

MEKONG ECONOMIC RESEARCH NETWORK

POLICY PRIORITIES TO BETTER MANAGE MIGRATION IN CAMBODIA

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1. INTRODUCTION

Migration has been a major agent in Cambodia's demographic and labour market change over the last two decades. Although the issue is not a completely new phenomenon, the current trend becomes more complex and diverse. While irregular migration defined as illegal movement to work in a country or movement without authorization to work is predominant, number of Cambodian regular migrants has risen significantly in recent years. Between 1998 and 2013, a total of 126,503 Cambodian workers were officially sent to work abroad—in Thailand (61.5 percent of the total), South Korea (21.6 percent), Malaysia (16.7 percent) and Japan (0.3 percent)—about 60 percent of whom were female. The changing migration landscape in Cambodia is in part driven by a policy shift towards promoting migration governance, protecting and empowering migrant workers, and enhancing linkages between migration and development. It is also shaped by changes in rural livelihood strategies due to poverty, unemployment and economic hardship. Chronic poverty, landlessness, lack of access to markets and common property resources, natural disasters, unexpected shocks caused by sickness, and lack of job opportunities have placed great pressure on rural people, especially the poor, to migrate in search of opportunities to enhance their livelihoods and economic welfare. External factors such as greater demand for low-skilled workers in receiving countries, economic disparity and wage differentials also play an important role in the migration patterns in Cambodia.

Many Cambodian rural households have made livelihood out of migration. Some families especially the poor migrate to offset poor harvests and food insecurity, while members of better-off households migrate to diversify income sources and maximise earnings. In many cases, migration improves migrant household livelihood and thus community development. Specifically, it helps improve housing conditions, increase the amount and types (quality) of food consumed in the household, serve as safety net especially in case of family shock, and improve access to education and health services (CDRI 2009, Maltoni 2006, IOM 2010). Migration can also help reduce poverty (for example, Tong (2012) found that international

remittances could reduce the poverty ratio 7.35 percentage points; Roth *et al.* (2013) found that emigration help reduce their headcount poverty rate by 3 percentage points and close the consumption gap by 1.4 percentage points).

Migration does not come without risks—an absence of policies and mechanism to mitigate would restraint migrants and their families as well as the country from maximizing its benefits. The most common risks include excessive extraction of payment for migration cost, insufficient or false provision of information about work conditions or detention at training centres during the recruitment process (Lee 2007a, CLEC *et al.* n.d, Leone 2012), and physical assault, forced labour, detention without salary or a reduced salary, unpaid extra-hours or overwork, and deprivation of health care at work in destination countries (CLEC *et al.* n.d, ADHOC 2012a, Lee 2007a, Naro 2009, Hing *et al.* 2011). There is also anecdotal evidence that migration causes undesired impacts on community of origin and children left behind. Loss of active labour due to migration could reduce crop production and thus affect sustainable livelihood. Because of migration, there are cases where elder children drop school to do more housework or income earning work. There also cases where children's health is vulnerable due to lack of good care or engagement in child labour.

Despite its increasing social and economic importance, there is little attention from policy circle on migration. As a consequence, policy on labour migration lacks coherence and has yet to be integrated into national development plans; regulatory framework is sporadic and limited; and institutional capacity is weak (Hing *et al.* 2011). On research front, there have been little concrete policy priorities to better manage migration and maximize its benefit for development. This creates a serious gap between migration research and policy making process. This paper addresses the missing link between evidence-based research on migration and policy design in Cambodia. It will examine issues that constraint migration from optimal opportunities and benefits by attempting to answer two major questions: (1) What are the challenges facing migrants workers in the whole migration process? What are

policy priorities to ease migration journey, protect and empower migrants? (2) What are issues in migration management? What are policies to better administer and manage migration for development?

This paper is structured as follows. Section 2 discusses the profile of Cambodian migration. The section specifically examines migration trends, demographic characteristics of migrant workers, factor driving migration, and migration and remittance. Section 3 highlights challenges and issues in migration management. Section 4 discusses policy priorities. Section 5 draws conclusion.

2. CAMBODIA'S MIGRATION PROFILE

2.1. Migration Trends

Cambodia migration has evolved markedly over the past decades in terms of volume and its significance for national economy and household livelihood. The total number of Cambodian emigrants as of 2010 was estimated at 350, 485¹ or around 2.5 percent of total population. The main destination countries are Thailand, Malaysia and Korea.

There are two distinct modes of migration: regular (movement that occurs through recognized, legal channels) and irregular (illegal movement to work in a country or movement without authorization to work). The number of Cambodian regular migrants has increased significantly over the last decade, though it represents a small share of total migrant population. Between 1998 and 2013, a total of 126,503 Cambodian workers were officially sent to work abroad—in Thailand (61.5 percent of the total), South Korea (21.6 percent), Malaysia (16.7 percent) and Japan (0.3 percent). Malaysia is the first country that has received legal Cambodian workers since 1998. The recruitment was managed by private companies in accordance with the labour export agreement between the two countries. Between 1998 and 2013, Cambodia sent a total of 21,076 workers to Malaysia, of whom 72

¹ The World Bank's Bilateral Migration Matrix 2010, accessed on 24 April 2014 at <http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:22803131~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html>

percent were women employed as domestic workers and 28 percent were men working in construction and manufacturing.

Thailand has accepted legal Cambodian migrant workers since MoU was signed in May 2003. The sending of Cambodian workers started only in 2006, once the Inter-Ministerial Working Group had conducted nationality verification of illegal Cambodian migrant workers in Thailand and issued them with a certificate of identity. Between 2006 and 2013, Cambodia officially sent a total of 77,790 migrant workers to Thailand, the majority of whom were men employed in manufacturing and enterprises. South Korea has allowed Cambodian nationals to work in the country since 2003 through an industrial trainee system and, later, via an employment permit system provided for the Act on Foreign Worker Employment. The placement of migrant workers in South Korea is made by the Manpower Training and Overseas Sending Board, a public agency for recruiting, training, sending and managing Cambodian workers to work overseas created by Sub-decree 70 in 2006. As of 2013, there were 27,304 Cambodian migrant workers employed in South Korea, the majority of them males working in manufacturing (64.6 percent), agriculture (34.2 percent) and fisheries (1.1 percent).

