

Irregular Migration from Cambodia: Characteristics, Challenges, and Regulatory Approach

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ABSTRACT

The study examines the characteristics, root causes, and challenges of irregular migration from Cambodia and then discusses the regulatory approaches and policy options to manage it. It employed mixed approaches, including a survey of 507 households in six high-migration villages, focus group discussions with returned and intending migrant workers, and in-depth interviews with government officers, migration experts, and local community chiefs.

Irregular migration has been the most popular form among Cambodian workers seeking jobs abroad. This method is widely regarded as relatively secure, convenient, and cheap: there are no waiting time, required documents, or complicated recruitment procedures. The causes of irregular migration are many, ranging from chronic poverty, lack of employment, and economic hardship in community of origin to restrictive immigration policies in labor-receiving countries and lengthy, complex, and expensive legal recruitment. Cambodian irregular migrants are increasing but there has been little discussion of it in the broader context of labor migration management and national development in Cambodia. Irregular migration has neither been fairly covered in policy and regulatory frameworks nor received sufficient social and legal protection in sending and receiving countries. This serious policy gap results in irregular migration largely uncontrolled and with a high risk of abuse, exploitation, and human trafficking. Addressing it is a priority

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policy issue, and it requires a holistic and comprehensive approach involving policy and program interventions at all stages of migration by those concerned. The success of managing irregular migration in Cambodia depends not only on the country's ability to transform "migration as survival" into "migration as choice", but also on how regional organizations like the Greater Mekong Subregion (GMS) and Association of Southeast Asian Nations (ASEAN) and the international community respond to this issue.

INTRODUCTION

Irregular migration is one of the most complex, sensitive, and intractable issues affecting global and national governance of labor migration (IOM 2010b). It is a management problem for sending and receiving countries because journeys are often made outside the regulatory framework of both countries, making them difficult to record and monitor. Irregular migration is also a protection problem. Their illegal status puts irregular migrants at the gravest risk of abuse and exploitation by employers, often without access to legal protection. Several studies into the living and working conditions of irregular migrants have shown a high incidence of exploitation, commonly through deception about wages, type of work and legal status, withheld wages, retained passports or identity documents, physical confinement, substandard working conditions, and threats of denunciation to the authorities. The seriousness of the problem has attracted policy debate and international initiatives to address irregular migration. The Bangkok Declaration on Irregular Migration adopted by states in the Asia-Pacific region, the establishment of several international consultative forums on migration² and advocacy and inputs of specialized agencies such as the International Labour Organization (ILO) and International Organization for Migration (IOM) in national and international policymaking are among the major responses.

In Cambodia, most migration is irregular. Aside from the predominant causes that include chronic poverty and economic hardship, issues in the legal method of migration itself push migrants to opt for irregular means. The imbalance between labor demand in the host country and quotas given, high initial costs, as well as the malpractice of legal recruitment are all recorded. Irregular migration in most cases is facilitated by pioneer migrants or brokers, and the process is much simpler and cheaper than formal recruitment. Cambodian irregular migrants are not exempt from abuse and exploitation; in the worst cases they are victims of human trafficking. A United Nations Inter-Agency Project on Human Trafficking

² The major informal consultation and cooperation efforts include the Bern Initiative, the UN High-level Dialogue on International Migration and Development, the Global Forum for Migration and Development, and the ILO tripartite consultation.

(UNIAP) report found that Cambodian men, women, and children are trafficked to Thailand, Malaysia, Macau, and Taiwan. Men are trafficked for forced labor in agriculture, fishing, and construction. Women are trafficked for sexual exploitation and forced labor in factories or as domestic servants.

Widespread migration problems can be partly attributed to a lack of sound policy and regulation. Cambodia is a latecomer in management and administration of labor emigration, its regulatory and institutional frameworks being seen as weak and ineffective. Regulation has been sporadic, limited, and lacking comprehensive coverage, especially in the management of the labor migration process, the protection of migrant workers, and the reintegration of returned workers. Public institutions are characterized by a lack of clear responsibilities and coordination and a shortage of financial and human resources. Regulatory and institutional weakness is compounded by exclusivity of irregular migration in many national and international legal instruments.

The serious gaps in policy and practice regarding irregular migration are a prime reason for in-depth analytical research on this topic. This research aims to provide a comprehensive migration analysis, with particular emphasis on irregular migration, assessing policies and regulation, and suggesting options to better address irregular migration.

The study proceeds further in five parts. The next section presents the data set. The third section examines the profile of Cambodian irregular migration, which includes the analysis of the situation and socioeconomic characteristics of migrant workers, the cause of irregular migration, and challenges facing them. The fourth section examines policy and regulatory framework governing migration; while the fifth section discusses the regulatory approach to irregular migration. The last section draws conclusions.

DATA

The primary data used in this study come from two sources. First is a household survey extracting a set of information for quantitative analysis of the socioeconomic status of migrant households and their migration decisions. The survey was conducted in late 2007 by interviewing 526 households in six villages with a high incidence of migration. Face-to-face interviews with heads of households used a questionnaire to capture information on demography, socioeconomic characteristics, assets, income, expenditure, costs and benefits of migration, and remittances. Table 1 provides the characteristics of the study villages.

