

Research paper

Labor Migration in Cambodia

Research by : **Ms. Has Khuneary and Ms. Tan Sokunkolyan**

March 2016

Parliamentary Institute of Cambodia



Notice of Disclaimer

The Parliamentary Institute of Cambodia (PIC) is an independent parliamentary support institution for the Cambodian Parliament which, upon request of the parliamentarians and the parliamentary commissions, offers a wide range of research publications on current and emerging key issues, legislation and major public policy topics. These publications provide information on subjects that are relevant to parliamentary and constituency work but do not purport to represent or reflect the views of the Parliamentary Institute of Cambodia, the Parliament of Cambodia, or of any of its members.

The contents of these publications, current at the date of publication, are for reference purposes only. These publications are not designed to provide legal or policy advice, and do not necessarily deal with every important topic or aspect of the issues it considers.

The contents of this research are covered by applicable Cambodian laws and international copyright agreements. Permission to reproduce in whole or in part or otherwise use the content on this research may be sought from the appropriate source.

© 2015 Parliamentary Institute of Cambodia (PIC)

Table of Contents

1-	Introduction	1
2-	Labor migration (current situation).....	1
2.1.	Number of Cambodian external migrants and wages in destination countries	2
2.2.	Remittances and socio-economy.....	3
2.3.	Policies and legal framework in respect of Cambodian migrant workers	4
•	National Policies.....	4
•	Legal Framework	4
2.4.	International legal instruments.....	5
•	<i>International Laws</i>	5
•	<i>The ASEAN Framework</i>	6
•	<i>Domestic laws of Thailand and bilateral agreements with Cambodia</i>	6
•	<i>Domestic laws of Malaysia and bilateral agreements with Cambodia</i>	7
•	<i>Domestic laws of the Republic of Korea and bilateral agreements with Cambodia</i>	7
3-	Issues and challenges	8
4-	Existing policy options and best practice	10
5-	Conclusion.....	11
	References	12

1- Introduction

In 2015, 244 million people - which was equal to 3.3 percent of the world's population - were living abroad in search of better economic and social opportunities¹: this figure includes many Cambodian people who were on the move because of the boom in the population figures attributable to young people (joining the workforce), the disparities in opportunities of employment between urban and rural areas, the limited domestic job opportunities and the high wages available abroad. A need to support their families and improve their quality of life also prompted Cambodians to move not just within their own country, but also to foreign countries such as Thailand, Malaysia and South Korea.² In cases where such labor migration is well-managed, it can make a fruitful contribution to family and community development and in reducing the poverty rate.³ But it becomes destructive if there is insufficient protection from the domestic legal framework and insufficient compliance with international labor standards within the region. In such cases, especially when labor migration is undocumented, migrants can face deception, abuse and exploitation.⁴ In 2014, the Thai government took measures in respect of illegal migrant workers which led to more than 250,000 Cambodian migrants returning home. In responding to this, the Cambodian government reacted quickly to facilitate regular (legal) migration to be more affordable.⁵

Therefore, to shed more light on issues relating to Cambodian migrants, this paper explores three main points: 1) the current context of labor migration including the number of Cambodian external migrants and wages in the major destination countries, remittances and socio-economy, and the policy and legal instruments covering migrants; 2) the challenges faced by migrant workers; and 3) policy options and best practice. This paper is based on reviewed documents.

2- Labor Migration (Current Situation)

In 2012 just over 60 percent of Cambodian people were under the age of 29. According to World Bank estimates, this means that every year 300,000 young Cambodian people enter the labor market. In turn, the government faces the challenge of attempting to equip these young people with the skills to meet the needs of the labor market.⁶ According to the 2012 report of the Ministry of Planning focusing on 375 villages across the country, 90 percent had experienced a population decrease as a result of out-migration, each losing an average of 40 persons per 1,000. This was the equivalent of 4 percent of the per village population size, based only on migration for the purpose of employment.⁷ Under the Memorandum of Understanding (MOU) between Cambodia and Thailand in 2003, less than 10 percent of Cambodian migrants had migrated through legal channels⁸ and, between July and October 2014, 42,395 dependents and 693,630 migrant workers

¹ UNFPA, Overview(2015), Web Site: <http://www.unfpa.org/migration>, accessed on 15 March 2016

² Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. p. xvii

³ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 5

⁴ Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. p. xvii

⁵ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. p. 15

⁶ Ibid. P. 13, 16

⁷ Ministry of Planning, Migration in Cambodia: Report of the Cambodian Rural Urban Migration Project (CRUMP) (2012), Phnom Penh, Cambodia, Web Site: http://cambodia.unfpa.org/sites/asiapacific/files/pub-pdf/Rural-urbanMigrationinCambodiaReport2012_EngVersion.pdf, accessed on 5 March 2016. p. 81,86, 94

⁸ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 11

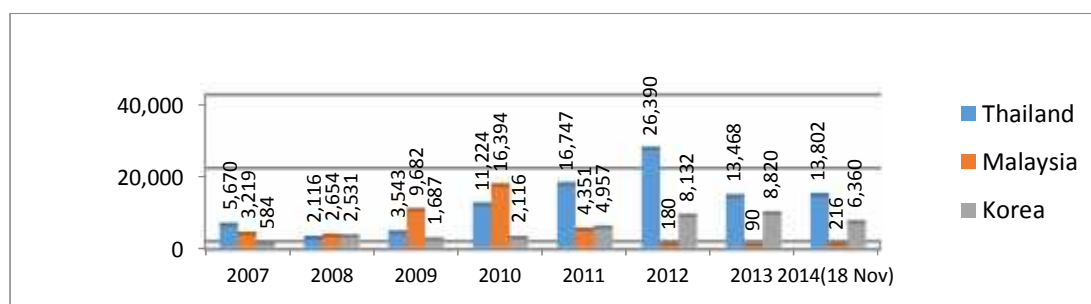
without legal documents registered through the One-Stop Service Centre (OSSC) of Thailand for temporary amnesty from deportation.⁹

