldom translated, and if so,

hardly ever officially by legal specialists. In case international agencies wish to gain a greater understanding of recruitment practices a useful first step would be to work on official translation of legal documents.

5.2.2 Blind spots and limitations in current regulatory framework

Apart from recommendations to improve current practice of formal labour recruitment, the research has also identified some limitations imposed by the regulatory framework governing formal recruitment of Lao migrant workers. Based on the research presented in the preceding Chapters, we would like to highlight two areas that need further attention and consideration.

In the first place, the limitations imposed by 3824/MoLSW (2002) on the recruitment of Lao workers for migrant work in foreign countries, and discussed in Chapter 3, stand in contrast with actual demand and supply. A recent World Bank study on labour migration in the Greater Mekong Sub-region observes:

Access to cheap labor is important for labor-intensive industries in Thailand to remain competitive, and with the diminishing appeal of the ‘dirty, difficult, and dangerous’ jobs to Thai workers, Thai industries continue to need and attract workers from Lao PDR, Cambodia and Myanmar (World Bank 2006: 14).

A similar logic applies to non-industrial work, such as work in the service sector and domestic work. However, it are precisely these types of occupations that are enlisted as ‘unskilled labour’ in 3824/MoLSW and are thus excluded from recruitment through formal channels. To illustrate this point further, and as shown in Table 1 in Chapter 1, nearly a third of all Lao migrant workers who obtained a work permit following the Thai 2004 round of registration worked in domestic service provisioning in Thailand. Excluding domestic workers and cleaners from formal channels of recruitment means leaving unaddressed what seems to be the biggest single sector in which Lao migrants find employment in Thailand.⁴⁰

In addition, targeting the more skilled workers for recruitment abroad creates a peculiar situation in which the Lao government on the one hand stimulates the development of industries and manufacturing in the Lao PDR as exemplified for example by the creation of Special Zones such as the one in Seno (Savannakhet Province). Yet, at the same time the emerging industries and factories in the Lao PDR find it very hard to retain their workers when having to compete with apparently higher salaries offered in neighbouring countries (Ekaphone Phouthonesy 2007).

Secondly, Prime Minister’s Decree No. 68 stipulates in Article 3 that Lao migrant workers shall at least be 18 years of age. However, one of the few statistically representative studies on labour migration conducted in the Lao PDR shows that over 20% of the migrating population are below 18 years of age. Moreover, it shows significant gender differences in this regard. Amongst the male migrant population 16%

⁴⁰ This concern is also expressed in a recent UNIFEM study on ‘Gender concerns in migration in Lao PDR’, that is referred to earlier (Inthasone Phetsiriseng 2007).

is younger than 18 years of age against 25% among the female migrants (MoLSW and ILO-IPEC/TICW 2003).

This situation is not unique to the Lao PDR. De Haan (2006: 4) for example observes in his review of migration in the Development Studies literature that ‘labour migration is usually by young able-bodied people’. The trouble for technocratic policy makers is that some of these ‘young able-bodied people’ are according to their biological age classified as children and others as adults. Hence, despite a reality in which labour migration is clearly situated in the grey area between childhood and adulthood, policy responses differ dramatically between what are in United Nation’s terminology considered ‘children’ and ‘adults’ (Huijsmans 2008).⁴¹ In effect this means that for a significant proportion of Lao migrants formal channels of migration do simply not exist. This is particularly problematic since there is good reason to believe that due to their, in general terms, socially subordinate position young migrant workers (and particularly young girls) may be particularly vulnerable to exploitation.

On the basis of research conducted elsewhere it is argued that the currently dominant ‘human trafficking approach’ in relation to child-age migration creates a situation which tends to increase rather than decrease the real risks of migrating independently at a young age (Busza *et al.* 2004). Furthermore, a recent DfID background paper on children and migration concludes that the success of anti-trafficking advocacy on the one hand (and the consequent availability of ‘anti-trafficking funding, and media attention it receives) and a series of international conventions and protocols on the other hand has produced a very narrow policy space to address child-age migration as anything else than human trafficking (Whitehead and Hashim 2005: 4 and 46). Given the relatively large share of child-age migrants from the Lao PDR this is however an area that needs further attention.