The second source of data is qualitative in nature, derived from two approaches: a focus group discussion (FGD) and in-depth interviews. FGDs were conducted in the six villages with returned migrants and heads of household with members working abroad. Focus groups contained six to eight informants

Table 1. Characteristics of studied villages

Village	Number of Households	Estimated Percent of Migrating Households	Destination
1. Srama Meas (Battambang province)	330	>30	Malaysia
2. Krasang (Battambang province)	250	>30	Thailand
3. Kork Thnong (Banteay Meanchey province)	105	>70	Thailand
4. Rumduol (Banteay Meanchey province)	280	>50	Thailand
5. Siem Peay (Kompong Thom province)	185	>40	Thailand
6. Khnay (Prey Veng province)	110	>50	Thailand

Source: Chan (2009)

discussing issues including causes of migration, knowledge about migration, the migration process, costs and financing, and working conditions. Four FGDs were conducted in each village, facilitated by trained enumerators. In-depth interviews were conducted with officials from subnational administration (village, commune, and district level), senior officials from the Ministry and Provincial Department of Labor and Vocational Training (MLVT), technical experts from the ILO, IOM, UNIAP, and United Nations Development Fund for Women, the chairperson of the Association of Cambodian Recruitment Agencies, and representatives of private recruitment companies to obtain their assessment of Cambodia's policy and regulatory framework, labor migration management, and policy options to address irregular migration. Also interviewed were village chiefs and directors of provincial labor departments. FGDs and in-depth interviews were conducted in late 2010 and early 2011.

PROFILE OF CAMBODIAN IRREGULAR MIGRATION

Definition and situation

Irregular migration can be summarily defined as illegal movement to work in a country or movement without authorization to work. It includes the case of persons migrating legally but later losing their legal status (due, for instance, to overstaying) (UN General Assembly 1975; Brennan 1984; Global Commission on International Migration 2005; Lee 2005; LeVoy and Geddie 2010). The term "irregular" is used interchangeably with "undocumented", "unauthorized", "unofficial", "informal", or "clandestine". Most Cambodian irregular migrants travel without sufficient legal documents.

Informal recruitment has been the most popular form of cross-border movement among Cambodian workers seeking jobs abroad. This takes place outside the regulation of the sending, transit, and receiving countries. Informal recruitment can be divided into two categories. The first is short-distance migration along the Cambodian-Thai border. The jobs are usually agricultural,

which migrants learn about from pioneer migrant relatives, friends, or villagers. These pioneers facilitate job placement and form networks linking the primarily rural households and the destinations in Thailand. Migrant workers from Krasang village, Battambang province, for example, travel to the Bavel border gate by taxi and then cross into Thailand using a border pass. Employers then come to take them to their farms. This practice is widely regarded by migrants as relatively secure, convenient, and cheap. There is no waiting time, no required documents, and no complicated recruitment procedures. For those who buy a one-week border pass, known in local language as *Bat*, the initial cost of migration ranges from USD 3.00 to USD 5.50—the taxi ride costing USD 2.50 to USD 5.00 and the border pass costing USD 0.50. Migrants need to renew the pass every week at the border. Alternatively, they can purchase a one-year pass for USD 19.

The second category is long-distance migration to Thailand or Malaysia to work on fishing boats or as construction or factory workers. In most cases, migrants travel in small groups with a broker who escorts them to the workplace in Thailand. The basic services offered by brokers include transportation to the border and securing a work permit and a job in the destination country. Migrants have to pay the facilitation fee of USD 100–200 in advance. In some cases, migrants travel in a small group with assistance from pioneers who know the work situation and have good relationships with employers.

Thailand is the main destination of irregular migration from Cambodia. The IOM has said that there could be 180,000 Cambodians unofficially working in Thailand, mainly from Prey Veng, Svay Rieng, Kompong Cham, Banteay Meanchey, Battambang, and Pursat provinces. The Ministry of Labor of Thailand (in Paitoonpong and Sukaraji, forthcoming) estimates around 120,000 informal Cambodian migrants—comparable to informal migrants from Laos but far fewer than from Myanmar. According to the same source (Table 2), the largest numbers

Table 2. Irregular migrants in Thailand by industry, 2009

Industry	Number of Workers			
	Cambodia	Laos	Myanmar	Total
Fisheries	14,969	1,800	39,809	56,578
Fisheries-related	6,020	1,180	129,773	136,973
Farming and livestock	24,085	18,035	179,583	221,703
Farming and livestock-related	7,077	4,469	62,611	74,157
Construction	32,465	12,635	175,136	220,236
Mining/quarrying	61	35	1,747	1,843
Wholesale and retail	4,778	7,565	30,471	42,814
Food and beverage (salespersons)	4,483	13,074	36,668	54,225
Housemaid	6,578	21,267	101,945	129,790
Others	24,245	30,794	321,024	376,063
Total	124,761	110,854	1,078,767	1,314,382

Source: Paitoonpong and Sukaraji (forthcoming)

of irregular Cambodian migrants in Thailand are engaged in agriculture (42%) and construction (26%). Malaysia is the destination of the second largest number of undocumented Cambodian migrants, many of whom are from the Cham ethnic group. The most common route is to fly to Malaysia as a tourist and then seek a job without a work permit. The second way is to travel to Thailand and then cross into Malaysia. Most of the unauthorized migrants to Malaysia seek jobs in construction and manufacturing.

Socioeconomic characteristics of Cambodian irregular migrants

We discuss the socioeconomic characteristics of irregular migrants to compare them to nonmigrants and to determine the factors that drive informal movement. We utilize both quantitative data from the 2007 migrant survey and qualitative data from follow-up FGDs and semistructured interviews conducted in late 2010 and early 2011. We classify respondents as regular, irregular, and nonmigrant.

As shown in Table 3, more than half of the households in the sample have migrant family members, a large majority of them irregular. Females account for about a third of migrants. The large number of irregular migrants in the sample confirms the claim of migrants and local authorities that most migrants prefer the informal channel. It is important to note that the number of legal migrants in the survey sample is so small; hence the subsequent results are interpreted in light of this limitation.