After the mass exodus of migrants from Thailand, the Ministry of Labor and Vocational Training (MoLVT) and the Ministry of Interior (MoI) opened one-window service offices at four different checkpoints - Poipet, Pailin, Cham Yeam and O'Smach - to assist migrants to get legal documents to work in Thailand. However, NGOs and civil society organizations raised concerns about the lack of political commitment in strengthening the operation of recruitment agencies.¹⁰ Furthermore, according to the Bulletin number 2 of MoLVT in 2015, in order to accelerate the provision of legal status for migrant workers in Thailand, a mobile inter-ministerial working group, comprising representatives from the MoLVT, the MoI and the Ministry of Foreign Affairs and International Cooperation (MoFAIC), worked together to issue about 150,000 passports to migrants in Thailand.¹¹

2.1. Number of Cambodian External Migrants and Wages in Destination Countries

Figure 2.1 shows that the number of Cambodian workers migrating to Thailand increased gradually from 2008 to 2009, but rose dramatically after 2010, and peaked in 2012. In 2013 and 2014 the figure started to decrease while the Thai government took action to manage migrant workers.¹² Malaysia received a large number of Cambodian migrant workers in 2009 and 2010, a period when Indonesia had banned its workers from migrating to Malaysia following reports of abuse.¹³ For this same reason, Cambodia issued a similar ban in 2011 which led to a decline in the number of Cambodian migrant workers in Malaysia at that time. In 2014 the two countries - Cambodia and Malaysia - continued to negotiate to resume the flow of Cambodian migrant workers. To work in Korea, workers have to be qualified by the Employment Permit System of Korea (EPS) in terms of the level of language and job skills.¹⁴ Cambodian migrants to Korea increased gradually from 2010 until 2013, but decreased slightly in 2014.

Figure 2.1: Number of Cambodian External Migrants in Three Major Destination Countries



Source: Ministry of Labor and Vocational Training (MoLVT)

⁹ ILO, TRIANGLE II Quarterly Briefing Note: Cambodia (January-March 2016), Bangkok, Thailand, ILO and Australian Aid, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_469478.pdf accessed on 9 May 2016

¹⁰ Cambodian Communication Review 2014, Department of Media and Communication, Cambodia Communication Institute and Royal University of Phnom Penh, Editor: Say Sok and Pin Manika, Website: <https://mom-production-asset.s3.amazonaws.com/uploads/document/file/8/8.pdf#page=78> accessed on 3 May 2016, p. 74

¹¹ Ministry of Labor and Vocational Training, Magazine of Cambodian Labor: Inter-Ministerial delegation visited migration worker in Thailand in providing passport service (2015), Bulletin 2, 2015, Phnom Penh, Cambodia. P. 25

¹² Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 15

¹³ Constance Johnson, Indonesia: Ban on Sending Workers to Malaysia Lifted (2011), DC, USA, The Library of Congress, Web Site: <http://www.loc.gov/law/foreign-news/article/indonesia-ban-on-sending-workers-to-malaysia-lifted/> accessed on 23 March 2016

¹⁴ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 19

The minimum daily wage in Thailand in 2012 was USD 9.78 and a monthly minimum wage in Malaysia in 2013 was USD 295 except for domestic workers for whom, in 2014, the monthly minimum wage was USD 161.¹⁵ In the Republic of Korea in 2011, the monthly minimum wage was approximately USD 790 depending on working hours.¹⁶ In comparison, the average income of paid employees in Cambodia was USD 119 in 2012 - lower than the above countries, which is the reason behind Cambodian migrants' decision to migrate: they could earn a much better income.¹⁷

2.2. Remittances and socio-economy

World Bank reports show that the remittance inflows from Cambodian migrants were USD 172 million, USD 176 million, USD 377 million, and USD 397.42 million in 2012, 2013, 2014 and 2015, respectively, excluding the remittances sent through non-official channels. The remittance inflows in 2014 accounted for 2.2 percent of GDP.¹⁸ The report of the Ministry of Planning in 2012 indicated that 72.8 percent of migrant workers sent money back to their household of origin, with women accounting for higher percentages than men in both the number of senders (77 percent of women versus 68.4 percent of men), and the amount of remittances, (on average, women accounted for 20 percent more than men). The average annual remittance was 1.1 million riel or about USD 23 per month.¹⁹

The remittances helped to reduce the poverty of remittance-receiving households; however, they also created dependency effects among members of migrant-households based on the decrease in the number of working hours of migrant-household members which was lower than those of non-migrant members by 5 to 9 percent.²⁰ Forty percent of migrants in Thailand said that remittances were used for daily expenses, health care and household appliances.²¹ The children at home can benefit from remittances, but the drawback is that older children may drop out of school, especially the girls, to look after the younger children and the elderly, taking the place of their migrant parents.²² Furthermore, despite the benefits of remittances, loss of labor in villages - amounting to about 44.3 percent of the total according to the report of United Nation Population Fund in 2014²³ - hampers the government's aim to export 1 million tons of milled rice and to become the leading country in the region in term of rice exports.²⁴

¹⁵ ILO Regional Office of the Asia Pacific, Canada International Development Agency and ASEAN, Task Force on ASEAN Migrant Workers (TF-AMW), Summary Report, Post 6th ASEAN Forum on Migrant Labor: GMS Consultation Workshop on good practice to improve existing complaint mechanism (August 2014), Phnom Penh, Cambodia, Website: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_363991.pdf accessed on 27 April 2016, p. 12