Table 2.1: Number of Cambodia Migrant Workers Sent Officially

| | Malaysia | | | Korea | | | Thailand | | | Japan | | | Total | | |
|------------------|-----------|---|-----|-----------|---|---|-----------|---|---|-----------|---|---|-----------|---|-----|
| | Tot al | M | F | Tot al | M | F | Tot al | M | F | To tal | M | F | Tota l | M | F |
| 19 98 | 120 | | 120 | 0 | | | 0 | | | 0 | | | 120 | 0 | 120 |
| 19 99 | 86 | | 86 | 0 | | | 0 | | | 0 | | | 86 | 0 | 86 |

| | | | | | | | | | | | | | | | | |
|-----------|------------|-----------|------------|------------|------------|-----------|------------|------------|------------|-----------|----------|----------|--|------------|------------|------------|
| 20 | | 30 | | | | | | | | | | | | | | |
| 00 | 502 | 7 | 195 | 0 | | | 0 | | | | 0 | | | 502 | 307 | 195 |
| 20 | | 34 | | | | | | | | | | | | | | |
| 01 | 846 | 2 | 504 | 0 | | | 0 | | | | 0 | | | 846 | 342 | 504 |
| 20 | 104 | 24 | | | | | | | | | | | | 104 | | |
| 02 | 9 | 6 | 803 | 0 | | | 0 | | | | 0 | | | 9 | 246 | 803 |
| 20 | | | | | | 11 | | | | | | | | 132 | | |
| 03 | 573 | 73 | 500 | 756 | 638 | 8 | 0 | | | | 0 | | | 9 | 711 | 618 |
| 20 | | 10 | | | | 15 | | | | | | | | 148 | | |
| 04 | 809 | 5 | 704 | 674 | 519 | 5 | 0 | | | | 0 | | | 3 | 624 | 859 |
| 20 | 177 | 46 | 130 | | | | | | | | | | | 224 | | 134 |
| 05 | 6 | 7 | 9 | 468 | 432 | 36 | 0 | | | | 0 | | | 4 | 899 | 5 |
| 20 | 169 | 23 | 145 | 150 | 134 | 16 | 411 | 322 | | | | | | 730 | 479 | 251 |
| 06 | 0 | 1 | 9 | 1 | 1 | 0 | 6 | 2 | 894 | 0 | | | | 7 | 4 | 3 |
| 20 | 308 | 17 | 290 | | | | 484 | 324 | 159 | | | | | 851 | 392 | 458 |
| 07 | 1 | 4 | 7 | 584 | 499 | 85 | 6 | 9 | 7 | 3 | 3 | | | 4 | 5 | 9 |
| 20 | 343 | | 337 | 253 | 212 | 40 | 299 | 181 | 117 | | 1 | 4 | | 901 | 401 | 500 |
| 08 | 2 | 53 | 9 | 1 | 7 | 4 | 1 | 6 | 5 | 63 | 9 | 4 | | 7 | 5 | 2 |
| 20 | 156 | 87 | | 168 | 144 | 24 | 354 | 196 | 157 | | 1 | | | 681 | 429 | 251 |
| 09 | 8 | 6 | 692 | 7 | 5 | 2 | 3 | 8 | 5 | 16 | 0 | 6 | | 4 | 9 | 5 |
| 20 | 447 | 25 | 195 | 211 | 163 | 48 | 112 | 630 | 492 | | 4 | | | 17,8 | 105 | 736 |
| 10 | 6 | 22 | 4 | 6 | 5 | 1 | 24 | 4 | 0 | 49 | 0 | 9 | | 65 | 01 | 4 |
| 20 | | 45 | | 495 | 442 | 52 | 16, | 10, | 621 | | 5 | 2 | | 22,7 | 155 | 714 |
| 11 | 841 | 7 | 384 | 7 | 9 | 8 | 837 | 624 | 3 | 74 | 2 | 2 | | 09 | 62 | 7 |
| 20 | | 11 | | 813 | 682 | 13 | 26, | 16, | 983 | 10 | 7 | 2 | | 34,8 | 235 | 112 |
| 12 | 180 | 0 | 70 | 2 | 8 | 04 | 390 | 551 | 9 | 2 | 9 | 3 | | 04 | 68 | 36 |
| 20 | | | | 389 | 267 | 12 | 784 | 535 | 248 | | | 1 | | 11,8 | 808 | 373 |
| 13 | 47 | 39 | 8 | 8 | 7 | 21 | 3 | 7 | 6 | 26 | 9 | 7 | | 14 | 2 | 2 |
| To | 21, | 60 | 15, | 27, | 22, | 47 | 777 | 49, | 28, | 33 | 2 | 1 | | 126 | 77, | 48, |

| | | | | | | | | | | | | | | | |
|-----|-----|----|-----|-----|-----|----|----|-----|-----|---|---|---|-----|-----|-----|
| tal | 076 | 02 | 074 | 304 | 570 | 34 | 90 | 091 | 699 | 3 | 1 | 2 | 503 | 875 | 628 |
| | | | | | | | | | | | 2 | 1 | | | |

Source: Ministry of Labour and Vocational Training

Most Cambodian migrants are irregular. The migration is usually helped by pioneer migrants or a broker (known locally as *me kchal*). As well as it is less costly² and complicated, irregular migration is more flexible especially for seasonal migrant workers. The main destination for irregular migrants is Thailand. Thai statistics cited in Paitoonpong (2012) indicate around 120,000 informal Cambodian migrants—the largest numbers of them are engaged in agriculture and construction. The number is considerably underestimated. In June 2014, approximately 250,000 Cambodian irregular migrants were repatriated by the new government of Thailand under military leadership.

Table 2.2: Cambodian Irregular Migrants in Thailand in 2009

| Industry | Person | Percent |
|------------------------|----------------|------------|
| Fisheries | 14,969 | 12.0 |
| Fisheries-related | 6020 | 4.8 |
| Farming and livestock | 24,085 | 19.3 |
| Farming and livestock- | 7077 | 5.7 |
| Construction | 32,465 | 26.0 |
| Mining/quarrying | 61 | 0.1 |
| Wholesale and retail | 4778 | 3.8 |
| Food and beverage | 4483 | 3.6 |
| Housemaids | 6578 | 5.3 |
| Others | 24,245 | 19.4 |
| Total | 124,761 | 100 |

Source: Paitoonpong (2012)

2.2. Demographic Characteristics of Migrant Workers

The descriptive data presented below is extracted from Cambodia Rural Urban Migration Project (CRUMP). It shows that gender distribution of Cambodian international migrants was quite balanced, 53.6 percent being male and 46.4 percent female. Majority of migrants

² CDRI (2009) in its comparison of costs and time between legal and irregular means concludes that the former costs migrants around USD700 (to Thailand) and takes three to six months, compared to some USD100 and a few days for the latter.

are young with average age at 25 years old. Disaggregating migrants by age, about 8 percent are children age under 18 years old, 48 percent are youth (age between 18 and 24), 32 percent age between 25 and 34 years old and 12 percent age over 34 years old. The distribution of age varies slightly but not significantly among male and female migrants. More than half of migrants are single, 34 percent are currently married while 7 percent are formally married. Majority of Cambodian migrants have low education. About 9 percent have no formal education, 53 percent are at primary education while 35 percent are at secondary education. Male migrants tend to have higher education than female. The data also suggest that seeking employment is by and large the main reasons for migration. The dominant share of migrants made decision to migrate with encouragement from their parents (71.7 percent), followed by self-decision (20.8 percent) and encouragement by others (7.4percent).