The survey data reveal that a large proportion of irregular workers are employed in Thailand and along the Thai-Cambodian border. Those who travel deep into Thailand mostly engage in construction and agriculture (including fishing), whereas those along the border work in farms. Regular migrants, none of them stationed near the border, work in factories or at construction sites. Regular and irregular migrant workers in Malaysia have jobs in construction or manufacturing or as maids (Tables 4 and 5).

FGDs and interviews report that most irregular migrants' jobs are unskilled or low skilled. Their jobs are not wanted by local workers, who view them as of low status and unpleasant. In many cases their tasks require virtually no skills at all. For instance, in construction, the work is simply mixing and placing concrete

Table 3. Households and their migrant members

	Regular	Percent	Irregular	Percent	Nonmigrant	Percent	Total
Households	16	3	293	56	217	41	526
Migrants	19	4	494	96	-	-	513
Females	6	3	171	97	-	-	177

Source: Chan (2009)

Table 4. Migrants to main destinations, by type and gender

Destination	Irregular				Regular			
	Male		Female		Male		Female	
	N	%	N	%	N	%	N	%
Inside Thailand	173	53.5	76	44.4	12	92.3	2	33.3
Along Thai border	120	37.1	70	40.9	0	0	0	0
Malaysia	30	9.2	25	14.6	1	7.6	4	66.6
Total	323	100	171	100	13	100	6	100

Source: Authors' calculations based on survey data 2007

Table 5. Migrants by type of job and destination

	Construction	Agriculture*	Housework	Factory	Other	Total
Irregular						
Inside Thailand	104	89	22	12	22	249
Along Thai border	1	189	0	0	0	190
Malaysia	16	7	3	23	6	55
Total	121	218	25	35	28	494
Regular						
Inside Thailand	12	0	0	2	0	14
Malaysia	0	0	3	2	0	5
Total	12	0	3	4	0	19

* Including fishing

Source: Authors' calculations based on survey data 2007

or placing bricks. In agriculture, they watch the farm, spray pesticides, and pick crops. However, those who work in rubber plantations are able to acquire skills such as latex extraction and preservation or planting techniques.

As shown in Table 6, both regular and irregular migrants are predominantly in their late twenties. Their average household size is comparable to that of nonmigrants. The difference in education between regular and irregular migrants is significant.

From the survey it was observed that households of irregular migrants had a lower economic status than regular migrants and nonmigrants. Based on the availability and reliability of data, we chose consumption and value of assets as proxies for well-being. Table 7 provides a more detailed breakdown of the two variables for each household type. Irregular migrants spent 19 percent less on food than nonmigrants, but just slightly more than regular migrants; the latter difference is not statistically significant. Nonfood consumption of irregular migrants was around 40 percent less than that of regular migrants and 13 percent less than that of nonmigrants. Overall consumption of irregular migrants was 17 percent less than that of nonmigrants. The value of assets of irregular migrant households was about half that of regular migrants (in both 2002 and 2007).

Table 6. Social characteristics of migrants and nonmigrants

Migration Type	Regular	Irregular	Nonmigrant
Average household size	5.0	5.6	4.8
Number of dependants*	1.6	2.2	2.1
Average age of individual migrants	28.6	27.8	-
Average years of schooling of migrants	6.8	4.3	-

* Household members who are less than 15 or over 54 years old

Source: Authors' calculations based on survey data 2007

Table 7. Sample means of daily consumption and value of asset holding

		Mean			T-Value [†]		
		Regular (a)	Irregular (b)	Nonmigrant (c)	(b)-(a)	(b)-(c)	(a)-(c)
Consumption (riels/capita)	Food	1142.0 (478.5)	1168.6 (450.1)	1391.8 (469.4)	0.2	-5.3***	-2.0**
	Nonfood	1223.0 (752.46)	877.2 (578.8)	990.4 (668.2)	-2.2**	-1.9*	1.2
	Overall	2515 (1155)	2249 (1241)	2641 (1367)	-0.8	-3.3***	-0.3
Asset (000' riels/capita) [‡]	2002	818.9 (727.2)	371.2 (517.3)	433.9 (562.5)	-3.3***	-1.2	2.5**
	2007	1,265.9 (670.6)	665.5 (765.9)	721.1 (737.7)	-3.1***	-0.8	2.8***

Note: Standard deviation in parentheses. [†] Two-sample t-test of different means with equal variance;

* Excluding land and house; * Significant at 10 percent level; ** Significant at 5 percent level; *** Significant at 1 percent level.

Source: Authors' calculations based on survey data 2007

Causes of irregular migration

Reasons for irregular migration are mixed. Among other factors that will be described later, we argue that institutional issue is partly to blame for the huge flow of Cambodian informal migrants. This institutional proposition relies on the imbalance between the number of people seeking jobs in the host country and the limited work permits given by that country (Massey et al. 1993). The mismatch between labor demand and supply encouraged employers to recruit laborers from other countries. The black market then established networks to deliver workers in return for fees. This method endures partly because of lackluster law enforcement against employers who hire illegal workers. In the case of Thailand, which is the largest host country for Cambodian migrant workers, the imbalance is evident in the subsequent registration of irregular workers. Since 1992, due to a labor shortage, several rounds of registration have been carried out allowing for irregular workers, after which they were labelled “irregular but documented”, meaning they were not purely illegal (Paitoonpong and Sukarui, forthcoming). As of 2009, 124,761 Cambodian informal migrants had been registered (*Ibid.*).

Problems in their homeland also push people out. Internal conflicts and political instability are no longer a major concern for Cambodians; economic issues, particularly poverty, are now primary. Consumption figures in Table 6 indicate that the migrants are living just below the poverty line. In comparison to 2007 national poverty line measured by daily consumption of KHR 2,367 (Knowles 2009), the poverty gap of regular and irregular migrants was over KHR 100. Nonmigrants were 10 percent above the line. Around 30 percent of Cambodians, most in rural areas, still live below the poverty line (*Ibid*).