¹⁶ Max Tunon and Khleang Rim, Cross-border labour migration in Cambodia: Considerations for the national employment policy (October 2013), ILO, Bangkok, Thailand, p. 7

¹⁷ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 13

¹⁸ WB, Annual Remittances Data, World Bank, Web Site: <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> accessed on 29 April 2016

¹⁹ Ministry of Planning, Migration in Cambodia: Report of the Cambodian Rural Urban Migration Project (CRUMP) (2012), Phnom Penh, Cambodia, Web Site: http://cambodia.unfpa.org/sites/asiapacific/files/pub-pdf/Rural-urbanMigrationinCambodiaReport2012_EngVersion.pdf, accessed on 5 March 2016 p. 62, 63, 92

²⁰ Vathana Roth, Vutha Hing, Dalis Phann and Sreymom Sam, Estimating the economic effects of migration and remittances on the left-behind in Cambodia (January 2015), Partnership for Economic Policy (PEP), Working Paper, 119

²¹ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. p. 20

²² Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. p. 94

²³ UNFPA, Migration in Cambodia (April 2014), Phnom Penh, Cambodia, Web Site: <http://cambodia.unfpa.org/sites/asiapacific/files/pub-pdf/FactsheetMigration%20%281%29.pdf>, accessed on 3 June 2016

²⁴ Siv Hong Lim, Migration puts Cambodia's Youth in Danger (5 June 2013), The Asia Foundation, Cambodia, Web Site: <http://asiafoundation.org/2013/06/05/migration-puts-cambodias-youth-in-danger/>, accessed on 3 June 2016

To make the most of remittance inflows and to ensure that they make a lasting impact, a training kit is being developed with support from the ILO. This will aim to train migrants and their families in financial literacy including savings plans and making productive investments.²⁵ To date, it should be noted that due to the unavailability of, or the difficulty in accessing, data from the government and other sources, the progress of this training remains unknown.

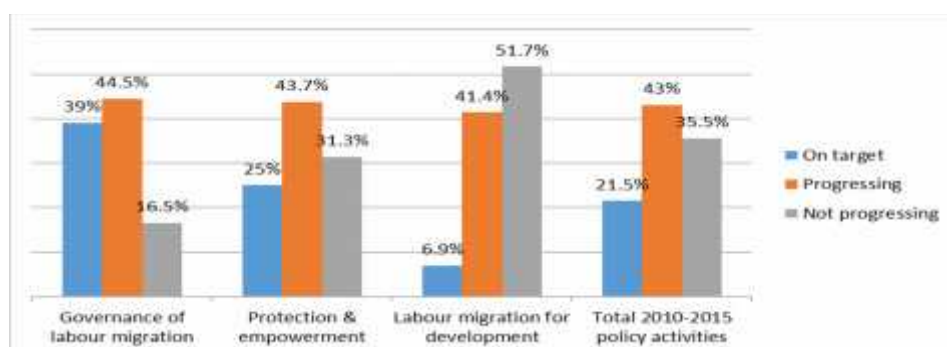
2.3. Policies and legal framework in respect of Cambodian migrant workers

- **National Policies**

The MoLVT launched its first policy (2010-2015) in June 2010 with three main objectives. These were: 1- better governance of labor migration; 2- protection and empowerment of migrant workers; and 3- harnessing the potential of labor migration for development. Then, in 2014, there was an assessment of the implementation of the 2010-2015 policy to provide input in developing the policy for a further three years (2015-2018). Among stakeholders, the MoLVT covered most of the 79 activities of action plan of which 21.5 percent were on target, 43 percent were progressing, and 35.5 percent were not on target. Most activities that met the target and were progressing had received support from international organizations, NGOs, the donor community and civil society.

Although more progress had been made in respect of the first and second objectives, the third – to harness labor migration for development – was lagging behind. Therefore, the 2015-2018 policy has focused more on this, acknowledging that increased cooperation between government and development partners is needed for this to be successful.²⁶

Figure 2.3.1: The Progress of Activities in Cambodian Migration Policy (2010-2015)



Source: Ministry of Labor and Vocational Training, Policy on Labor Migration

- **Legal Framework**

Adding to the international laws, the internal migrant workers in Cambodia are also governed by the country's own laws such as the Constitution, the Labor Law and other regulations that have been introduced by the government including the Ministry of Labor and Vocational Training (MoLVT).²⁷

The Cambodian government adopted Sub-Decree No. 190 in August 2011 on the Management of Sending Cambodian Workers Abroad through Private Recruitment. Then, in 2013, the

²⁵ Max Tunon and Khleang Rim, Cross-border labour migration in Cambodia: Considerations for the national employment policy (October 2013), ILO, Bangkok, Thailand. p.14

²⁶ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. p. 30-31

²⁷ Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. P. 66-67

government adopted eight more Prakas (Numbers 045, 047, 046, 249, 250, 251, 252 and 253) to clarify the Sub-Decree No. 190 with support from the ILO, social partners and civil society organizations.

The Association of Cambodian Recruitment Agencies (ACRA) was created in 2008 and saw its membership increase from 18 to 55 in the years between 2008 and 2014. After the mass expulsion of Cambodian migrant workers by the Thai authorities in June 2014, the Sub-Decree No. 205 on the provision of ordinary passports was passed under the management of the Ministry of Interior (MOI). Sub-Decree No. 205 states that the government pays for the passports for migrant workers and they need to pay only USD 4 for the passport photo; furthermore, through the inter-ministerial Prakas No. 2574, Khmer workers can obtain their passports at the Passport Office in Phnom Penh and from another Passport Office in Battambang province, which was created in July, 2014.