⁴¹ The vast majority of the migrants are aged 15-25. Further, it must be noted that both Thailand and the Lao PDR have by ratifying the United Nations Convention on the Rights of the Child subscribed to this terminology. Yet, as is often the case, legal realities do not necessarily correspond with social reality.

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Annex 1: Standard questionnaire migrant workers

ILO Research

“Migrant recruitment from Cambodia and Lao PDR into Thailand”

C. Interview of informal recruiters

Informed consent

Hello, my name is I am an interviewer for a ILO research project examining the recruitment of workers to Thailand. We want to understand how migrants travel to Thailand and if there are any ways to improve their safety and working conditions when they arrive there.

We have a number of questions to ask you. Please be assured that your responses will be kept strictly confidential. We do NOT need your name. The information that you give will be used solely for the purpose of this study. The interview will take approximately 30 minutes and we will note down your responses.

You can choose whether you would like to participate in the survey. If you do not want to answer a question, you can choose not to. In addition you can end the interview at any point. We would like to encourage you to participate and assist us by providing honest responses to the questions. Your views are very important. If you have any further queries about the survey please let me know.

May I start the interview now? **Proceed/Stop**

Name of interviewee (optional):	Date of interview:
Place of interview:	Name of interviewer:

1. Do you recruit migrant workers from Cambodia and/or Lao PDR to work in Thailand in any of the following sectors i.e. do you provide a service to help migrants find a job in Thailand in any of these three sectors (Tick all that apply)
 - a) Construction
 - b) food processing
 - c) manufacturing

<If tick a) b) and/or c) then – continue
If no, end interview>

2. Gender male/female
3. Age
4. Nationality

5. Where do you recruit? (Village, commune, district, province, Thai-Cambodia border, Thai-Laos border)
6. How long have you been recruiting migrant workers?
7. How many migrants do you usually recruit each time?
 - a) 1-10 workers
 - b) 10-20 workers
 - c) 20 or more
 - d) It changes each time
8. How do you recruit migrant workers?
 - a) I contact people related to me (relatives) to migrate for work
 - b) I contact acquaintances of mine e.g. from same village, or through my family/friends to migrate for work
 - c) Migrants contact me directly for service
 - d) I go to places where migrants get together
 - e) Newspaper/Radio/TV ads (mass media)
 - f) Notices
 - g) Others. (specify)
9. Does anyone help you to recruit migrants? Yes/No
10. If yes, who?
 - a) Village chief/commune leaders (local authorities)
 - b) Local police
 - c) Family of migrants
 - d) Friends (of recruiter)
 - e) Returned migrants
 - f) Migrants I have recruited before who are currently working in Thailand
 - g) Well-known figure in the village (eg. doctor, midwife, spiritual guru, community leader)
 - h) Others (Specify)
11. Describe the procedures to recruit and send workers to Thailand.
12. What type of assistance do you provide to migrants you recruit to Thailand? Please provide details on each of the following.
 - a) Job placement
 - b) Making of travel and/or ID documents
 - c) Information on job, working and living conditions in Thailand
 - d) Free or cheap accommodation at destination
 - e) Follow up or support at destination
 - f) Access to complaints mechanism (if problem at destination)
 - g) Sending money home - Facilitation of remittances
 - h) Safe travel across border and to destination
 - i) Contact with family/friends at home
 - j) Others (specify)
13. How much does each migrant usually pay you for your services?
 - a) Nothing