“...we can survive because of the work in Thailand. Among 100 villagers, there are 70 working at Thai border.” (Returned migrants in Battambang, September 21, 2010)

Households migrate to escape economic distress by seeking wage employment where there are more job opportunities or where the return to skills is higher. Internal migration to urban areas is a choice, but jobs are limited to low-skilled, labor-intensive sectors such as construction and garments, while in Siem Reap, the main tourist destination, the demand is mostly for skilled labor in the hospitality industry. For cross-border migration, the nearest destination is Thailand, where established networks and demand for low-skilled workers attract Cambodians.

“Previously, young villagers went to work in Phnom Penh. Since they could not earn much like those going to Thailand, they then stopped [going to Phnom Penh] and followed others to Thailand.” (An official in Kampong Thom, March 10, 2011)

Why do people not opt for legal migration? Social characteristics other than education provide no inference that such aspects influence their decisions. In other words, those people are not born to be illegal workers; they choose the methods that are available and affordable to them. Chan (2009) argues that the high initial cost of legal migration is a main reason for the preference for illegal movement even though the net benefit from the former is higher. He finds that to secure work legally in Thailand, a worker needs around USD 700, an amount that most Cambodian rural workers cannot afford. Costs include passport fees, work permits, visas, and brokerage fees. Costs are around USD 100 or less if they migrate irregularly.

The qualitative data also confirm Chan’s argument in that poorer irregular migrants show no interest in seeking jobs through a legal recruitment agency. The concern is not only high costs but also complex procedures and a long wait before being sent (normally three to six months to Thailand, according to Chan). We will discuss details in the next chapter. Illegal migration takes only a few days and requires no or fewer documents.

Time and process are even more important than cost:

“The poor cannot wait two or three months ... they are hungry now and need to fill their stomachs sooner rather than later.” (An official in Battambang, February 15, 2011)

“... two villagers going through the recruitment agencies have been waiting nearly a year since their application was sent to Phnom Penh. They had to go back and forth since the application form was not correctly filled. They have not gone to work in Malaysia yet.” (An official in Banteay Meanchey, February 16, 2011)

“This was due to the reason that...the legal channel demands much money, time, and other administrative papers which illiterate people like us never understand.” (Returned migrants in Prey Veng, October 2, 2010)

Moreover, malpractice and unclear rules of the legal recruitment agency diminish people’s credibility in the formal channel. There are various complaints about the recruitment firms deceiving migrants, for instance, by not offering them the type of job the firms have promised. Issues of abuse which often happen among domestic maids in Malaysia further deter people from choosing the legal method.

“Recently, there was an issue of a house maid who was raped by her male employer in Malaysia. She was tortured violently everyday by [the male employer’s] wife because of jealousy...the victim family asked for compensation...the girl now was hidden from the authority by the recruitment agency... they said to take a good care of the girl and sent her back home after curing.” (An official in Banteay Meanchey, February 16, 2011)

Geographical proximity further fuels the flow of informal migrants (Battistella 2002). Cambodia shares an 803-kilometer land border with Thailand that has many informal entrances. In some places migrants have to walk through forest and sometimes have to stay there overnight. Travelling in the dark avoids the irregular border police patrols. Such a long border makes control difficult. Established networks also help facilitate the movement of irregular migrants, who often depend on friends or relatives who are working in the host country or who know how to secure them a job. In Cambodia, irregular movement started a decade ago when a few families migrated and came back with better living conditions, which then attracted more people. Those people were able to establish networks to share information and concerns on job prospects and conditions in the host country:

“We would not migrate if we didn’t know anyone in Malaysia. We have friends or relatives who are currently working there.” (A returned migrant in Battambang, February 14, 2011)

“We do not know the way to reach our work location inside Thailand because we were hidden in the truck each journey. That is why Mekhchol [broker] is needed.” (Returned migrants in Battambang, September 21, 2010)

Issues and challenges of irregular migration

Compared to legal migrants, irregular workers face a higher risk of being exploited and denied fundamental rights such as access to health care and education (IOM 2003). Abuse of irregular workers by employers is well-documented. The abuses include forced overtime, wage cuts, and sexual harassment. Lower-than-average wages (Shah 2009) and poor working conditions (Stoyanova 2008) are recorded. Irregular migration also involves human trafficking. Among Cambodian irregular migrants to Thailand, there emerge cases of exploitation, abuse, and human trafficking. Naro (2009) compiles case studies of Cambodian migrants mistreated by their employers, some of them having to work long hours for low wages, while others are physically harmed when they refuse to follow instructions. Marshall (2001) provides evidence of Cambodian children trafficked as beggars and flower vendors in Thailand, while female migrants are forced to be sex workers. According to UNIAP (2010), every year, thousands of Cambodians are trafficked to Thailand. Men are often trafficked to work on fishing boats or as construction workers. Women are trafficked to the entertainment industry, including prostitution.