The other Cambodian domestic laws that relate to migrant workers are the Cambodian Law on the Suppression of Human Trafficking and Sexual Exploitation, the Penal Code, the Civil Code and Sub-Decree No. 38 that pertains to contracts and other liabilities. It should be noted that Cambodian Labor Law deals only with work in Cambodia, not abroad.²⁸

2.4. International legal instruments

In addition to the Cambodian domestic laws, Cambodian migrant workers are also covered by international laws, the ASEAN legal framework, the domestic laws of receiving countries and bilateral agreements between Cambodia and the receiving countries.²⁹

- **International Laws**

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 (ICRMW) aims to protect the rights of documented (regular) and undocumented (irregular) migrant workers and members of their families.³⁰ Only three countries in South East Asia signed the ICRMW - the Philippines (signed in 1993, ratified in 1995), Indonesia (signed in 2004, ratified in 2012) and Cambodia (signed in 2004, not yet ratified). Countries including Thailand, Malaysia and the Republic of Korea - which receive the greatest numbers of Cambodian migrant workers – have not yet signed this Convention.³¹ Under international law, Cambodia has a general obligation to refrain from acts which would be detrimental to the purpose and objectives of the ICRMW, even though it has not yet ratified it.³² What is more, Cambodia, and the destination countries for most Cambodian migrant workers, are expected to obey the United Nations Declaration on the Human Rights of Individuals who are not Nationals of the Country in which they live, 1985.³³ Another United Nations Protocol - Against the Smuggling of Migrants by Land, Sea and Air (Migrant Smuggling Protocol) – was ratified by Cambodia in 2005 and signed by Thailand in 2001, but neither the Republic of Korea nor Malaysia have signed or ratified this protocol.³⁴

²⁸ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 20-23

²⁹ Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. p. 68

³⁰ Ibid, p. 63

³¹ United Nations, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, USA, Web Site: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en, accessed on 15 March, 2016

³² Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. p. 64

³³ Ibid. P. 64, 65

³⁴ United Nations, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, New York, USA, Web Site:

Figure 2.4.1: The Fundamental ILO Conventions were ratified by Cambodia and the receiving countries of most Cambodian migrant workers

ILO Conventions		Cambodia	Thailand	Malaysia	Republic of Korea
Subject	No.				
Freedom of Association	87	1999	×	×	×
	98	1999	×	1961	×
Forced Labor	29	1969	1969	1957	×
	105	1999	1969	1958, Den:1990	×
Discrimination	100	1999	1999	1997	1997
	111	1999	×	×	1998
Child Labor	138	1999	2004	1997	1999
	182	2006	2001	2000	2001

Source: International Labor Organization (ILO)

The table above indicates that Cambodia has ratified all eight fundamental ILO conventions, but Thailand has not ratified three of the eight (87, 98, and 111), while Malaysia has not ratified two conventions (87 and 111) and denounced convention 105 in 1990, and the Republic of Korea has not ratified four (87, 98, 29 and 105).³⁵

- **The ASEAN Framework**

In 2007, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ADMW) was adopted and, in 2013, the Declaration on Strengthening Social Protection was also adopted.³⁶ Cambodia and the receiving countries have confirmed that they will deal with labor migration through the regional framework. The ADMW calls on the countries of origin and destination to intensify efforts to protect the dignity, promote the welfare and living conditions, provide adequate access to legal systems, and set up policies, procedures and mechanisms for deployment processes and after repatriation.³⁷

- **Domestic laws of Thailand and bilateral agreements with Cambodia**

To respond to the masses of Cambodians who migrate to Thailand through irregular channels, the National Verification Process (NV Process) has been created by the Thai government to regularize the status of undocumented Cambodian migrant workers who already live in Thailand. The NV Process is not a permanent system, but it provides a short-term solution to this problem, and its procedure complies with Thai law.

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-b&chapter=18&lang=en, accessed on 15 March 2016

³⁵ILO, Ratifications of fundamental Conventions and Protocols by country (1996-2012), Genève, Switzerland, Web Site: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F, accessed on 14 March 2016

³⁶ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 24

³⁷ Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. P. 76-77

The governance of regular Cambodian migrant workers is covered by many Acts such as the Immigration Act 1979 B.E.2522 and the Alien Working Act 2008 B.E.2551.

The Protection and Rights of Migrant Workers is covered in the Labor Protection Act 1998 B.E. 2541, the Labor Relations Act 1975 B.E 2518, the Social Security Act 1990 B.E. 2533 and the Workmen's Compensation Act 1994 B.E. 2537.

In 2003, the Cambodian and Thai governments signed the Memorandum of Understanding on Cooperation in the Employment of Workers (Thai-Cambodia Labor MoU).³⁸ This was renewed in October 2014 to eliminate Trafficking in Persons and to protect victims of trafficking.³⁹ Furthermore, in December 2015, the two governments signed a new MoU and agreement on Labor Cooperation.⁴⁰

- **Domestic laws of Malaysia and bilateral agreements with Cambodia**

In October 2011, the Cambodian government temporarily banned domestic workers from migrating to Malaysia because of reports of abuse and exploitation. Then, in 2014, two different MoUs were being considered to resume the movement of domestic and other workers to Malaysia.⁴¹ Ultimately, in December 2015, two MoUs were signed by both governments to lift the ban.⁴²

Migrating through regular channels, Cambodian workers are governed by many legal instruments including the Immigration Act 1959-1963 and Immigration Regulations 1963, the Employment (Restriction) Act 1968 and a bilateral agreement on Recruitment Procedures (Malaysia Recruitment Procedures) for Cambodian nationals in respect of Employment in Malaysia which was signed by both sides in 1999.