Table 2.3: Demographic Characteristics of Migrant Workers

| | Male | Female | Total |
|-----------------------|-------------|-------------|-------------|
| % of gender | 53.6 | 46.4 | 100 |
| Age (mean) | 25.7 | 25.2 | 25.4 |
| - Under 18 | 6.3 | 9.5 | 7.7 |
| - 18 to 24 | 47.8 | 48.2 | 47.9 |
| - 25 to 34 | 33 | 30.4 | 31.7 |
| - 35+ | 13 | 11.9 | 12.4 |
| Marital status | | | |
| - Never married | 62.6 | 55.9 | 59.5 |
| - Currently married | 35.1 | 32.5 | 33.9 |
| - Formerly married | 2.3 | 11.5 | 6.6 |
| Education | | | |
| - None | 7.3 | 11.3 | 9.15 |
| - Primary | 50.2 | 56.9 | 53.3 |
| - Secondary | 39.7 | 30.1 | 35.3 |

| | | | |
|------------------------------|------|------|------|
| - Higher | 2.8 | 1.6 | 2.2 |
| Reasons for migration | | | |
| - Work-related | 97.6 | 91.8 | 94.9 |
| - Education | 1.5 | 1.2 | 1.4 |
| - Marriage | 0.6 | 6.3 | 3.2 |
| - Other | 0.3 | 0.7 | 0.5 |
| Decision to migrate | | | |
| - Decided by self | 20.9 | 20.7 | 20.8 |
| - Encouraged by parents | 70.9 | 72.7 | 71.7 |
| - Encouraged by others | 8.1 | 6.6 | 7.4 |

Source: Author's calculation based on CRUMP database

2.3. Factors Driving Migration

Migration in Cambodia is largely a rural phenomenon. Several studies on Cambodia's migration have attributed migration phenomenon to push factors (Maltoni 2006; Chan 2009; IOM 2010). More specifically, the decision to migrate is in large part influenced by poverty, lack of employment, lack of alternative sources of income, landlessness, inability to access to market, debt and natural disasters and in part by pull factors such as wage differentials. There are huge gap in income and wage between Cambodia and its migrant-receiving countries. Per capita GNI of Cambodia is six times lower than Thailand and 12 times lower than Malaysia. The construction workers were paid around USD 2.43 per day in Cambodia as compared to USD 4.59 in Thailand and USD 8.88 in Malaysia (Hing *et al.* 2011). The workers in agriculture sector were paid an approximately USD 2.00 per day in Cambodia as compared to that of USD 3.88 in Thailand and USD 6.22 in Malaysia (CDRI Survey 2007). As of 2012, Thailand minimum wage in seven provinces was 300 baht or USD 9.78, while monthly minimum wage in Korea is approximately USD 790 (Tunon and Khleang 2013).

Another big pull factor comes from geographical proximity and migrant networks, which is defined as sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship and shared community origin (Massey *et al.* 1993). Cambodia shares an 803 km 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. Such a long border makes control difficult. Majority of Cambodian migrants have their initial migration journey helped by relatives, friends, villagers or brokers; while some pioneer migrants who have good connection with employers involve in migration business (Chan 2009 and IOM 2010). Without such assistance, potential migrants would have been reluctant to migrate and likelihood of subsequent migration would be diminishing. Through the assistance from friends and relatives, new migration may be able to obtain information and receive active assistance in finding employment and a place to live and thus reducing costs and risks of movement.

2.4. Migration and Remittance

Remittance from Cambodian migrants has increased steadily from USD 121 million or 3.3 per cent of GDP in 2000 to USD 188 million or 2.3 per cent of GDP in 2008. It then decreased slightly during 2009-2011 but rose significantly in 2012 to record high at USD 256 million. From macroeconomic perspective, it is a good source of foreign exchange for Cambodia’s economy.

Table 2. 4: Workers' remittances in Cambodia (1996-2008)

| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Remittances (in USD) | 121 | 133 | 140 | 138 | 177 | 164 | 184 | 186 | 188 | 142 | 153 | 160 | 256 |

| | | | | | | | | | | | | | |
|---------------------------|-----|-----|-----|------|------|------|------|-----|-----|-------|-----|-----|-----|
| mil.) | | | | | | | | | | | | | |
| % change | - | 9.9 | 5.3 | -1.4 | 28.3 | -7.3 | 12.2 | 1.1 | 1.1 | -24.5 | 7.7 | 4.6 | 60 |
| Remittances (% of GDP) | 3.3 | 3.3 | 3.3 | 2.7 | 3.2 | 2.6 | 2.6 | 2.4 | 2.3 | 1.7 | 1.8 | 1.7 | 2.6 |

Source: The World Bank (2014)

Majority³ of migrants send money back home. The amount varies according to countries of origin and types of works. Migrant workers in Korea, for example, sent on average USD 623 per year as compared to USD 306 of those working in Malaysia⁴. Housemaid in Thailand sent on average USD 334 per year as compared to USD 322 of those working in factory and USD 265 of those working in construction sector (Chan 2009). The amount of remittance sent back home also differs according to the length of stay of the workers. The longer migrants stay at the work, the more remittances they sent or brought home each time. According to Chan (2009), the workers, who work not far from the border in shorter period of time, brought home between USD 30 to USD 84 each trip; while those who stayed longer remitted home USD 150 to USD 180.

There are few means of sending money to the home country among Cambodian migrant workers. The most popular way for those working in Thailand is to have the money delivered through a money transfer operator who conducts the whole process over the telephone. The service charge is around 4 to 5 percent of the remittance. Those who work along the border remit money through their relatives and friends visiting their home town (Chan 2009). Around 75 percent of migrants working in Malaysia send remittances through middlemen that travel directly from Malaysia to Cambodia. The informal system of sending

³ According to MOP (2011), 71 percent of international migrants send money back home.

⁴ Author's calculation based on data from CRUMP 2011.

money home i.e. through middlemen or friends is well established compared to the formal one i.e. through banking.

Remittance is used by migrant's family for different purposes. The use for consumption and expenditure is common. About 87 percent of total remittance was spent on daily consumption including food, debt repayment, health treatment and purchase of durable household assets; while other 13 percent of remittance was used for farm production inputs, running new business, expanding of existing business, and other productive assets or business (Chan 2009). In more perception-based assessments, the overall economic benefits of migration outweighed the costs (CDRI 2009), and migration was perceived as a critical channel for improving the well-being of households and communities (FitzGerald & So 2007). More specifically, migration plays an increasingly important role in livelihood generation and poverty reduction. Poor households use wage labour, including migration, to offset poor harvests and food insecurity; better-off households access wage employment to diversify income sources and maximise earnings.

In empirical research, Tong (2012) provided specific indications of the impacts, using CSES 2007 database in his estimation. He found that remittances account for 20 percent for households receiving international remittances; it could reduce the poverty ratio by 7.35 percentage points. Similarly, Roth et al. (2013) found that households with at least one migrant member and receiving remittances could reduce their headcount poverty rate by 3 percentage points compared to matched controls. Migration also helped close the consumption gap (measured by Gini coefficient) by 1.4 percentage points (*Ibid*).

3. KEY CHALLENGES OF MIGRATION MANAGEMENT

Like a few other countries in the Greater Mekong Sub-region (GMS), management and administration of labour migration in Cambodia faces multi-faceted challenges especially in the broad areas of governance, protection and access to social security. The depth of these

issues varies significantly but all immediately require policy correction and intervention. Section below discusses in detail specific challenges.

