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► Recovery and labour migration in the post-pandemic future

Thematic background paper for
the 14th ASEAN Forum on Migrant Labour

International Labour Organization (ILO)

Supported by



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the 14th ASEAN Forum on Migrant Labour

TRIANGLE in ASEAN
International Labour Organization (ILO)
Regional Office for Asia and the Pacific

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Foreword

During 2021, the COVID-19 crisis has seen deepening impacts on the health and livelihoods of people and economies throughout the Association of Southeast Asian Nations (ASEAN).

Migrant workers continue to be among the most affected by the pandemic, bearing a disproportionate burden of health and socio-economic impacts. Hundreds of thousands of migrant workers in the ASEAN region have returned home, with many facing unemployment. Many of those staying in countries of destination are experiencing unsafe conditions at work and in accommodation, limited access to COVID-19 care and vaccinations, and loss of employment or violations of their labour rights. The majority of those unemployed in countries of origin or destination have limited access to social protection, support services or state-funded relief.

In this time of crisis, it is significant that the ASEAN Member States, led by the ASEAN Chair 2021 Brunei Darussalam, have continued their joint work and dialogue on protection of migrant workers' rights during the pandemic and in the post-pandemic recovery. The 14th ASEAN Forum on Migrant Labour (AFML) hosted by the Government of Brunei Darussalam on 6 and 8 September 2021 made an important contribution towards these objectives with its discussion on the theme "Recovery and labour migration in the post-pandemic future". The 14th AFML brought together governments, employers' organizations, trade unions and civil society groups from all ten ASEAN Member States to discuss the status of current initiatives to address impacts of COVID-19 on migrant workers and to adopt recommendations towards a human-centred, inclusive, sustainable and resilient recovery towards a post-pandemic future.

The ILO Global Call to Action for a Human-Centred Recovery from the COVID-19 Crisis, adopted in June 2021, recognizes broad-based social dialogue as a corner stone for developing and implementing regional, national, sectoral and local recovery strategies. The important contribution that the 14th AFML discussion on recovery and labour migration, as well as last year's 13th AFML discussion on protection of migrant worker during the pandemic, made to the development and implementation of the ASEAN Comprehensive Recovery Framework (ACRF) demonstrates, once again, the ASEAN region's commitment to address protection and promotion of migrant workers' rights as a region. As result, the ACRF importantly recognizes migrant workers as a vulnerable group and calls for policies to effectively protect migrant workers in time of pandemic.

I wish to congratulate the Government of Brunei Darussalam for its successful year as the ASEAN Chair 2021, and look forward to further cooperation on protection of migrant workers with ASEAN governments, employers' organizations, trade unions and civil society organizations in the years to come



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This background paper was developed thanks to inputs by the ILO TRIANGLE in ASEAN team, including Anna Engblom, Andreas Schmidt, Chonticha Tangworamongkon, Veth Vorn, Vongtavanh Sayavong, and Wai Hnin Po, as well as Rex Varona and Yen Ne Foo of the ILO Safe and Fair programme, Florida Sandanasamy of the Migrant Worker Empowerment and Advocacy Project, and Nguyen Thi Mai Thuy of the ILO Ship to Shore Rights SEA project. In addition, important contributions were provided by participants in the national preparatory meetings organized in Cambodia, Indonesia, the Lao People’s Democratic Republic, Malaysia, the Philippines, Thailand and Viet Nam in the lead up to the 14th AFML. Contextual and technical input from representatives of governments, employers’ and workers’ organizations, civil society and international organizations during these meetings greatly benefitted the development of this paper.

A draft version of this paper was presented and shared at the 14th AFML. After the 14th AFML the paper was consulted upon with the ASEAN Committee on the Implementation of the Declaration on the Protection Promotion of the Rights of Migrant Workers (ACMW) through the ASEAN Secretariat.

The 14th AFML was hosted by the Government of Brunei Darussalam, together with organizational and technical support from the ASEAN Secretariat, the ILO’s TRIANGLE in ASEAN programme, the International Organization for Migration, UN Women and the Taskforce on ASEAN Migrant Workers. The TRIANGLE in ASEAN programme is a partnership between the Australian Department of Foreign Affairs and Trade (DFAT), Global Affairs Canada (GAC), and the ILO.