The rights and protection of both documented and undocumented migrant workers are governed by Malaysian Recruitment Procedures, the Employment Act 1955, the Industrial Relations Act 1967 and the Workmen's Compensation Act 1952.⁴³

- **Domestic laws of the Republic of Korea and bilateral agreements with Cambodia**

The migration of Cambodian workers through regular channels is governed by many legal instruments including the Immigration Control Act 1963 and associated regulations, the Memorandum of Understanding on the Sending of Workers under the Employment Permit Scheme, which was signed in 2006 (MoU on EPS), and the Act on Foreign Workers' Employment, Etc. 2003 (EPS Act).

³⁸ Ibid. P. 72-73

³⁹ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 25

⁴⁰ ILO, TRIANGLE II Quarterly Briefing Note: Cambodia (January-March 2016), Bangkok, Thailand, ILO and Australian Aid, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_469478.pdf, accessed date: 2 May 2016

⁴¹ Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia. P. 19

⁴² ILO, TRIANGLE II Quarterly Briefing Note: Cambodia (January-March 2016), Bangkok, Thailand, ILO and Australian Aid, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_469478.pdf, access date: 2 May 2016

⁴³ Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia, Jesuit Refugee Service Cambodia. P. 73-74

The Rights and Protections for both documented and undocumented migrant workers are governed by many legal instruments including the EPS Act, the Labor Standards Act 1997 and associated regulations, the Framework Act on Labour Welfare 2001 and associated regulations, the Trade Union and Labor Relation Adjustment Act 1997 and associated regulations, the Minimum Wage Act 1986 and associated regulations and the Employment Insurance Act 1993 and the Industrial Accident Compensation Insurance Act 1994.⁴⁴

3- Issues and Challenges

Widespread migration problems can be partly attributed to a lack of coherent labor migration policies. The sub-region has poor legal procedures, which do little to attract legal labor migration. This, therefore, acts as a major contributor to irregular migration. As Cambodia is a latecomer to the formal management and administration of labor emigration, its regulatory and institutional frameworks are seen as weak and inefficient. Legal procedures relating to labor migration remain costly, time consuming and bureaucratic. At the same time, the labor migration policies do not respond to dynamic and fast-changing migration trends. For example, countries in the region such as Cambodia and Lao PDR carry irregular migrants from other countries in the Greater Mekong Sub-region (GMS).⁴⁵ Furthermore, the Royal Government of Cambodia has pointed out that labor migration is another vital factor in boosting employment and reducing poverty through remittances, which provide benefits at both the individual and national levels.⁴⁶ Nevertheless, some challenges and issues remain:

1. **Irregular Migration:** Irregular migration has been a big concern in the sub-region. This is largely due to cross-border movement in the sub-region, which makes the regulation of people's movements more problematic.⁴⁷ The causes of irregular migration are many - chronic poverty, lack of employment and economic hardship in the community - and complicated, expensive and time-consuming bureaucratic procedures to obtain the necessary legal documents have hindered and discouraged prospective migrants from seeking legal status. The most significant factor is the inability of would-be Cambodian migrants to afford the cost of legal recruitment. Most of the irregular migrant families live below the poverty line. The total costs a legal migrant faces in getting a job in Thailand or Malaysia are approximately USD 700 and USD 850-1200, respectively. Comparatively, it normally costs around USD 100 for an illegal migrant to be smuggled into Thailand with a much shorter waiting time.⁴⁸
2. **Migration and Mental Health:** The study on Labor Migration and Mental Health in Cambodia found anxiety and depression to be common among individuals and communities affected by forced labor and exploitative migration processes. Lack of legal migration status has been found to be a risk factor in physical and mental health problems in migration processes as well. Most low-skilled migrant workers take '3-D' jobs – dangerous, degrading and dirty - that normally nationals of destination countries are unwilling to accept. Irregular

⁴⁴ Ibid. P. 74-75

⁴⁵ ADB, Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions (2013), Manila, Philippines, Web Site: <http://www.adb.org/sites/default/files/publication/30210/facilitating-safe-labor-migration-gms.pdf>, accessed on 21 March 2016

⁴⁶ MoLVT and International Labour Organization, "Policy on Labour Migration for Cambodia, 2010", Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145704.pdf, accessed on 21 March 2016

⁴⁷ ADB, Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions (2013), Manila, Philippines, Web Site: <http://www.adb.org/sites/default/files/publication/30210/facilitating-safe-labor-migration-gms.pdf>, accessed on 21 March 2016

⁴⁸ International Labour Migration, Cross-border labour migration in Cambodia: Considerations for the national employment policy (October 2013), ILO Asia-Pacific, Working Paper Series, accessed on 22 March 2016

migrants usually face threats of arrest, deportation and detention, which expose them to physical and psychological harm.⁴⁹

3. **Lack of standardized contracts:** The employment contract is a standard document to be obtained, examined and signed before the departure of a migrant worker to a destination country. While working abroad, migrant workers will be bound by the terms and conditions set out in the employment contract and such a contract should be definite, comprehensible, sound and enforceable in both sending and receiving countries. Nonetheless, lack of standardized contracts with employers in the destination country remains a problem and there have been a number of cases where the employment contracts signed in the sending country were later replaced by other contracts in the receiving country.⁵⁰
4. **Recruitment Agencies:** Another major issue that has been raised in connection with GMS migration is related to recruitment processes. Even when agreements and MoUs have been signed, and regulations and resolutions exist to protect migrant nationals, recruitment agencies seldom obey the correct procedures. For instance, even though the MoLVT has granted 47 recruitment agencies the authority to support migrants to work in Thailand by offering all necessary documents for a flat fee of USD 49, there was still a report that one of the selected recruitment agencies is now charging would-be migrants USD 600 to find jobs in Thailand.⁵¹ Furthermore, it is commonplace for standard procedures to be circumvented and for the recruitment process to be carried out through illegal activities. Unlicensed recruitment agencies and brokers are part of the migration landscape as well, making it difficult and dangerous for would-be migrants to find employment abroad. Additionally, migrant workers often end up with a job that is different from the one they expected, or, alternatively, in circumstances which closely resemble exploitation and they are unaware of their rights and obligations in their destination country.⁵²
5. **Human Trafficking and Smuggling:** These are among the varieties of irregular migration in the sub-region. There are cases of trafficking between almost all countries in the GMS, although the predominant trends that have been observed are from Cambodia, Lao PDR and Myanmar to Thailand. Human trafficking in the sub-region is closely linked with irregular labor migration. The International Organization for Migration report, *Trafficking of Fishermen in Thailand*,⁵³ highlights the fact that the Thai fishing industry is notorious as a safe haven for labor exploitation, abuses, trafficking and modern-day slavery. Moreover, Thailand has become a regional hub for trade and transportation, as well as a transit and destination for human trafficking. There have been cases in which women and children have been trafficked for sexual exploitation, and a number of smuggling cases have focused on migrants from Cambodia, Lao PDR and Myanmar who travelled to Thailand searching for jobs.
6. **Lack of standardized pre-departure training:** It is really necessary to provide pre-departure training for migrant workers so that they can adjust to culture shocks and prepare themselves for work in the destination country. Some NGOs and recruitment agencies offer pre-departure