Working on a sea fishing boat is the most dangerous and abusive job for male migrants majority of whom are from Cambodia and Myanmar. Besides being underpaid, the migrants experience harsh working conditions. They face severe physical punishment if they are found to commit a fault, for instance, by just taking a rest during working hours. They have to work long hours up to 15 hours a day and in some cases more than that, and there are reported cases of migrants being forced to take drugs to be able to withstand heavy work (ICSW 2007). Some of the migrants are trafficked and sold without knowing, hence they have to work many years to repay the debt (*Ibid*):

“Those who work on fishing boats faced a lot of risks, for instance, natural disaster like storm or being sick on the boat [means] they cannot be sent to hospital in time.” (Returned migrants in Prey Veng, September 30, 2010)

“There were a lot of Cambodian [migrants who] died in this type of job, [as fishermen].” (An official in Kampong Thom, March 10, 2011)

Recent FGDs also mention cases of Cambodian irregular migrants not being paid the agreed wages, which is also common among irregular migrants (Shah 2009). Some were robbed by gangs. Others were arrested due to lack of legal papers. The latter were fined and sent back to Cambodia. Cambodian

irregular migrants are marginalized and subject to abuses, while unable to access social services because avoiding authorities is the only way to secure their clandestine status:

“I was cheated by a foreman... he did not pay me wages... they threatened to report to the police about my illegal status.” (A returned migrant in Banteay Meanchey province, September 14, 2010)

“When they are sick they dare not go to hospital...they buy medicines from their fellow Cambodian migrants. They will find their way home if the illness becomes worse.” (An official in Battambang, February 14, 2011)

Another issue concerns education of migrants’ children. Normally, migrant parents leave their children in the home country if there are people to look after them—usually grandparents. But if there is no one, they have to take them along. In the foreign country, they cannot send children to school given their illegal status.

The trip through illegal means is never pleasant. Workers have to travel during the dark and walk across different routes before arriving at the desired workplace. There are reported cases of migrants abandoned by brokers in the middle of the journey, hence left to find their own way to reach the place or come back home if they are lucky enough to avoid Thai police:

“...forty migrants were deserted by a broker...no jobs provided...the government [then] helped get those migrants back home at the time of the conflict between Cambodia and Thailand.” (An official in Banteay Meanchey, February 17, 2011)

To pay the brokerage fee, most migrants take loans or incur a debt to the broker. It will be disastrous if they cannot find work in the host country or are apprehended by police and sent home. They have to pay off the debt by way of, for instance, selling household assets.

“...some workers came back with debt because they could not find work in Malaysia...their family sold the farm or even residential land to pay back the debt to the broker.” (Returned migrants in Battambang, October 5, 2010)

Irregular migration has become a hot topic for national policymakers in both sending and receiving countries because of its many negative consequences (Vutha et al. 2011). Rampant irregular movement threatens the country’s sovereignty and gives way to the formation of terrorists, posing risks to state security (Koslowski 2004; Koser 2005). Health problems caused by irregular migration are also noted by MacPherson and Gushulak (2004). Unlike legal migrants, irregular migrants’ health is not examined before departure; hence the potential to spread contagious diseases is a concern.

OVERVIEW OF POLICY REGULATION FRAMEWORK ON MIGRATION

Policy

Cambodian labor migration policy has been formulated recently to promote employment abroad as well as to manage, protect, and empower Cambodian migrant workers. The first policy document on labor migration can be found in the Labor Ministry's *Strategic Plan 2009–2013*. The plan sets a goal³ of promoting employment abroad for the growing labor force by (1) improving the management of overseas employment services through private companies; (2) creating an employment permit system; and (3) protecting migrant workers.

The second major policy document is the *policy on labor migration for Cambodia*. The policy highlights three challenges: migration governance, protection and empowerment of migrant workers, and migration and development. The migration governance challenges concern the development of a sound labor migration policy, a legal framework and management of migration based on international instruments, and social dialogue. The protection and empowerment challenges relate to a rights-based approach to preventing and protecting people against abusive migration practices, and the application and enforcement of national laws and regulations in accordance with international labor standards and regional instruments. The migration and development challenges concern: mainstreaming labor migration issues within the national development agenda; establishing a system of recognition for skills gained from labor migration; promoting the productive use of migrant worker remittances for community development; providing return and reintegration services; and establishing support links with the diaspora.

The policy on migration is widely seen as lacking in coherence and harmonization with the country's development plan. The socioeconomic development plans for 1995–2000 and 2001–05, the National Strategic Development Plan 2006–10, and the National Strategic Development Update 2009–13, which are Cambodia's only strategic guides for development, neither explicitly nor implicitly articulated action plans for labor migration. Policy harmonization between migration and other areas is also barely evident although migration falls within the authority of different ministries and institutions. Aside from the MLVT, migration is raised in neither sectoral nor community development plans. Lack of vertical and horizontal policy linkages has contributed

³ Six priority areas in the plan are: (1) creating jobs; (2) ensuring better working conditions; (3) promoting enforcement of the law on social security; (4) capacity building in technical and vocational skills; (5) gender mainstreaming in labor and vocational training; and (6) strengthening institutions, partnership, work efficiency, and accountability.

to insufficient information exchange, uneven interministerial consultation, and lack of joint programs. There is a big lack of consultation. There has been no regular comprehensive and informed dialogue on migration and development issues. This leads to a situation in which mutual trust and collaborative and complementary efforts are low.

Compounding low policy coherence is the fact that irregular migration is not included in the policy framework. Measures or plans in the policy matrix to address irregular migration are hard to find. Instead, most plans deal with improving the existing regulatory framework, monitoring and supervising recruitment and placement, protecting and empowering migrant workers, and harnessing labor migration for development. Although recommendations in migration policy interventions are important and necessary in administering and managing migration, such recommendations, if implemented effectively, will eventually indirectly and partly solve issues of irregular migration. They deserve equal attention from the policy agenda.

Legal framework

The primary national legal instrument governing migration is Subdecree 57 on the Sending of Khmer Workers to Work Abroad of July 1995. Aiming to formalize cross-border labor emigration by providing the MLVT the authority to permit companies to send Cambodian laborers overseas, the law provides a legal framework for cooperation between the ministry and labor recruitment companies and procedures, including proposals for recruiting workers, deposit requirements, employment contracts, and predeparture training.