- b)THB
14. Do you provide loans to migrants who want to migrate to Thailand but cannot pay you up-front? Yes/No
15. If yes, what are the repayment methods?
- a) Full deduction of salary formonths
 - b) Partial deduction salary formonths (state percentage of salary: %)
 - c) Lump sum
 - d) Depends on the migrant
 - e) Others (specify)
16. Does anyone else pay you for each recruited worker you organize?
- a) Yes
 - b) No
 - c) Sometimes
17. If yes, how much do they usually pay you?
- a)USD/baht
 - b) Nothing
18. If yes to 16, who usually pays you? (List –tick all that apply)
- a) Employer
 - b) Recruiter in Thailand
 - c) Recruiter in Cambodia/Lao PDR
 - d) Police
19. For migrants you recruit into the following sectors, how much does a migrant on average earn per month in each of the following sectors?
- ConstructionTHB/ NA
 - ManufacturingTHB/ NA
 - Food processingTHB/ NA
20. If you assist migrants in remitting money home, how do you do it?
21. How much do you charge for facilitating remittances?
- a)THB
 - b) Nothing
22. Do you follow up with workers after sending them to Thailand? How? Please provide details.
23. What kind of assistance do you provide to the worker in the event of a dispute with employer? Please provide details.
24. How can workers lodge a complaint, if any? Please provide details.
25. From the point when the migrant agrees to go and work in Thailand, how long does it take before migrant can begin work in Thailand?.....days/weeks/months?
26. *For Cambodia and Laos:* Before leaving for Thailand, do you provide clear and adequate information on what to expect? (Yes/No to each item on List)
- a) Nature of work

- b) Wages
- c) Number of working hours
- d) Overtime pay
- e) Living conditions
- f) Rest days
- g) Healthcare services
- h) Termination of employment
- i) Dispute settlement procedures

For Thailand: Before the migrant worker obtains a job in Thailand, do you provide clear and adequate information on what to expect? (Yes/No to each item on List)

- a) Nature of work
- b) Wages
- c) Number of working hours
- d) Overtime pay
- e) Living conditions
- f) Rest days
- g) Healthcare services
- h) Termination of employment
- i) Dispute settlement procedures

27. What are some of the problems and challenges you face in your work?

28. How do you overcome them?

Annex 2: Research guidelines for in-depth interviews with migrant workers

(Formal and Informal migrants)

1. Background of migrants: Name, sex, age, education level, job before moving and job in Thailand, address in Laos, family condition (Poor, middle, wealthy....) and parents occupation, family member,
2. What are the reasons of moving to work in Thailand (Decision of migrating)
3. Please tell me about the process of moving (How do you go? With friends, villagers, Thai/Lao brokers, recruitment company....)
4. Company/Broker/helper (include relatives, friends, villagers...) charge for document service/ for transportation cross-border to Thailand/ for taking you to work or/ for seeking job for you. How do they communicate/relate with you after sending to work in Thailand
5. **Are you satisfy with company service** (Brokers/friends/villagers or helpers working in Thailand) and working in Thailand?
6. **Living in Thailand:**
Have you ever been arrested, detained and deported to Laos during the time of living in Thailand? If yes how ?
Does employer provide you accommodation, clothes or need material for living? Or help you to send money back home?
Do you have right to go outside/some where or to visit country?
7. **Working situation:**
Working hours, OT works (Salary, bonus...)
relationship with the employers
social welfare when you are sick
8. **Outcome of moving to work in Thailand**
Advantage and disadvantage (Is your family condition improved or not?)
Remittance
9. **Are you planning to work in Thailand again?** And what way you will choose?

Annex 3: Questionnaire for recruitment agencies

ILO Research

“Migrant recruitment from Cambodia and Lao PDR into Thailand”

D. Interview of recruitment agencies

Name of company:	Date of interview:
Address:	Name of interviewer:

1. Services and fees

29. Do you recruit migrant workers from Cambodia and/or Lao PDR to work in Thailand in any of the following sectors (i.e. do you provide a service to help migrants find a job in Thailand in any of these three sectors)? (Tick all that apply)

- a) Construction
- b) food processing
- c) manufacturing

<If none ticked = end interview>

1.1 Which other countries is your agency licensed to recruit and send workers to? List all (countries may be different for Cambodia and Laos)

1.2 In which provinces do you recruit?

1.3 What is your quota for sending workers to Thailand?people.....sector

1.4 How many workers have you sent to Thailand so far? Which sectors? Give specific details for

- a) Construction
- b) Food processing
- c) Manufacturing
- d) Total for all sectors (I.E. MORE THAN THE THREE ABOVE)

1.5 Please describe the procedures to recruit and send workers to Thailand. (Provide details for each of the following procedure.)