3.1. Lack of Effective Policy and Institutional Framework

Cambodia is a latecomer in management and administration of labour emigration. As such, policy and institutional frameworks are seen as lack of coherence and inefficiency. Policy on labour migration was formulated just very recently and is at a nascent stage. The key policy documents including Strategic Plan 2006-2010 of the Ministry of Labour and Vocational Training (MoLVT) and the policy on labour migration focus mainly on two aspects: promoting employment abroad, and managing, protecting and empowering migrant workers. The priority actions⁵ prescribed in these documents are seen as comprehensive and appropriate to the current issues in migration management. Yet, it has yet to establish a sound and coherent labour migration policy. There is hardly a reference to labour migration in the national development plans despite the increased acknowledgement of the contribution of migration to development and poverty reduction. In addition, even though migration is a complex issue that falls within the authority of different ministries and institutions, horizontal and vertical policy harmonisation are barely evident. Besides MoLVT, migration issues are neither raised in other sectoral development plans nor in community development plans. Consequently, information exchange, inter-ministerial consultations, and joint implementation of migration policies and programmes are weak and limited.

Recently, there is notable progress in migration policy design. In July 20013, the Royal Government of Cambodia (RGC) issued a guideline on management of labour force and flow of migrant workers. The guideline not only recognizes the increasing trends and vulnerability of migration but also points out the need to properly manage and protect migrant workers. The guideline requires MoLVT to simplify migration procedure, reduce service fees, and improve mechanism to better monitor recruitment agencies. It also

⁵ Key policy measures are improving the management of overseas employment services through private companies; creating an employment permit system; coordinating closely with local institutions to facilitate selection, training, sending and management of overseas Cambodian labour; creating a network to protect overseas Cambodian labour; preparing procedures to send and manage overseas labourers until they return home; raising the awareness of the consequences of migration; and appointing a labour attaché to the embassy in receiving countries.

requires other relevant ministries such as Ministry of Foreign Affairs and International Cooperation, Ministry of Interior and Ministries of Women's Affairs to enhance coordination and facilitation on all migration-related matters. MoLVT in partnership with ILO has been revising the policy on labour migration. In 19 June 2019, the Ministry organized the consultation workshop with participation from various stakeholders working on migration including public institutions, international organizations, NGOs and research institutions. The workshop had three objectives: to provide updates on how labour migration fits within the National Employment Policy and National Strategic Development Plan; to assess the implementation of the current Policy and Action Plan adopted in 2010; and to gather inputs to support the development of the future Policy on Labour Migration for Cambodia. Despite recent development, bringing migration into national and sectoral development plans and setting up a more integrated mechanism to systematically deal with the issue are the real challenge especially for existing institutions characterised as lack of competent, human and financial resources.

Legal instruments governing labour migration include sub-decree on sending Cambodia migrant workers abroad, *Prokas* issued by the MoLVT to supplement sub-decree and Memorandum of Understanding (MoU) between Cambodia and receiving countries. The primary rule that governs migration since 1995 is Sub-decree 57 on the Sending of Khmer Workers to Work Abroad. The law provides a legal framework for cooperation between the ministry and labour recruitment companies and procedures as mean to formalise cross-border labour migration. Experience of the management of Cambodian migrant workers have proved that the Sub-decree are no longer appropriate nor consistent to the need for good governance of labour migration, and may not longer efficiently protect the rights of the migrant workers. The Sub-decree is widely regarded as lacking comprehensive coverage, being vague and most provisions being too broad and lacking clarity (Hing *et al.* 2011). In 2011, Sub-decree 57 was replaced by Sub-decree 190 on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies. Sub-decree 190 provides MoLVT the authority to permit companies to send Cambodian labourers overseas; specifies conditions for companies to obtain authorization; obliges the companies

to prepare some necessary contracts such as contract between the Ministry, between the workers and between foreign employers. It also requires recruitment agencies to provide pre-departure orientation training to the recruiting workers and has provision on social security regime and disputes resolution mechanism. Sub-Decree 190 is supplemented by a number of *Prakas* on definitions, licensing, and reporting requirements for recruitment agencies; monitoring and issuance of commendations for agencies; standards in the delivery of pre-departure training; use of the guarantee deposit; and standard contracts, among other things. Although the newly-enacted Sub-decree went through long and consultative process in the making, it is seen by many especially failure from the perspective of migrant worker rights as a dismal failure (LICADHO 2011). Specifically, the Sub-decree fails to address a number of core issues such as debt bondage through the provision of enticement loans to workers; illegal detention and mistreatment of workers in pre-departure training centers; failure to pay workers their full salaries and/or not paying any salary until the end of the contract; recruitment agencies preventing and obstructing contacts between workers and their relatives. Regulatory and institutional weakness is compounded by exclusivity of irregular migration in many national and international legal instruments.

Failure to establish effective dispute resolution mechanism is another pitfall in migration management. Provision on dispute resolution is laid out in the Sub-decree 190 on the Management of the Sending of Cambodian Workers Abroad Through Private Recruitment Agencies and *Prakas* No.249 on complaint mechanism. Yet, the law fails to provide detailed procedure in case dispute cannot be resolved and fail to indicate specific mandate of recruitment agency and punishment if found guilty. In addition to loopholes in the regulation of recruitment agencies, responsible institution lacks resources, supervision and monitoring of recruitment and placement. There is also limited information dissemination about procedure to lodge complaint to prospect and current migrant workers. There are numerous cases of malpractice by private recruitment agencies with regard to excessive extraction of payments from workers, confiscation workers' passports, absence of a

standard employment contract, and negligence to ensure welfare and protection of workers (Lee 2007a).

Labour migration management is compounded by weak law enforcement, uneven institutional capacity, insufficient resources, and lack of reliable migration information system. MoLVT has insufficient financial resources and staff capable of working on the different aspects of migration management (Chan 2009). At provincial level, the department of labour and vocational training is insignificant and this hinders effective communication between public administration and existing and potential migrants at community level. Private recruitment agencies operate in a highly self-discretionary manner in their recruitment, placement and sending processes with no strict legal verification and no active monitoring of their recruitment activities. More specifically, although the law requires private agencies to provide pre-departure training and orientation (Article 14 of Sub-Decree 57), there is no legally-bound minimum standard set by the MoLVT on the type of pre-departure training and it is up to private agencies to decide on the duration, format and content of the training programme. Given that private agencies are profit-driven, the absence of clear mechanisms to monitor the recruitment practices of labour sending companies leaves room for opportunistic agencies to take advantage of migrant workers, thus rendering workers vulnerable to exploitation and abuse. In terms of information dissemination, migrants receive very little information about their rights, the duties and obligations of their employers and labour agents, the worksite and living conditions, practical tips on health and safety, the location and telephone number of the Cambodian embassy, and where and how to seek help in times of distress (Lee 2007a). Migration information system is problematic. Although there is an up-to-date record of migrants officially sent to work abroad disaggregated by destination countries and types of work, the current system does not have a reliable mechanism to capture majority of irregular migration. Absence of a comprehensive data on migration is a major constraint to better understanding and analysis of migration issue and to evidence-based research for policy design.