⁴⁹ Sarah R. Meyer, W. Courtland Robinson, Sotheara Chhim and Judith K. Bass, *Labor Migration and Mental Health in Cambodia* (March 2014), *The Journal*, Volume 202, Number 3, Johns Hopkins Center for Global Health, Web Site: http://www.hopkinsglobalhealth.org/assets/documents/Meyer_Sarah_GHFRA_2010_Courtland_Robinson_Cambodia.pdf, accessed on 23 March 2016

⁵⁰ Chan Sophal, *Cost and Benefits of Cross-Country Labour Migration in the GMS: Cambodia Country Study* (December 2009), CDRI, Working Paper Series, No. 44, Web Site: <http://www.cdri.org.kh/webdata/download/wp/wp44e.pdf>, accessed on 15 March 2016 P. 56

⁵¹ *Cambodian Communication Review 2014*, Department of Media and Communication, Cambodia Communication Institute and Royal University of Phnom Penh, Editor: Say Sok and Pin Manika, Website: <https://mom-production-asset.s3.amazonaws.com/uploads/document/file/8/8.pdf#page=78>, accessed on 3 May 2016, p. 74

⁵² ADB, *Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions* (2013), Manila, Philippines, Web Site: <http://www.adb.org/sites/default/files/publication/30210/facilitating-safe-labor-migration-gms.pdf>, accessed on 21 March 2016

⁵³ International Organization For Migration, “*Trafficking of Fishermen in Thailand (January 2011)*”, IOM Thailand, Web Site: <https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf>, accessed on 23 March 2016

training in culture, languages, health issues, communication, and legal knowledge. Even though pre-departure training is mandatory (article 7 of Sub-Decree 190), there are no standardized pre-departure training or curriculum packages in place.⁵⁴

4- Existing Policy options and best practice

- 1- In order to deal with irregular migration, the following options could be considered:
 - Opening legal migration opportunities by publicizing the information about fees and allowances, streamlining administrative procedures, reducing placement costs and speeding facilitation;⁵⁵ in addition, the number of offices that issue passports could be increased, and opened in other provinces: there are currently only two places with passport offices in the whole of Cambodia - Phnom Penh and Battambang. In contrast, in Thailand, Bangkok alone has four passport offices and they exist in other provinces, too, such as Chiang Rai, Chiang Mai, Chanthaburi and Phuket.⁵⁶
 - Combatting human trafficking by strengthening law enforcement, raising awareness, intensifying cooperation within the region and with destination countries.⁵⁷
- 2- Recruitment agencies play an important role from the beginning until the end of the migration process, including recruitment, pre-departure training, signing agreements for employment, grievance handling, conciliation and repatriation. The Philippines have the best practice in terms of deploying manpower in foreign countries and this country receives USD 10 billion in remittances per year. Related to issuing the license, the licensee, on fulfilling all the required conditions, uses a provisional license during the first year and then, if its operation meets with satisfaction from the Philippines Overseas Employment Administration (POEA), a full license will be issued to continue its operation for three more years. Furthermore, the license will be renewed after four years if the agency complies with several conditions, including those demanded by the clearance certificate from the National Bureau of Investigation (NBI) and the Anti-Illegal Recruitment Branch of the POEA.⁵⁸
- 3- The number of education and awareness workers should be increased: Most migrants, particularly those who are irregular migrants, are unaware of the legal, practical, social and economic impact of moving to other countries. So, the better informed they are, the better protected they will be, and this paper therefore recommends the promotion of education and awareness-raising before departure. Information can be distributed through a mixture of measures:
 - National and provincial migration centers for future migrant workers to register and find information. These centers should be set up as focal points to disseminate

⁵⁴Chan Sophal, Cost and Benefits of Cross-Country Labour Migration in the GMS: Cambodia Country Study (December 2009), CDRI, Working Paper Series, No. 44, Web Site: <http://www.cdri.org.kh/webdata/download/wp/wp44e.pdf>, accessed on 15 March 2016, P. 57

⁵⁵HING Vutha, LUN Pide and PHANN Dalis, IRREGULAR MIGRATION FROM CAMBODIA: CHARACTERISTICS, CHALLENGES AND REGULATORY APPROACH (August 2011), Working Paper Series No. 58, CDRI, Web Site: <http://www.cdri.org.kh/webdata/download/wp/wp58e.pdf>, accessed on 15 March 2016, p.2