- a) Demand from receiving country
- b) Bidding with MOLVT or MOLSW
- c) Obtain approval
- d) Advertise for applicants
- e) Selection and processing of legal documents
- f) Pre-departure training
- g) Signing of contracts
- h) Transporting migrants

i) Monitoring

1.6 From the point when the migrant agrees to go and work in Thailand, how long does it usually take before migrant can begin work in Thailand?.....days/weeks/months?

1.7 What services do you provide? (List the options and ask interviewee for details.)

- a) Job placement
- b) Making of travel and/or ID documents
- c) Pre-departure training
- d) Information on working and living conditions
- e) Free or cheap accommodation at destination
- f) Formal contracts
- g) Medical checkups
- h) Follow up or support at destination
- i) Access to complaints mechanism (if problem at destination)
- j) Creation of bank accounts and/or facilitation in remittances
- k) Safe travel across the border and to destination
- l) Others (specify)

1.8 How much does the migrant pay to you to go and work in Thailand?
.....USD

1.9 How much is the service fee charged by your agency?.....USD or
.....% of salary for months

1.10 How do you arrive at this figure? (Prompt below and tick all that apply?)

- a) Services offered
- b) Wages offered by employer
- c) Nature of work and location
- d) Domestic legal limits
- e) Regulations in receiving country
- f) Profit margin
- g) Employment status of worker

1.11 What are the payment methods like? Please provide details on the following:

- a) Advance payment
- b) Loans conditions
- c) Salary deductions
- d) Duration
- e) Penalties

1.12 How much do you charge to the employer per worker?USD

1.13 On average, what is your profit margin per migrant worker?
.....USD

1.14 For migrants you recruit into the following sectors, how much does a migrant on average earn per month in each of the following sectors?

ConstructionTHB/ NA
ManufacturingTHB/ NA

Food processingTHB/ NA

2. Recruitment and information

2.1 How do you recruit workers? (tick all that apply)

- a) Job advertisements in newspaper/radio/TV (mass media)
- b) Notices
- c) Independent brokers
- d) Direct solicitation by staff going to village
- e) Migrants walk-in to agency offices
- f) Others (specify)

2.2 What information do you provide to migrants during recruitment?

2.3 Before the worker goes to Thailand, do you provide clear and adequate information on what to expect?

- a) Nature of work
- b) Wages
- c) Number of working hours
- d) Overtime pay
- e) Living conditions
- f) Rest days
- g) Healthcare services
- h) Termination of employment
- i) Dispute settlement procedures

2.4 Before the migrant signs the contract, do you explain the terms and conditions of the contract clearly to the worker? How do you ensure that the worker understands?

2.5 Do you provide pre-departure training / orientation to worker?

- a) If yes, how long is it?
- b) What are the topics covered?

2.6 Do you follow up with workers after sending them to Thailand? How? Please provide details.

2.7 What kind of assistance do you provide to the worker in the event of a dispute with employer? Please provide details.

2.8 How can workers lodge a complaint, if any? Please provide details.

3. Comparison of formal and informal channels

3.1 Tell me more about the independent brokers you work with.

- a) Who are they?
- b) How do you recruit them?

- c) How much are their commission fees?
- d) Do they receive any payment from the workers?
- e) Do you train them?
- f) How do you ensure they do not lie, cheat or coerce the workers?

3.2 Compared with the informal channels, are the formal recruitment channels known widely and easily accessible to everyone?

3.3 Why do people prefer to migrate irregularly? List 3 main reasons.

- a) Cheaper
- b) Faster
- c) Simpler (no paperwork, health exams, training etc)
- d) Recruited by family/neighbours/friends
- e) Cross-border into Thailand
- f) Not aware of formal migration channels
- g) Not convinced of benefits from regular migration
- h) Bad impressions of recruitment agencies
- i) Bad impression of authorities
- j) Had prior experience
- k) Others (specify)

3.4 What are your biggest challenges /problems in recruiting and sending workers overseas? List main 3.

- a) Obtaining visa and work permit
- b) Signing employment contract
- c) Coordinating process with employer
- d) Coordinating process with MOL and immigration
- e) Coordinating process with Thai authorities
- f) Workers breaking contracts
- g) Bad media coverage
- h) Not enough workers willing to go to Thailand
- i) Slow bureaucratic process
- j) Others

3.5 Compared with informal recruiters, how much of the Cambodian/Lao labour market is captured by licensed recruitment agencies in the recruiting and sending of workers to Thailand?