3.2. Lack of Effective Protection Mechanism for Migrant Workers

Cambodian migrant workers, both legal and illegal, face multi-facet problems and a great deal of challenges at different stages. Some problems happen during recruitment process while majority of issues take place at work site. The nature of issues and the degree of seriousness varies according to migration journey, types of work and country destinations. In most cases, the abused migrants haven't received sufficient and appropriate resolution from both the government of sending and receiving countries. In some cases, the abusing recruitment agencies are not seriously punished.

- **Pre-departure Problems:** during recruitment process, there are cases of malpractice and apparent negligence by recruitment agencies, excessive extraction of payment for migration cost, confiscation of passport, and insufficient or false provision of information about work conditions (Lee 2007a, CLEC *et al.* n.d, Leone 2012). There are evidences that prospect migrant workers who attend pre-departure training are confined to overcrowding and unhygienic training centers; there are also reports of physical abuse, long working hours, little rest time and no free weekends/annual leave, and a deep sense of loneliness and homesickness have also been reported at recruitment centers (Leone 2012). In addition, prospect migrant workers were offered up-front loans and charged exorbitant processing fees, resulting in debt bondage. Statistics reported in CLEC *et al.* (n.d) suggests that from 2009 to 2011, LICADHO documented 29 cases of illegal detention at training centers in Cambodia, affecting 52 girls and women. During 2010 and 2011, CLEC facilitated the rescue of 115 girls and women from such conditions within the training facilities, while during the same period three workers died on the premises of training centers. Another statistics reported in UNIAP (2011) shows that 18.2 percent of workers in the sample endure abusive conditions during pre-departure training. Among these abused workers, 18.2 percent reported being threatened while 18.1 percent disclosed that they are verbally abused by recruitment agency trainers. Another common problem reported in this study was overcharge of migration cost by recruitment agency. Upon signing a contract, domestic

workers had to pay between \$810 and \$1,200 to cover the cost of their training and deployment. The mean charge of \$1,005 per maid is significantly greater than the figures cited by ACRA (the reported average cost in 2010 was \$680).

For irregular migrants to Thailand, the trip is never pleasant. The worst challenges facing them include the risk of being shot at border crossings, detention by Thai authority, fraud and theft, rape as well as being forced to take drugs (Hing *et al.* 2011). They have to travel during the dark and walk across different routes before arriving at the desired work place. There are reported cases of migrants who were abandoned by brokers in the middle of the journey, hence have to find their own way to reach the place or come back home if they are lucky enough to avoid Thai police (*Ibid*). There is also evidence of Cambodian children trafficked as beggars and flower vendors in Thailand. Restricted Rights Report⁶ suggests that the lack of a comprehensive migration and labour policy provides numerous opportunities for brokers and recruitment agencies to intervene and in some cases exploit migrant workers.

- **Problems at worksite:** Violation of rights and abuse of workers on site have widespread. The most common abuses include physical assault, forced labour, detention in the receiving country without salary or a reduced salary, unpaid extra-hours or overwork, deprivation of health care and food, as well as beatings, torture and rape (CLEC *et al.* n.d, ADHOC 2012a, Lee 2007a, Naro 2009, Hing *et al.* 2011). ADHOC (2012a) reports on right violation on male and females migrant workers in Malaysia. It suggests that the violation has gotten even more deteriorating mainly on the issue of loss of contact with the family because of company's closure; severe right violations; being forced to continue to work. In addition to the violation, Malaysian law allows employers to terminate or cancel a work contract, leaving migrant domestic workers stranded in the country illegally (Leone 2012). According to CLEC *et al.* (n.d), in 2012 LICADHO documented 90 cases of forced contract extension, physical abuse and torture, disappearance or missing women or women waiting

6 Accessed on 05 May 2014 at

<http://www.waronwant.org/attachments/WOW%20Migration%20Report%20low%20res.pdf>

for unpaid salaries in Malaysia. In 2010 and 2012, LICADHO has helped assist and/or repatriated some 250 Cambodian domestic workers from Malaysia. In the same report, LSCW reports having deal with 86 victims from 2010 to 2012, all subjected to violations of their human rights, such as forced contract extension, dial of payment and abuses. From 2012 and 2013, CLEC has provided assistance to 103 girls and women in cases of death, rape, physical and mental abuse, loss of contact, unpaid salary and forced contract extension. A similar report in UNIAP (2011) suggests that 88.3 percent disclosed that deductions were made from their salary and nearly one third reported feeling cheated due to such deductions.

For migrant workers in Thailand, the main issues and problems are no legalization (fear, lack of freedom); violence; dangerous and difficult working conditions; a lack of health care; and no proper and safe remittance transfer system (Lee 2007b). Irregular migrants are even more vulnerable to violations, as no institution is in charge of monitoring their safety; they often dare not to file a complaint, they sometimes had to run away from police, they were under threats. 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. According to UNIAP (2011), 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. Besides being underpaid, the migrants experience harsh working condition: they face severe physical punishment if they are found to commit a fault, for instance, by just taking 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 so they can stand heavy work (ICSW 2007). Some of the migrants are trafficked and sold without knowing, hence have to work many years to repay the debt (*Ibid*).

In the past four and a half years, LICADHO documented rights abuses of 350 trafficked Cambodian fishermen and in 2011 and 2012 it helped repatriate more than 235 fishermen (CLEC *et al.* n.d). During the same period, CLEC has documented rights abuse of 69 trafficked fishermen and repatriated 34 victims from similar conditions (*ibid*). From December 2011 to early 2013, LSCW has represented in court 44 victims of Giant Ocean International Fishery Co., Ltd, the recruitment agency which is responsible for sending nearly 1,000 Cambodia men into exploitive work conditions in fishing boats (*ibid*). Statistics in the same report also suggest that since 2012, CLEC has documented rights abuses of 1,690 Cambodian victims from the seafood processing and construction industries in Thailand. CLEC facilitated the repatriation of 745 victims from situation of severe debt-bondage, illegal confinement and violent imprisonment while improving working condition, erasing debts and returning documents for 940 victims.

Once the problems happen, there is hardly a timely and satisfactory solution. As well as employers' exploitation of workers remains unchecked by national governments, legal systems failed to protect workers, particularly in terms of wage, working conditions and abuse from the employers. In the case of Thailand, the government policy continues to be dominated by national security concerns with little regard to workers' basic rights. Those migrants who file complaints against exploitative employers are normally subjected to threats and harassment from the employer, including dismissal or being blacklisted from all the factories in the area by the Federation of Trade Industries. As a result of the stringent immigration enforcement measures pursued by the Thai post-coup government, approximately 250,000 Cambodian migrant workers—almost all of them undocumented—have been repatriated. Such en mass deportation represents a big blow for Cambodia's migration management. As well as the Cambodian government's failure to reduce illegal migration, which renders migrant workers vulnerable to exploitation and human rights violations, it has not done enough to seek genuine cooperation with Thailand on proper repatriation procedure. The Thai junta's rush to deport undocumented Cambodian workers, strongly criticised as a breach of humanitarian principles and human rights standards, is a stark reflection of the lack of effective protection and the disempowerment of migrant

workers within the existing migration management regime. For Cambodian migrants, especially rural families who make their living from migration, this unprecedented repatriation is a sudden shock to their livelihoods. Some have returned to their hometowns with no immediate job prospects, while others are struggling to find decent work in a tough domestic job market. This lesson illustrates even more acutely the need for Cambodia to better manage migration and leverage it for development.