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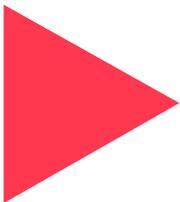
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Abbreviations and acronyms

ACRF	ASEAN Comprehensive Recovery Framework
AFML	ASEAN Forum on Migrant Labour
ASEAN	Association of Southeast Asian Nations
Cebu Declaration	ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers
COVID-19	severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)
CSO	civil society organization
IOM	International Organization for Migration
MRC	Migrant Worker Resource Centre
MTUC	Malaysian Trades Union Congress
OFW	Overseas Filipino Worker
PPE	personal protective equipment
SOCSO	Social Security Organization (Malaysia)



1

Introduction and background

This paper was prepared to inform and guide the discussions at the 14th ASEAN Forum on Migrant Labour (AFML) held on 6 and 8 September 2021 in Brunei Darussalam. The AFML brings together tripartite-plus stakeholders, including governments, employers' organizations, workers' organizations and civil society organizations (CSOs) from the Member States of the Association of Southeast Asian Nations (ASEAN)¹, to discuss labour migration governance issues across the region. The AFML is supported by the ILO through its TRIANGLE in ASEAN programme², the International Organization for Migration (IOM), UN Women and the Taskforce on ASEAN Migrant Workers. In several AMS, national tripartite plus preparatory workshops were held prior the 14th AFML to take note of the progress in implementing the previous AFML recommendations and to

discuss and prepare national recommendations on the 14th AFML theme.

While the AFML is themed each year, it aims to build regional solutions and harmony on the protection of migrant workers, as committed to under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, 2007 (the "Cebu Declaration"), and more recently, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, 2017. Together, these establish a collaborative and cooperative framework for the protection of migrant workers in the region and contribute to the ASEAN Community building process. Each AFML concludes with the adoption of recommendations that advance the provisions of the Cebu Declaration and the ASEAN Consensus.

¹ ASEAN comprises ten Member States: Brunei Darussalam; Cambodia; Indonesia; the Lao People's Democratic Republic; Malaysia; Myanmar; the Philippines; Singapore; Thailand and Viet Nam.

² The TRIANGLE in ASEAN programme is a partnership between the Australian Department of Foreign Affairs and Trade (DFAT), Global Affairs Canada (GAC) and the ILO.

1.1. The 14th ASEAN Forum on Migrant Labour (AFML)

The Government of Brunei Darussalam, as the chair of ASEAN and the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, was the host of the 14th AFML on 6 and 8 September 2021. The 14th AFML built upon the discussions and recommendations from the 13th AFML in November 2020 (box 1). Since then, the COVID-19 crisis has deepened in the ASEAN region, increasing its impact on labour markets and creating new challenges in labour migration governance. At the same time, more experience and knowledge has been gathered on how best to respond to the crisis and alleviate negative impacts on migrant workers.

The chosen theme for the 14th AFML was “Recovery and Labour Migration in the Post-Pandemic Future in ASEAN”. The 14th AFML was a platform for tripartite partners and CSOs to share information and good practices, including policy responses and programmes by stakeholders from the ASEAN Member States.

The two sub-themes at the 14th AFML were:

1. **Sub-theme 1: Protection of Migrant Workers during the COVID-19 Pandemic:**

This sub-theme discussed the immediate measures required to address migrant workers’ basic needs, like access to adequate food, shelter, healthcare, protection of labour rights, and safe travel and transit. This includes equal access to social protection, including medical care, vaccines and basic income security; access to remedies for wage and other labour rights violations; and improved safety, health and disease prevention measures at workplaces and in housing. It is also crucial to ensure women migrant workers’ access to gender-responsive support services and reintegration support, including essential services for victims of gender-based violence. Going forward, public health measures such as movement restrictions and workplace closures need to become evidence-based, more humane and smarter in order to sustain economic and social recovery.

2. **Sub-theme 2: Recovery and Post-Pandemic Future:** This sub-theme discussed the longer term measures

needed to address existing gaps in protection of migrant workers that have become evident or been exacerbated by the pandemic. Gaps in labour law coverage of migrant workers – including workers in essential services, in domestic work and in informal or gig economy jobs and those with irregular status – need to be addressed to avoid future crises resulting in humanitarian emergencies, irregular movements, wage violations and uncompensated job losses similar to those seen during COVID-19. When labour migration reopens within the region, measures are needed to ensure that migrant workers are not charged fees for their recruitment, including costs related to COVID-19 testing, vaccination and quarantine. National standards and practices with respect to migrant workers’ housing need to be improved and labour protections strengthened and enforced to benefit migrant workers, including domestic workers. Extending social protection of migrant workers and the portability of benefits through unilateral and bilateral measures are key to improving migrant workers’ resilience to crises and income shocks. Access to skills development and recognition is also essential in maximizing the development impacts of labour migration.