Subdecree 57 is widely regarded as outdated and lacking comprehensive coverage. It has no provisions on mandates of organizations responsible for the administration of labor migration or responsibilities and obligations of recruitment agencies. It has no provisions on supervision of placement and training programs. Subdecree 57 is also seen as vague, most provisions being too broad and lacking clarity. For example, Article 10 refers to annual leave but not to the right to be correctly and fully informed, the right to liberty of movement, the right of access to education and health services, and the right to participate in cultural life. Article 20 states that any person who violates the provisions will be punished, but there is no mention of penalties. Article 14 says that both the MLVT and recruitment companies are responsible for preparing and conducting predeparture training. It is not clear whether such training is compulsory. The subdecree is now in the process of revision and it has been submitted to the Council of Ministers for review and approval.

The other national regulations relevant to migration include Prakas No. 108 on Education about HIV/AIDS, Safe Migration and Labor Rights for Cambodian

Workers Abroad, Subdecree 70 on the Creation of the Manpower Training and Overseas Sending Board, Prakas 012/07 on the Creation of a Labor Migration Task Force, and Subdecree 68/2009 on the cost of passports for migrant workers.

Bilateral memoranda of understanding (MoUs) on sending Cambodian workers abroad also govern labor migration. Although an MoU is not legally binding, many argue that it is a flexible mechanism for bilateral cooperation on cross-border movement (Vasuprasat 2008). Cambodia has signed MoUs with Malaysia, Thailand, the Republic of Korea, and Kuwait. By covering procedures for recruitment, protection, repatriation, and dispute settlement, MoUs provide a framework for cooperation in managing the flow of migrant workers.

Labor migration is also governed by international conventions. Cambodia is a signatory to a number of international and regional conventions. It has ratified all eight core ILO conventions: the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); Right to Organize and Collective Bargaining Convention, 1949 (No. 98); Forced Labor Convention, 1930 (No. 29); Abolition of Forced Labor Convention, 1957 (No. 105); Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); and Worst Forms of Child Labor Convention, 1999 (No. 182). The country is a signatory to the UN Convention on the Protection of All Migrant Workers and Members of Their Families, one of the most significant on labor migration, and to the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, adopted on January 13, 2007. Cambodia is among 18 countries⁴ that adopted the Bangkok Declaration on Irregular Migration (the Bangkok Declaration) in 1999. Although these conventions are not legally binding, they are useful in holding signatory countries to their commitments and obligations.

REGULATORY APPROACH TO IRREGULAR MIGRATION

The analysis has suggested that while some migrants have improved their livelihoods, many have not or have even become worse off. The latter encounter abuse and exploitation and have very limited or no social and legal protection. Widespread migration problems pose a major protection challenge for the country of origin. There are serious policy and practice gaps in preventing irregular migration in the first place and in protecting the rights of irregular migrants. Irregular migration also affects the governance of labor migration in both sending and receiving countries. There is an international consensus

⁴ Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Indonesia, Japan, Republic of Korea, Laos, Malaysia, Myanmar, New Zealand, Papua New Guinea, the Philippines, Singapore, Sri Lanka, Thailand, and Viet Nam.

that irregular migration needs to be addressed in a holistic and comprehensive manner by looking at its causes, responding to its effects, and improving international cooperation.

Addressing the causes of irregular migration

Extreme poverty and lack of employment opportunities, high costs of legal migration, rigid regulations of host nations, porous borders, malpractice by some private employment agencies, and activities of traffickers all push Cambodian workers to migrate irregularly. Interventions that address these push factors would reduce informal migration.

- *Strengthening the development of communities of origin.* The preceding analysis indicates that households choose migration to escape extreme poverty, unproductive farming, and scarce natural resources. We agree with the Bangkok Declaration that the causes of irregular migration are closely related to development, and efforts should be made to achieve sustained economic growth and development. Although there has yet to be firm empirical evidence on the relationship between community development and migration, development might diminish migration by helping to overcome the reasons migrants undertake irregular migration and make migration a free, positive, and legal choice.

Most rural communities in Cambodia are characterized by poor physical infrastructure and irrigation, lack of agricultural support services, and limited access to common natural resources. Strategies are needed to overcome community economic constraints and increase opportunities, especially for the disadvantaged. Possible priority measures include increasing agricultural assistance; improvement of rural infrastructure; increasing access to natural resources and community participation in management; strengthening public service delivery, especially education and health; community skills training; and microfinance services. Development assistance needs to be targeted at communities having a high migration rate.

- *Open legal migration opportunities.* Migration to work abroad through legal channels is complex, lengthy, and expensive. With few options available for regular migration, irregular migration has become the only affordable channel for most Cambodian migrant workers. There is international consensus, as expressed in the 2003 ILO Asia Regional Tripartite Meeting in Bangkok, that easy and transparent legal migration opportunities could be part of an effective response to irregular migration. While the country can always negotiate bilateral agreements with labor-receiving countries for larger quotas and improved cooperation, the most

important priorities for Cambodia's legal recruitment are to streamline administrative procedures, speed facilitation services, and reduce placement costs.

The process of recruiting Cambodian migrants to work in Thailand is lengthy. According to recruitment agencies interviewed, issuing passports, getting visas, and completing paperwork by the responsible authorities consume about half of this time.⁵ This delay reflects the lack of helpfulness and support services for migration. While little can be done to eliminate formalities, a lot can be done to reduce unreasonable delays. For example, the Department of Statistics and Passports should strictly follow Subdecree 195 on passports for migrant workers by issuing passports within 20 days. The Ministry of the Interior should also consider creating passport offices in provinces with high migration, i.e., Battambang, Banteay Meanchey, and Prey Veng. These provincial offices should handle passports only for potential migrant workers; this would considerably reduce time and costs of issuing passports. The time to issue a working visa should be halved.