⁵⁶Ministry of Foreign Affairs of Thailand, Web Site: <http://www.consular.go.th/main/th/services/1274/19745-%E0%B8%AA%E0%B8%96%E0%B8%B2%E0%B8%99%E0%B8%97%E0%B8%B5%E0%B9%88%E0%B9%83%E0%B8%AB%E0%B9%89%E0%B8%9A%E0%B8%A3%E0%B8%B4%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%AB%E0%B8%99%E0%B8%B1%E0%B8%87%E0%B8%AA%E0%B8%B7%E0%B8%AD%E0%B9%80%E0%B8%94%E0%B8%B4%E0%B8%99%E0%B8%97%E0%B8%B2%E0%B8%87.html>, accessed on 25 March 2016

⁵⁷HING Vutha, LUN Pide and PHANN Dalis, IRREGULAR MIGRATION FROM CAMBODIA: CHARACTERISTICS, CHALLENGES AND REGULATORY APPROACH (August 2011), Working Paper Series No. 58, CDRI website: <http://www.cdri.org.kh/webdata/download/wp/wp58e.pdf>, accessed on 15 March 2016, p.3

⁵⁸ILO, Recruitment Practices of Employment Agencies Recruiting Migrant Workers: A review aimed at improving recruitment regulations and drafting recruitment guidelines (March 2013), ILO Country Office for Sri Lanka and the Maldives, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_233363.pdf, accessed on 25 March 2016. p 33

information and as places where migrants can call in or visit for counseling. The information can be disseminated through the media, meetings, workshops, seminars, and so on;

- With a high rate of irregular migration, education campaigns targeting communities need to be reinforced.
- 4- Expand support services: Another suggestion is posting labor attachés in all destination countries. Their function in developing a strong partnership with the host countries on labor issues, observing the treatment of migrant workers, providing legal support against contract violations, abuse or exploitation, counseling on problems with contracts or employment and ensuring that irregular migrants are protected and that they receive compensation when this is appropriate, could be strengthened and promoted.
- 5- Strengthen international cooperation: Migration is linked to multilateral issues that can be addressed only through cooperative efforts. Available options to solve irregular migration could be addressed in bilateral and regional frameworks complementing national policy:
- Strengthen bilateral cooperation: Cooperation between sending and receiving countries is seen to be effective in addressing irregular migration. This paper argues that Cambodia could improve collaboration with destination countries in order to regularize programs and streamline legal recruitment for irregular Cambodian workers;
 - Work towards an integrated Greater Mekong Sub-region labor market: Cross-border labor movement across the GMS has been dynamic, but there are still no sub-regional regulatory or institutional frameworks to support it. This paper recommends the integration of labor markets in the GMS. The first step to accomplish this is to add labor migration to the GMS-wide development agenda and create an expert forum to search for practical solutions and to provide recommendations to leaders.⁵⁹

5- Conclusion

With 60.1 percent of the Cambodian population under the age of 29, the report in 2012 reveals a net migration rate of 40 persons per 1000. This amounts to 4 percent of the population. Thailand can be counted as a main destination country, with the number of Cambodian workers migrating to Thailand reaching a peak in 2012, while the number migrating to Malaysia dropped dramatically after Cambodia banned migration to that country following reports of abuse in 2011. Remittances sent home by migrant workers help to reduce poverty at home, and to improve the financial status of their families. In contrast, those left behind have sometimes suffered, particularly older children who may drop out of school to look after the younger children and the elderly, taking on a role that would normally be undertaken by their migrant parents.

The first policy (2010-2015) which was launched by the MoLVT had three main objectives: better governance of labor migration; protection and empowerment of migrant workers; and harnessing the potential of labor migration for development. There were 79 associated activities. In 2014 there was an assessment of the implementation of the 2010-2015 policy which revealed that the first and the second objectives were making more progress than the third. Therefore, the 2015-2018 policy has focused on that third objective. After the large number of Cambodian irregular migrants were expelled by the Thai authorities in 2014, the Sub-Decree No.205 on the provision of ordinary passports was passed. The Sub-Decree 205 states that the fee for passports is now charged to the government and that the migrant must pay only USD 4 for the passport photo. At the same time another passport office was created in Battambang province.

⁵⁹ HING Vutha, LUN Pide and PHANN Dalis, IRREGULAR MIGRATION FROM CAMBODIA: CHARACTERISTICS, CHALLENGES AND REGULATORY APPROACH (August 2011), Working Paper Series No. 58, CDRI website: <http://www.cdri.org.kh/webdata/download/wp58e.pdf>, accessed on 15 March 2016, p. 3

The Royal Government of Cambodia has pointed out that labor migration makes a vital contribution to boosting employment and reducing poverty through remittances. But some challenges and issues remain. These include irregular migration, migration and mental health, lack of standardized contracts, recruitment procedures, human trafficking and smuggling and the lack of standardized pre-departure training. In order to deal with all of these challenges and issues, the Cambodian government could strengthen law enforcement and increase cooperation with all stakeholders within its own country and with regional and international partners. In particular, the government could pay more attention to women migrants because they surpass men in terms of both the number of migrants sending remittances home to their families, and in the actual amounts of those remittances. Thus, they play an important role in contributing not just to the well-being of their families, but also to Cambodian society as a whole.