The theme for the 14th AFML resonated with Brunei Darussalam’s chairmanship theme, “We Care, We Prepare, We Prosper”, which aligns with ASEAN’s commitment to draw on the caring nature of the ASEAN Member States; to prepare and adapt for future challenges; and to create opportunities that benefit the people and enhance the sustainable prosperity of the region (ASEAN Secretariat, ASCC Department 2021).

1.2. Global and regional frameworks

At the global level, the 14th AFML discussions and recommendations contributed towards creating a holistic and sustainable recovery from the COVID-19 pandemic that is in line with the ILO **Global Call to Action for a Human-Centred Recovery**. The Call to Action commits countries to work for an economic and social recovery from the crisis that is fully inclusive, sustainable and resilient. It also calls for policies

that prioritize the creation of decent jobs for all and address inequalities, and outlines a comprehensive agenda with specific measures to promote inclusive employment and economic growth, protection of all workers, universal social protection and social dialogue (ILO 2021a). The guidance provided by the Global Call to Action for ensuring that the ASEAN region's recovery from COVID-19 benefits migrant workers is discussed in detail in Chapter 4.

At the regional level, the 14th AFML contributed towards the implementation of the **ASEAN Comprehensive Recovery Framework and its Implementation Plan**, which was adopted at the 37th ASEAN Summit on 12 November 2020. The ASEAN Comprehensive Recovery Framework (ACRF) "articulates ASEAN response through the different stages of recovery, by focusing on key sectors and segments of society that are most affected by the pandemic, setting broad strategies and identifying measures for recovery in line with sectoral and regional priorities" (ASEAN 2020a). The ACRF's Broad Strategy 2: Strengthening Human Security recognizes migrant workers as one of the segments of the population that has been particularly impacted by the socioeconomic consequences of the COVID-19 pandemic. Priority areas to strengthen human security include, among others, strengthening and broadening social protection and social welfare, and preparing labour policies for the new normal through social dialogue. The importance of the implementation of the action plan for the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers is also recognized in the ACRF (ASEAN 2020c).

The discussions at the 14th AFML also provided important guidance for the implementation of the **Joint Statement on Response to the Impact of Coronavirus Disease 2019 (COVID-19) on Labour and Employment**, which was adopted at the virtual Special Meeting of ASEAN Labour Ministers on 14 May 2020. The Joint Statement highlighted the "determination and commitment of ASEAN Member States, in the spirit of a Cohesive and Responsive ASEAN, to remain united and to act jointly and decisively to control the spread of the disease while mitigating its adverse impact, safeguarding the people's well-being and maintaining socio-economic stability" (ASEAN 2020b). The Joint Statement recognized, among other issues, the risks that migrant workers face, and specifically agreed to regional cooperation on the following actions, among others:

- Endeavour to provide that all workers, including migrant workers, laid off or furloughed by employers affected by the pandemic are compensated appropriately by the employers and eligible to receive social assistance or unemployment benefits from the government where appropriate, in accordance with the laws, regulations and policies of respective ASEAN Member States (article 2).
- Provide appropriate assistance and support to ASEAN migrant workers affected by the pandemic in each other's country or in third countries, including effective implementation of the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, working towards their health, well-being and safety as well as facilitating their movement and reuniting them with their families (article 4).

In addition to the commitments made in the ILO Call to Action, the Cebu Declaration, the ASEAN Consensus, the ASEAN Comprehensive Recovery Framework and its Implementation Plan, and the Joint Statement on Response to the Impact of Coronavirus Disease 2019 (COVID-19) on Labour and Employment, the 14th AFML built upon **recommendations adopted at the past AFML sessions** (boxes 1 and 2).

► **Box 1. 13th AFML recommendations**

Sub-Theme 1: Impact of COVID-19 on Migrant Workers and Responses in ASEAN

1. Ensure access of all migrant workers in all sectors to health care, including COVID-19 testing and treatment, emergency relief measures, income support, social protection, and unemployment benefits, where applicable, of the Receiving States and/ or Sending States. Implementation of the recommendations of Thailand's study on portability of social security benefits for migrant workers should be expedited. Furthermore, fear of sanctions for immigration violation should be delinked from health concerns of migrant workers.
2. Improve safety and health standards at the workplace and employer-provided housing for migrant workers including hygiene, sanitation living conditions, and Personal Protective Equipment (PPE) as preventive measures to reduce migrant workers' exposure to the COVID-19 infection. In this regard, minimum standards for decent living conditions of live-in domestic workers that respect their safety and privacy should be ensured.
3. Ensure decent wages of migrant workers and protect their wages in time of pandemic through effective complaint mechanisms and support services. In this regard, the complaints on wages and grievances, claims and labour disputes of migrant workers who lost their jobs due to the pandemic should be investigated and handled immediately and, where possible, prior to returning home without increasing health risks due to a prolonged stay.
4. Consider that fees related to recruitment and redeployment, including additional costs for COVID-19 testing, quarantine and health insurance, should not be charged to migrant workers in accordance with the ILO General Principles and Operational Guidelines for Fair Recruitment. In