3.3. Lack of Support Services and Restricted Access to Social Security

- **Lack of Support Services:** There has been limited provision of support services for migrant workers. First, information about safe migration, procedure, work conditions and migrants' rights, which are critical pieces of information all potential migrant should know, is not yet widely disseminated. As such, majority of migrants lack awareness. In most cases potential migrants tend to rely on acquaintances or brokers for information, and do not know where to seek help, cannot reach services, or are reluctant to approach the authorities for assistance. There is also lack of counselling services available for migrants. The establishment of 'Migration Resource Centre (MRC)' with financial support from ILO in four provinces (Phnom Penh, Battambang, Kompon Cham and Prey Veng) is a timely and important response. MRCs and relevant agencies disseminate information on safe and legal migration, provide counselling and support services, train and coordinate with relevant stakeholders and strengthen the knowledge base. MRCs have benefited many migrant workers and they prove to be an important platform in ensuring migrants' access to information and counselling services. Despite its significant contribution, the operation and financial sustainability of MRCs is a concern. The centres need to scale up its service delivery to wider areas especially rural communities and this can be done through expanding budget and staff. Second, there is lack of legal support services for migrant workers. As well as offices to lodge complaint are not widely available to migrant workers, the ministry in charge lack resources and capable staff to effectively deal with disputes. This loophole leaves room for local NGO intervention. For example, CARAM provides hotline call

services for migrant workers who want to know more about working conditions, laws or policies in prospect destination country or for those who need legal advice; LICADHO provides support and assistance to victims of labour trafficking; LSCW offers direct legal assistance to trafficking victims in addition to advocacy program to increase awareness about human rights and labour rights of migrant workers. The growing concern for NGO programs on migration, though, is the decrease in supporting fund and thus program sustainability.

- **Restricted Access to Social Security Schemes:** Cambodia migrant workers face double challenges in relation to social security scheme. The first problem is the exclusion of migrants in national security program. Social Security in Cambodia is at embryonic stage and only defined in the public and formal private sector. Social security provisions for civil servants is outlined in Law on Common Statute of Civil Servants of the Kingdom of Cambodia, while social insurances for employees in private firms are governed by the Law on Social Security Schemes for Persons Defined by the Provisions of the Labour Law. Lack of access to national security program is compounded by difficulties in gaining access to social security in destination country. Such a restricted access is mainly due to the fact that social security systems are established under national legislation and are either linked to economic activity or legal status of employment. Other factors that restrict Cambodian migrants' access to social security system include administrative processes, language and discriminative practices.
- *Legal Barriers to Social Security:* In some countries, social security law automatically excludes migrant workers from protection. Social security law in Thailand, for example, does not cover agriculture, fisheries, and other informal sector workers (the sectors that have high concentration of migrants); whereas the law in Malaysia exclude domestic servants. Eligibility criteria provided in the law such as residence requirements, documentation requirements or immigration requirements on length of permission to stay usually very strict and this creates artificial barrier for migrants to gain benefits

from social insurance in host countries. Social security rights may also be affected by the principle of territoriality (Kulke, n.d). By virtue of this principle, workers who are leaving their country of origin to work abroad may lose coverage under their national social security system and thus run the risk of having no social security coverage, either in their country of origin, or in their country of employment.

- *Administrative Barriers to Social Protection:* Although a migrant worker may be entitled to pay into and access social protection mechanisms of a home or host state, administrative practices may limit their access to such protection in practice (Hall 2010). Most of the problems relate to specificities in officially certifying documents to satisfy requirements; money transfer formalities; language or communication difficulties; and difficulties in satisfying documentary requirements in terms of passing on benefits to relatives or spouses when a migrant is deceased.
- *Weak Monitoring and Law Enforcement:* There is often a large gap between migrants having rights to social protection in theory and gaining access to those rights and benefits in practice. Some employers fail to pursue their legal responsibility by registering migrant workers to social security scheme and such acts automatically deny migrants' access to social protection. The practices have continued unchecked by any authority and as a result migrant workers continue to be vulnerable to the loophole in the system and to the exploitation and the evasion of legal responsibility by their employers. In addition, some countries discriminate against migrant workers from coverage or entitlement to certain benefits, or grant them less favourable treatment. For example, the payment required by Malaysians when they visit a hospital seeking treatment, is RM1 (for seeing a doctor) or RM5 (for seeing a specialist). For migrant workers, it starts with RM50 (for seeing a doctor).
- *Low Awareness among Migrant Workers about their Rights and Social Security Insurance:* Majority of Cambodian migrant workers are low-educated. They know least

about their rights to social protection and the social security systems of both country of origin and host country. There are no formal procedures or instructions as to how they should access to compensation or health insurance. In some cases, migrants are reluctant to join social insurance available to them because of language and communication problem, unfamiliarity with system and process, and fear of being arrested.

4. POLICY PRIORITIES TO BETTER MANAGE MIGRATION

Why do states need policy to better manage migration? It is evident that migration is increasingly a major economic, social, political and security concern for Cambodia. Migration is a protection problem because many migrants encounter abuse and exploitation with very limited or no social and legal protection. Migration is also a management problem in both sending and receiving countries. To better manage migration, Cambodia needs to address major challenges mentioned in earlier section through improving migration governance and institutional framework, enhancing protection and support services for migrant workers.

4.1. Improving Migration Governance and Institutional Framework

The preceding analysis indicates the whole issues of governance especially lack of policy coherence, inefficient institutions to facilitate, coordinate and monitor migration process, and lack of comprehensive migration information system are major constraints to effective management of migration in Cambodia. There is increasing consensus that improving governance and building effective institutions are part of an effective migration management. To achieve this broad objective, the paper strongly proposes policy priorities as follows:

➤ **Improving Policy Coherence:** While migration is a cross-cutting issue linking to policy in economic, social, labour, health, agriculture and security domains, among others, the issue has not received enough attention from national and sectoral development policy design. Integrating essential components of migration in comprehensive national development policy is an important step to better migration management. The overall objective can be achieved via a number of measures. First is to establish a capable and well-functioning migration working group. In fact, the government actually established the so-called 'Migration Working Group' under the Secretariat of the National Committee to Lead the Suppression of Human Trafficking, Smuggling, Labour, and Sexual Exploitation of Women and Children. The overall purpose of the Group is to “promote and protect the safety, rights, and interests of migrants in a way that is gender responsive by using a multi-disciplinary and multi-sectoral approach”. The Ministry of Interior chairs this Group, and there are number of vice-chairs, including the MoLVT, Ministry of Women’s Affairs, and the Ministry of Justice. Yet, some argue that the Working Group hasn’t performed well enough and thus need further improvement especially in areas of empowerment and competence. There should be further effort especially from the leadership to provide full support, strengthen member capacity, task to monitor the progress of policy implementation and widen consultation with key stakeholders. Second is to improve inter-ministerial coordination and information exchange. Setting up a liaison division within MoLVT to specifically communicate with relevant ministries and organizations could be an effective response to coordination problem.