References

UNFPA, Overview(2015), Web Site: <http://www.unfpa.org/migration>, accessed on 15 March 2016

Madeline Gleeson, State of Migration: An overview of forced displacement in Cambodia (July 2012), Siem Reap, Cambodia,

- Jesuit Refugee Service Cambodia.
- Ministry of Labor and Vocational Training, Policy on Labor Migration for Cambodia (December 2014), Phnom Penh, Cambodia
- Ministry of Planning, Migration in Cambodia: Report of the Cambodian Rural Urban Migration Project (CRUMP) (2012), Phnom Penh, Cambodia, Web Site: http://cambodia.unfpa.org/sites/asiapacific/files/pub-pdf/Rural-urbanMigrationinCambodiaReport2012_EngVersion.pdf, accessed on 5 March 2016
- ILO, TRIANGLE II Quarterly Briefing Note: Cambodia (January-March 2016), Bangkok, Thailand, ILO and Australian Aid, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_469478.pdf accessed on 9 May 2016
- Cambodian Communication Review 2014, Department of Media and Communication, Cambodia Communication Institute and Royal University of Phnom Penh, Editor: Say Sok and Pin Manika, Website: <https://mom-production-asset.s3.amazonaws.com/uploads/document/file/8/8.pdf#page=78> accessed on 3 May 2016
- Ministry of Labor and Vocational Training, Magazine of Cambodian Labor: Inter-Ministerial delegation visited migration workers in Thailand in providing passport service (2015), Bulletin 2, 2015, Phnom Penh, Cambodia
- Constance Johnson, Indonesia: Ban on Sending Workers to Malaysia Lifted (2011), DC, USA, The Library of Congress, Web Site: <http://www.loc.gov/law/foreign-news/article/indonesia-ban-on-sending-workers-to-malaysia-lifted/> accessed on 23 March 2016
- ILO Regional Office of the Asia Pacific, Canada International Development Agency and ASEAN, Task Force on ASEAN Migrant Workers (TF-AMW), Summary Report, Post 6th ASEAN Forum on Migrant Labor: GMS Consultation Workshop on good practice to improve existing complaint mechanism (August 2014), Phnom Penh, Cambodia, Website: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/meetingdocument/wcms_363991.pdf accessed on 27 April 2016
- Max Tunon and Khleang Rim, Cross-border labour migration in Cambodia: Considerations for the national employment policy (October 2013), ILO, Bangkok, Thailand
- WB, Annual Remittances Data, World Bank, Web Site: <http://www.worldbank.org/en/topic/migrationremittancesdiasporaissues/brief/migration-remittances-data> accessed on 29 April, 2016
- Vathana Roth, Vutha Hing, Dalis Phann and Sreymom Sam, Estimating the economic effects of migration and remittances on the left-behind in Cambodia (January 2015), Partnership for Economic Policy (PEP), Working Paper, 119
- United Nations, International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, New York, USA, Web Site: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-13&chapter=4&lang=en, accessed on 15 March, 2016
- United Nations, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, New York, USA, Web Site: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-b&chapter=18&lang=en, accessed on 15 March 2016
- ILO, Ratifications of Fundamental Conventions and Protocols by Country (1996-2012), Genève, Switzerland, Web Site: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F, accessed on 14 March 2016
- ADB, Facilitating Safe Labor Migration in the Greater Mekong Subregion: Issues, Challenges, and Forward-Looking Interventions (2013), Manila, Philippines, Web Site: <http://www.adb.org/sites/default/files/publication/30210/facilitating-safe-labor-migration-gms.pdf>, accessed on 21 March 2016
- MoLVT and International Labour Organization, “Policy on Labour Migration for Cambodia, 2010”, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_145704.pdf, accessed on 21 March 2016
- International Labour Migration, Cross-border labour migration in Cambodia: Considerations for the national employment policy (October 2013), ILO Asia-Pacific, Working Paper Series, accessed on 22 March 2016
- Sarah R. Meyer, W. Courtland Robinson, Sotheara Chhim and Judith K. Bass, Labor Migration and Mental Health in Cambodia (March 2014), The Journal, Volume 202, Number 3, Johns Hopkins Center for Global Health, Web Site: http://www.hopkinsglobalhealth.org/assets/documents/Meyer_Sarah_GHFRA_2010_Courtland_Robinson_Cambodia.pdf, accessed on 23 March 2016
- HING Vutha, LUN Pide and PHANN Dalis, IRREGULAR MIGRATION FROM CAMBODIA: CHARACTERISTICS,

CHALLENGES AND REGULATORY APPROACH (August 2011), Working Paper Series No. 58, CDRI website:
<http://www.cdri.org.kh/webdata/download/wp/wp58e.pdf>, accessed on 15 March 2016

Ministry of Foreign Affairs of Thailand website: <http://www.consular.go.th/main/th/services/1274/19745-%E0%B8%AA%E0%B8%96%E0%B8%B2%E0%B8%99%E0%B8%97%E0%B8%B5%E0%B9%88%E0%B9%83%E0%B8%AB%E0%B9%89%E0%B8%9A%E0%B8%A3%E0%B8%B4%E0%B8%81%E0%B8%B2%E0%B8%A3%E0%B8%AB%E0%B8%99%E0%B8%B1%E0%B8%87%E0%B8%AA%E0%B8%B7%E0%B8%AD%E0%B9%80%E0%B8%94%E0%B8%B4%E0%B8%99%E0%B8%97%E0%B8%B2%E0%B8%87.html>, accessed on 25 March 2016

ILO, Recruitment Practices of Employment Agencies Recruiting Migrant Workers: A review aimed at improving recruitment regulations and drafting recruitment guidelines (March 2013), ILO Country Office for Sri Lanka and the Maldives, Web Site: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-colombo/documents/publication/wcms_233363.pdf, accessed on 25 March 2016

UNFPA, Migration in Cambodia (April 2014), Phnom Penh, Cambodia, Web Site: <http://cambodia.unfpa.org/sites/asiapacific/files/pub-pdf/FactsheetMigration%20%281%29.pdf>, accessed on 3 June 2016

Siv Hong Lim, Migration puts Cambodia's Youth in Danger (5 June 2013), The Asia Foundation, Cambodia, Web Site: <http://asiafoundation.org/2013/06/05/migration-puts-cambodias-youth-in-danger/>, accessed on 3 June 2016