4. Legal and policy framework

4.1 What do you think of the current regulatory framework on recruitment to other countries?

- a) Overly regulated
- b) Loosely regulated
- c) Reflects market conditions
- d) Does not reflect market conditions
- e) Promotes growth of recruitment business
- f) Discourages business
- g) Full of ambiguities and subject to change
- h) Government does not have a clear policy/plan

i) Others (specify)

4.2 What do you think of the current licensing policy?

- a) Liberal
- b) Restrictive
- c) Fair

4.3 Which aspects are you dissatisfied with? Please provide details.

- a) Size of industry
- b) Requirements for license
- c) Deposit fund
- d) Paperwork
- e) Processing time
- f) Capacity and support
- g) Others (specify)

Annex 4: Research guidelines for interviewing government officials

Cambodia / Laos / Thailand
Government officials

Question guidelines

Date of interview.....Place of interview

Name of interviewee Name of interviewer

A. For Cambodian / Laos Ministry of Labour

1. In the case of Cambodia, why was the MOU implemented only in September 2006 even though it was signed in 2003? What caused the delay?
2. Do you disseminate information regarding to MOU?
 - a. Through what means
 - b. Who is your target audience?
3. Are there any provisions in the MOU that are not practical to the present situation? How should the MOU be revised?
4. Does the MOU provide adequate protection for migrant workers? If not, what else is needed?
5. In the case of Cambodia, why was the number of agencies reduced from 42 to 13 after the implementation of MOU?
6. Do you think there should be any restriction on the number of licensed recruiting agencies? Why?
7. Do you consider the existing number of licensed recruiting agencies enough for the demand of workers abroad?
8. *Please make this question more specific based on your analysis of the regulations in the specific country:* Have you set up any rules and regulations for the licensed recruiting agencies?
 - a. If yes, what rules and regulations, give details and procedure?
 - b. How do these rules and regulations protect migrant workers?
 - c. Are those rules and regulation set up according to the MOU?
 - d. If no, who did and what rules and regulations?
9. What licensing requirements do recruitment agencies have to meet?
 - a. How do you ensure the professional and ethical standards of the recruiting agencies?
10. Do you place a cap on the recruitment fees that agencies can charge?
 - a. If yes, what is it, and what are the reasons to determine the fees?
 - b. If no, why?

11. How do you monitor the activities of recruiting agencies?
12. Have there been any complaints against any recruiting agencies?
 - a. What are they and what was the resolution?
 - b. How many complaints have been made?
13. If the recruiting agencies were proven to engage to malpractices or violate the terms of agreement with the MOL, what are the penalties?
 - a. How many agencies have actually been penalized so far?
14. Do you consider any steps of the procedure of sending migrants to work in Thailand under the MOU not practical or problematic, and what should be the solution?
15. Do you (MOL) follow migrants' condition to ensure it's the same as stated in the contract? How?
16. Does the MOL have any mechanism to receive migrants' complaints if they face problems?
 - a. How?
 - b. If not, is there any plan to set up, how?
17. Why are there so many migrants going to Thailand through informal channels? Why don't they consider the legal channels?
18. Do you think the implementation of the MOU will reduce the number of irregular migrant workers to Thailand? Why?
19. What are the problems and obstacles that you have come across in sending migrant workers to Thailand under the MOU? What should be the solutions?
20. What are the benefits of sending legal migrants (through the MOU) compared to illegal ones, for the sending government?
 - a. What are the benefits for the migrants?

Cambodia / Laos / Thailand

Immigration / Ministry of Interior

1. What are the roles and responsibilities of immigration office regarding to the recruitment of migrant workers?
2. What are the relevant laws regarding recruitment and who is usually penalized e.g. how many illegal recruiters charged with offences?
 - a. How many illegal workers charged with offences?
 - b. Illegal employers?
 - c. What are the penalties?
3. How do you cooperate with the provincial labour officers?
4. What are the main problems faced in recruiting workers to work abroad and how can these be solved?