Like Chan (2009), who made the bold suggestion to cut recruitment costs from USD 700 to USD 300, this paper urges the responsible institutions especially MLVT to track actual costs and make its best effort to reduce them further. The breakdown of the cost of sending workers to Thailand suggests that a significant amount (approximately USD 220 or 31% of the total) falls within "other expenses", which are not known. This makes it easy for opportunist officers or agencies to demand high fees. The information on the recruitment process and fees as well as costs allowable under the law should be publicized.

- *Regulating private employment agencies.* Repeated serious incidents of noncompliance and malpractice suggest an urgent need for strong regulation of recruitment agencies. At the moment, Subdecree 57 is the primary instrument. It lacks comprehensive coverage and clarity, especially regarding fees, training and workplace monitoring, supervision, compliance, and penalties. Recruitment and placement need to be regulated through the licensing system, in which the responsibilities of agencies, conditions for recruitment, and penalties for violation and performance guarantees should be clearly defined. The regulations should provide for cancellation of licenses in case of malpractice and for criminal proceedings against serious offenders. Good regulations are not meaningful if not enforced. They need to be accompanied by active monitoring to ensure maximum compliance.

⁵ Issuing of passports takes from 20 days to one month; issuing a work visa takes about one month; paperwork from Foreign Affairs takes about two weeks.

Monitoring should include:

- obtaining reports by agencies on job placement and employment status of those deployed;
 - periodic visits or inspections by state agencies or their representatives;
 - information identifying recruitment agencies or foreign employers blacklisted for violations of the law or abuses; and
 - efficient and competent review of migrant workers' employment contracts prior to signing and enforcement during their employment.
- *Combating human trafficking.* A UNIAP report on human trafficking in Cambodia reports that men, women, and children are trafficked for sexual and labor exploitation in Thailand, Malaysia, Macau, and Taiwan. Preventing trafficking will minimize child work and forced labor. It can also help reduce irregular migration and protect migrants from slavery and severe exploitation. This research does not attempt to elaborate policy to combat trafficking, but its prevention can be aided by the following measures:
 - strengthening legal and policy framework to address trafficking;
 - being active in regional initiatives, e.g., the Coordinated Mekong Ministerial Initiative Against Trafficking, and working more closely with major destination countries like Thailand and Malaysia;
 - more collaboration within the country with UN agencies, nongovernment organizations (NGOs), and employers;
 - strengthening law enforcement and the capacity of officers;
 - building a knowledge base through good data, accurate information, and research on human trafficking; and
 - intensifying advocacy and raising awareness.

Protection and well-being of migrant workers

- *Intensifying education and raising awareness.* Many migrants, especially irregular ones, are unaware of the practical, legal, social, and economic consequences of moving to another country. They are not well-informed about employment and life abroad, customs and traditions, labor and human rights, or laws of the destination country. Better information means better protection, and we therefore recommend intensified education and raising awareness before departure. Adequate preparation for the conditions of work abroad and information about their rights will be conducive to a better experience for migrant workers. Information can be disseminated through a combination of measures:
 - National and provincial migration resource centers to register prospective migrant workers and provide information. The centers should be focal points to disseminate information and a place that

migrants can call or visit for counseling. The information can be disseminated via booklets, posters, counseling, tours, mass media, meetings, workshops, and seminars. Good examples of predeparture education include Tajikistan's Information Resource Center for Migrant Workers, which provides information on employment conditions, travel and documentation requirements, registration, rights, maps and contacts, risks of trafficking, and smuggling and health risks.

- Educational campaigns targeting communities with a high rate of irregular migration need to be strengthened. The education should pay more attention to safe migration and the hazards and consequences of irregular migration, in particular the risk of trafficking for sexual and labor exploitation. Given the inadequate resources of district and provincial labor offices, community-based NGOs, and village or commune chiefs, monks and schoolteachers can play a vital role in providing information to migrants. The MLVT should work with international organizations to mobilize support for NGOs providing community-based education and information on migration.
- *Expanding support services.* There has been limited provision of support for the protection and empowerment of migrant workers, particularly irregular migrants. Posting labor attachés in countries where there are large numbers of Cambodian migrant workers is one way to strengthen support services. Their functions should include developing a strong working relationship with the host country on labor issues; monitoring the treatment of migrant workers; providing legal assistance against contract violations, abuse, or exploitation; providing advice on problems with contracts or employment; and ensuring that irregular migrants are protected and facilitated in repatriation. Labor attachés should be posted in Thailand and Malaysia, where most Cambodian migrants work, especially irregular migrants. Attachés should possess some basic knowledge and skills including understanding of international legal instruments, treaties, and agreements; knowledge of the host country's labor demand and supply; and knowledge of labor policies and laws in both countries.

Strengthening international cooperation

Migration is inherently a multilateral issue, making international dialogue and cooperation essential for orderly and regulated labor migration (ILO 2010). The Bangkok Declaration also recognizes irregular migration as a regional issue and states that addressing it requires concerted efforts based on equality, mutual understanding, and respect. Irregular migration can best be addressed in bilateral and regional frameworks complementing national policy.