➤ **Addressing Capacity Constraints:** Capacity constraints are closely linked to lack of staff and resources, weak coordination among relevant ministries and across countries, ineffective mechanism for monitoring and supervision of recruitment agencies and for dispute mechanism. Building institutional capacity must include the following actions: technical capacity building, greater circulation of information, regular and well-informed dialogue among public institutions’ senior officers, and increased allocation of national

budget along with greater cooperation with development partners on migration issues. The relevant ministries especially MoLVT must also improve the performance of the unit responsible for monitoring and supervising recruitment agencies. The unit must not only have the ability to ensure that recruitment agencies fully comply with laws and regulations but also have the power to punish them if found breaching the law. MoLVT should also improve dispute settlement mechanism by placing sufficient officers with law education and employment dispute experience to solely deal with complaints and disputes.

➤ ***Developing Comprehensive Migration Information System:*** An essential prerequisite for a successful migration management system is statistical and documentary information that is timely, accurate, reliable, and accessible (IOM 2004). At present, besides statistics on number of migrants officially sent to work abroad administered by MoLVT much of the statistical is not available. This limitation suggests a particular need for Cambodia to establish an 'efficient and comprehensive information framework and system'. Establishing migration information system requires the following actions:

- Acknowledging the importance of data and develop a statistic law for migration;
- Building technical and managerial capacity of statistic department in MoLVT. There should also be capacity building on research for the staff in this department so that they have research-oriented thinking and thus acknowledging the relevance of research to the government and policy making;
- Strengthen coordination among relevant ministries at national level, sub-national level as well as at the international level on data collection. Building capacity of local authorities on migration data collection is also vital to the quality of migration information.
- Developing national networks to collect, analyse and disseminate information on a wide range of migration phenomenon, including on labour migration, the gender perspective, sudden and massive population displacement, irregular migration and trafficking.

4.2. Enhancing Protection and Promotion of Migrant Workers' Rights

There is a general agreement that protection of migrant workers needs to be addressed in a holistic and comprehensive manner by looking at its nature of migration vulnerable to abuse, inspection of recruitment practises and availability and access to supporting services.

➤ **Addressing irregular migration:** Earlier analysis indicates that a crucial dimension of challenge in the country's migration management related irregular migration. Whilst migrants of this type are quite vulnerable to abuse and violation of rights, they haven't received sufficient and timely legal and other support services. International experiences prove that the following measures could be part of an effective response to irregular migration:

- *Opening up legal migration opportunities:* Easy and transparent legal migration opportunities could reduce irregular migration. While the country can always negotiate bilateral agreements with labour-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. There should be a ministerial order that clearly specify the time and cost of migration to ensure unnecessary delay and overcharge by recruitment agencies.
- *Strengthening the development of communities of origin:* Although there is not yet firm empirical evidence on the relationship between community development and migration, development might diminish migration by helping to overcome the reasons for irregular migration and make migration a free, positive and legal choice. Possible priority measures include increasing agricultural assistance; improvement of rural infrastructure; increasing access to natural resources and community participation in their management; strengthening public services,

especially education and health; community skills training; and microfinance services. Development assistance needs to be targeted at communities having a high migration rate.

- *Regulating private employment agencies:* Repeated serious incidents of non-compliance and malpractice suggest an urgent need for strong regulation of recruitment agencies. Recruitment and placement need to be strictly 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 licences 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. 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; efficient and competent review of migrant workers' employment contracts prior to signing and enforcement during their employment.
 - *Combating human trafficking:* preventing trafficking would help reduce irregular migration and protect migrants from slavery and severe exploitation. The prevention can be aided by the following measures: being active in regional initiatives and working more closely with major destinations; strengthening law enforcement and the capacity of officers; and intensifying advocacy and awareness raising.
- **Intensifying education and awareness raising:** 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, labour and human rights or laws of the destination

country. Better information means better protection, and we therefore recommend intensified education and awareness raising 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 number of approaches:

- National and provincial migration resource centres to register prospective migrant workers and provide information. The information can be disseminated via booklets, posters, counselling, tours, mass media, meetings, workshops and seminars. The establishment of MRCs in four provinces prove to a very successful model to provide reliable information and counselling and thus this should be replicated in wider geographic areas. The limitation is that MRC's geographical coverage and scope of operation remain limited. There should be extra effort and assistance to expand MRC in other provinces that have high migration ratio such as Siem Reap, Kompong Thom and Banteay Meanchey. There should also be an improvement in existing MRC especially in terms of expanding operation and better linking between MRC and MoLVT.
 - Educational campaigns targeting communities with a high rate of 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 labour exploitation. Given the inadequate resources of district and provincial labour offices, community-based NGOs and village or commune chiefs and schoolteachers can play a vital role in providing information to migrants. The MoVLT should work with international organisations to mobilise 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 labour 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 labour 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. Labour 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 labour demand and supply; and knowledge of labour policies and laws in both countries.

4.3. Establishing 'Cambodia Migrant Welfare Fund (CMWF)'

Several major sending countries in Asia have established MWFs to provide protection of their overseas workers. The Philippines have set up the 'Overseas Workers Welfare Administration (OWWA)' in 1977 to protect and promote the welfare and well-being of overseas Filipino workers and their dependents. Run by a special government agency under the Department of Labor and Employment (DOLE) and funded by a mandatory membership fee of US\$25 per contract for migrants going abroad, OWWA offers wide ranges of services including repatriation program, health and life insurance, worker assistance for settling work-related disputes and fraud, pre-departure training, reintegration program, loans and scholarship program for families left behind. The Filipino welfare fund model was later followed by Bangladesh, Pakistan and Sri Lanka. India is in the process of creating one and other sending countries in other region of the world are interested in replicating this model (Holzmann and Pouget 2010). The presence of MWF prove to be an innovative and financially sustainable means of providing support services to migrants and their families in a number of ways. First, a membership-driven MWF allow government to raise sufficient financial resources to fund needed programs and run critical on-site services for migrants. Second, because it is institutionalised, MWF proves to be a more effective mechanism in

providing such services as repatriation, insurance and loan, training and legal supports. Third, MWF if managed effectively can leverage migration resources for development such as education and training, loan services for entrepreneurship or career development. The successful experience of the Philippines in MWF and increasing trend of sending countries adopting this model as mechanism to protect and empower migrant workers provide a good reference for cash-strapped countries like Cambodia to establish MWF.