- *Strengthening bilateral cooperation.* Cooperation between sending and receiving countries proves to be effective in addressing irregular migration. The MoU signed by Cambodia and Thailand in 2003 is a showcase of effective collaboration to address migration issues. While the primary goal is a framework for recruiting Cambodians to work in Thailand, the MoU also seeks to convert Cambodian undocumented workers to legal migrants. The two governments jointly undertook regularization by providing certificates of identity to undocumented workers with which they can apply for a two-year work permit. As of 2007, 48,362 Cambodian undocumented workers were targeted for legalization. Of the total, 24,783 were granted work permit extensions, 10,094 were issued national verification, and 12,461 did not show up for verification.⁶ While Thailand faces a shortage of low-skilled workers, its government should continue to work collaboratively with sending countries on regularization. After this successful experience, Cambodia should ask Malaysia to consider regularization for irregular Cambodian workers.

Another successful partnership in addressing irregular migration is the agreement between Cambodia and Thailand to issue daily cross-border passes to commuters and seasonal workers living in border provinces. With the pass, Cambodian nationals, mostly farm laborers, domestic helpers, and petty traders, can work in Thailand with less worry about detention. From the survey, irregular migrants who work as farm laborers near the border are less vulnerable to abuse and exploitation than those working in fishing, construction, or factories. This experience addresses irregular migration and thus shows that the countries should continue to collaborate to facilitate cross-border movements in border provinces.

- *Toward an integrated Greater Mekong Subregion (GMS) labor market.* Cross-border labor movement across the GMS has been so dynamic largely because of significant social and economic disparities and complementary labor market structures. Thailand is a major labor market destination, while Cambodia, Laos, and Myanmar are sources of supply of unskilled labor. Despite the magnitude of intraregional labor flow and its economic importance, there is no subregional regulatory or institutional framework to facilitate labor movement. Compounding this weakness, labor migration has not been included in the GMS cooperation program. It is anticipated that GMS cross-border labor migration will continue to grow in size and scope; thus it needs an integrated labor market.

⁶ Cited from ILO (2008).

This proposal can be of benefit to every participating country. For labor-scarce countries like Thailand, access to an integrated regional labor market that can guarantee a steady and reliable supply of workers is critical to sustaining competitiveness in many labor-intensive sectors. For labor-abundant countries like Cambodia, Laos, and Myanmar, easier and freer international movement of workers can ease unemployment pressures. The initial step to achieve this is to include labor migration in the GMS-wide development agenda and then create an expert forum to explore the feasibility and provide recommendations to leaders.

- *ASEAN economic integration and free movement of labor.* Unlike the European Union, ASEAN does not provide for the free movement of labor. Although migration and mobility should be among the priority issues in ASEAN, there has been little discussion of labor mobility or migration in meetings of labor ministers. Prior to 2007, several initiatives on migration mainly addressed human trafficking. Not until 2007 did ASEAN leaders sign a Declaration on the Protection and Promotion of the Rights of Migrant Workers. The ASEAN Declaration is perceived by many as an important first step toward greater protection and respect for migrant workers' rights. Notable progress has been made by the ASEAN Committee on the Implementation of the Declaration, established to follow up the declaration by adopting a work plan, drafting an ASEAN instrument on the protection and promotion of migrant workers, and creating an ASEAN Forum on Migrant Labor for regular consultation.

However, the ASEAN Declaration is not legally binding and contains no obligations on member-states. Civil society organizations strongly recommend that the ASEAN Framework Instrument be legally binding. It is guided by four central principles. First, it should include and cover all migrant workers in ASEAN. Second, it should recognize that the protection of the rights of migrant workers is a shared obligation of sending and receiving countries. Third, it should follow the principles of nondiscrimination in treatment of migrant workers and their families. Fourth, it should ensure that migration policy and practices are gender sensitive. The implementation committee has worked on the Framework Instrument through broad-based national and regional consultation. ASEAN labor ministers should seriously consider its recommendations and work toward a binding framework.

In addition to protecting migrant workers' rights, ASEAN needs to work toward a free flow of labor within the region. The ASEAN Economic Community Blueprint, a strategic action plan to achieve an ASEAN Economic Community by 2015, has provision for a free flow of skilled

workers only. Unskilled workers create the majority of labor movement, and ASEAN should treat migration as key to integration by facilitating the free circulation of skilled and unskilled labor.

CONCLUSION

Although irregular migration has emerged as a major issue in the management of international migration, there has been little discussion of it in the broader context of labor migration management and national development in Cambodia. Irregular migration has neither been fairly covered in policy and regulatory frameworks nor received sufficient social and legal protection in sending and receiving countries. Such serious policy gap resulted in irregular migration happening largely uncontrolled and with a high risk of abuse, exploitation, and human trafficking. Cambodia's irregular migration needs to be treated as equally important with regular migration. The widespread problems of irregular migrants and challenges to labor migration management create a strong need to address the issue. Managing irregular migration is complex and intractable. It can be best addressed in a holistic and comprehensive approach involving policy and programmatic interventions at all stages of migration, by a range of those concerned.

The findings from the Cambodian case study on irregular migration align with international literature suggesting a combination of at least three sets of measures: addressing the causes, strengthening protection, and enhancing international cooperation. The first two sets have a lot to do with national sovereignty and development priorities involving community development, improving the regulatory framework to make legal migration more transparent and more widely accessible, and enhancing support services of information, consultation, and legal protection. The third set of measures involves bilateral, regional, and international cooperation. Cooperation between Cambodia and labor-receiving countries on regularization or making legal migration more accessible can be part of an effective response to irregular migration. In the long run, irregular migration can be solved through a more integrated labor market in the GMS, supported by subregional regulations and institutions as well as through an ASEAN Economic Community that sets a legal framework for a free flow of labor. To achieve such regional initiatives requires leaders to treat migration, especially irregular migration, as part of the broader labor market and not only as a legal and security issue. The success of managing irregular migration in Cambodia depends not only on the country's ability to transform "migration as survival" into "migration as choice" but also on how regional organizations like GMS and ASEAN and the international community respond to this issue.

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