Below are some rough ideas of how the Fund should be operated:

- *How CMWF is organized?* CMWF should be part of larger body which is responsible for the various needs of labour migration. The Department of employment and manpower of MoLVT, which is primarily mandated to manage registration and sending Cambodian migrant workers abroad, seems to be the most appropriate office to administer CMWF. From experiences of many countries, the organizational structure of the Fund should entail board of Trustees, a secretariat, and international offices. The Board should be multi-partite body with senior officers from MoLVT as chairman and members from the government, the Fund's management, international organizations mainly working on migration, and labour-sector representatives. The main mandates of the Board should be to: (1) develop the Fund's mission, objectives and strategies; (2) approve the organizational structure of the Secretariat; (3) adopt policy, rules and regulations; (4) formulate rules and regulations governing financial transactions; and (5) ensure the efficiency of collection and the viability and sustainability of fund through sound and judicious investment and fund management policies;

The secretariat should function as implementing arm of the Fund. It must be headed by a competent administrator tasked to exercise general supervision and control of all its personnel and resources and assumes full responsibility and accountability. The

fund should also consider appointing a labour officer as a representative of its international officers to work closely with migrants and Cambodian embassy.

- *What are Objectives of CMWF?* The principal objectives CMWF are:
 - To protect interest and promote welfare of Cambodian migrant workers;
 - To provide social and welfare services such as insurance, social work assistance, legal assistance and remittance services;
 - To ensure the efficiency of collection and the viability and sustainability of the fund through sound and judicious investment and fund management policies;

At this early stage, the fund should focus on protecting overseas workers at the job site, providing legal assistance and ensuring adequate insurance against death and disability. Moving forward, the fund may consider expanding its program on repatriation, loan to migrants and their families, and remittance services.

- *How CMWF is funded?* The primary source of incomes of various MWFs in Asia is from membership fee fixed around \$ 25 per person. Membership to MWF is compulsory for migrants going abroad through official channel and its validity is until expire of employment contract. The concept of paying membership fee is quite new for majority of Cambodian migrants but it is worthy to explore the possibility of sharing the cost between migrants and recruitment agencies/employers. The initial operation cost is a major problem and thus grants from international organizations to support the start up and temporary administration of the fund would be viable scenario.
- *Preconditions to CMWF's Success:* the success and sustainability of CMWF rely on a number of factors:
 - Welfare fund requires comprehensive and coherent strategy that integrates the fund as part of broad migration management system;

- Welfare fund require effective institution that ensure not only financial viability and accountability but also efficient provision of services to migrant workers;
- Welfare fund requires meaningful cooperation and partnership with destination countries;
- Welfare fund also requires full-fledge participation and representation from migrant workers.

4.4. Strengthening International Cooperation

Migration is inherently a multilateral issue, making international dialogue and cooperation essential for orderly and regulated labour migration (ILO 2010). Migration can best be addressed in bilateral and regional frameworks complementing national policy.

- ***Strengthening International Cooperation:*** Migration is inherently a multilateral issue, making international dialogue and cooperation essential for orderly and regulated labour migration (ILO 2010). Migration can best be addressed in bilateral and regional frameworks complementing national policy. Cooperation between sending and receiving countries proves to be effective in better managing migration for both sides. 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 regularisation by providing certificates of identity to undocumented workers with which they apply for a two-year work permit. There should be a regular engagement in a balanced and better informed dialogue between governments to identify issues of common concern and adopt appropriate responses and effective mechanisms beneficial to all stakeholders.

➤ ***Enhancing the protection and promotion of migrant workers' rights in ASEAN:*** there are serious policy and practice gaps in protecting the rights of migrant workers and their family members in ASEAN. As in many regions of the world, there is an urgent need in ASEAN to address these critical gaps. In 2007 ASEAN leaders sign a Declaration on the Protection and Promotion of the Rights of Migrant Workers. The declaration is an important first step towards greater protection and respect for migrant workers' rights, but the delay in drafting the framework instrument suggests that ASEAN needs to step up its ensuring of commitments made under the declaration. The framework instrument is critical to regulating and installing the institutional settings to ensure enforcement of commitments. Given the current progress, ASEAN needs to pressure ACMW to finalise the instrument and submit it to the senior labour officials' meeting for endorsement. The civil society Task Force on ASEAN Migration Workers has convened a series of national and regional consultations that have issued 192 recommendations on the framework instrument for ACMW to consider. Some of the most important that are in line with the thinking of this paper include:

- The instrument should be legally binding on all ASEAN nations and cover all workers regardless of their status or origin.
- The instrument should mandate ASEAN members to ensure that they formulate and implement a comprehensive and coherent national migration policy in accordance with international principles and standards on the protection of migrant workers and members of their families.
- The instrument should mandate ASEAN members to adopt adequate legislation and administrative measures to protect migrant workers. One way is to expand embassies' and consulates' handling of migration cases.
- The essence of the instrument should be based on non-discrimination (national treatment) and guided by gender-sensitive policies, processes and practices

Once the instrument is completed and endorsed by the senior labour officials, ASEAN should consider the establishment of a regional reporting and monitoring mechanism. This could incorporate reporting to an independent monitoring office responsible for evaluating the implementation of laws and policies relating to the rights of migrant workers. The mechanism could review compliance reports, conduct fact finding if necessary and then issue comments and recommendations on the implementation of the instrument. A mechanism also needs to be created under the ASEAN Socio-Cultural Community Council to resolve any disputes between member states regarding the implementation of the framework instrument.

5. CONCLUSION

Managing migration and harnessing its benefits for development has become a huge challenge for latecomers to labour management like Cambodia. Policy gap analysis suggests several important policy challenges, many concerning the development of a coherent labour migration policy, a legal framework, and effective institutional framework; and absence of mechanism for prevention of and protection against abusive migration practices; and mainstreaming labour migration issues within the national development agenda. Migration situation analysis also indicates that while migration could help migrants improve necessary skills and their families improve livelihood, labour exploitation and violation of rights widespread. The problems are compounded by lack of legal and support services and ineffective dispute mechanism in both sending and receiving countries. Cambodia has reached a critical point where it needs to address every important aspect of migration. To better manage migration, Cambodia needs to urgently take the following actions:

- Improving policy coherence;
- Addressing capacity constraints (knowledge, information and coordination);
- Developing comprehensive migration information system;

- Opening up legal migration opportunities
- Regulating private employment agencies
- Combating human trafficking
- Intensifying education and awareness raising
- Expanding Support Services
- Establishing Cambodia Migrant Welfare Fund
- Strengthening International Cooperation
- Enhancing the protection and promotion of migrant workers' rights in ASEAN

These policy issues needs to be addressed in a holistic and comprehensive manner with complementary measures to improve policy implementation and law enforcement, strengthen institutional capacity and coordination, widen consultation and partnership with organizations working on migration, and more balanced and well-informed dialogue with destination countries in both bilateral and regional cooperation platform. The fruitful and meaningful contribution of migration to national development and household livelihood improvement will depend on the country's ability and capacity to bridge the policy and migration management gaps.

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