line with this, migrant workers who paid recruitment fees and were not deployed should be reimbursed. In this regard, regulations and monitoring of the practices of recruitment agencies should be strengthened.

5. Provide access of migrant workers, especially domestic migrant workers and laid-off migrant workers, to mental health support and services. Stigmatization, xenophobia, and discrimination against migrant workers, especially those infected by COVID-19, should be addressed through, among others, public campaigns.

Sub-Theme 2: Cohesive and Responsive Labour Migration Policy for Future Preparedness in ASEAN

6. Information of COVID-19 related migration, labour, health and safety policies should be accessible to migrant workers in languages understood by them and, where possible, electronically. Responses to COVID-19 and other potential pandemic in future should be included in the occupational safety and health policies at the workplace to ensure better protection of all workers including migrant workers.
7. Strengthen migrant workers' return and reintegration programmes with adequate resources. In doing so, special attention to be given to stranded and repatriated migrant workers during pandemic crises including extending to migrant workers in countries of transit and points of entry during deployment and return. If detention facilities are used as the last resort, safety and health standards should be ensured.
8. Integrate rights-based and gender responsive protection of migrant workers and their families ¹ into national and regional pandemic and emergency preparedness plans. Consultation with migrant workers'

associations, trade unions, employers' organisations and civil society is key to ensure cohesive and responsive policies and plans.

9. Maximize digital technology in the online processing of migrant workers' immigration and employment documents and ensure its accessibility to migrant workers to reduce physical contacts in time of pandemic.
10. Strengthen the employability of migrant workers who lost their jobs due to the pandemic through improving their access to available re-skilling and up-skilling programmes, including digital literacy, public employment programmes, job placement and skills certification and recognition, with due consideration to the needs and realities of women migrant workers.
11. Support the recovery of labour migration flows in the new normal by strengthening and sharing available disaggregated data, including gender, on labour migration and labour markets, using standardised definitions, while maintaining confidentiality of personal information.
12. Increase cross-sectoral referral mechanisms and collaboration to strengthen national policy framework for protection of migrant workers in time of pandemic. Protection of women migrant workers and victims of gender-based violence during the pandemic and their access to coordinated essential services should be strengthened. The heightened risks of forced labour and human trafficking during the pandemic and post pandemic recovery should be addressed.

¹ In the case of Receiving States, families refer to those who are already residing with migrant workers.

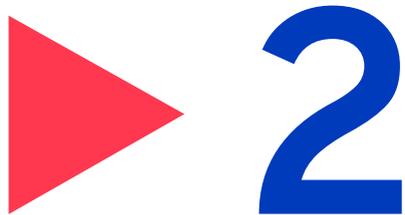
Source: ASEAN 2020d.

► Box 2. Past AFML themes

1st AFML	2018	Institutionalization of the AFML
2nd AFML	2009	ASEAN Declaration on migrant workers: Achieving its commitment
3rd AFML	2010	Enhancing awareness and information services to protect the rights of migrant workers
4th AFML	2011	Development of a public campaign to promote understanding, rights and dignity of migrant workers in countries of destination: Return and reintegration and development of sustainable alternatives in countries of origin
5th AFML	2012	The protection and promotion of the rights of migrant workers: Towards effective recruitment practices and regulations
6th AFML	2013	Enhancing policy and protection of migrant workers through data sharing, and adequate access to the legal and judicial system during employment, including effective complaints mechanism
7th AFML	2014	Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers
8th AFML	2015	Empowering the ASEAN Community through protection and promotion of the rights of migrant workers
9th AFML	2016	Better quality of life for ASEAN migrant workers through strengthened social protection

10th AFML	2017	Towards achieving decent work for domestic workers in ASEAN
11th AFML	2018	Digitalisation to promote decent work for migrant workers in ASEAN
12th AFML	2019	Future of work and migration
13th AFML	2020	Supporting migrant workers during the pandemic for a cohesive and responsive ASEAN Community





2

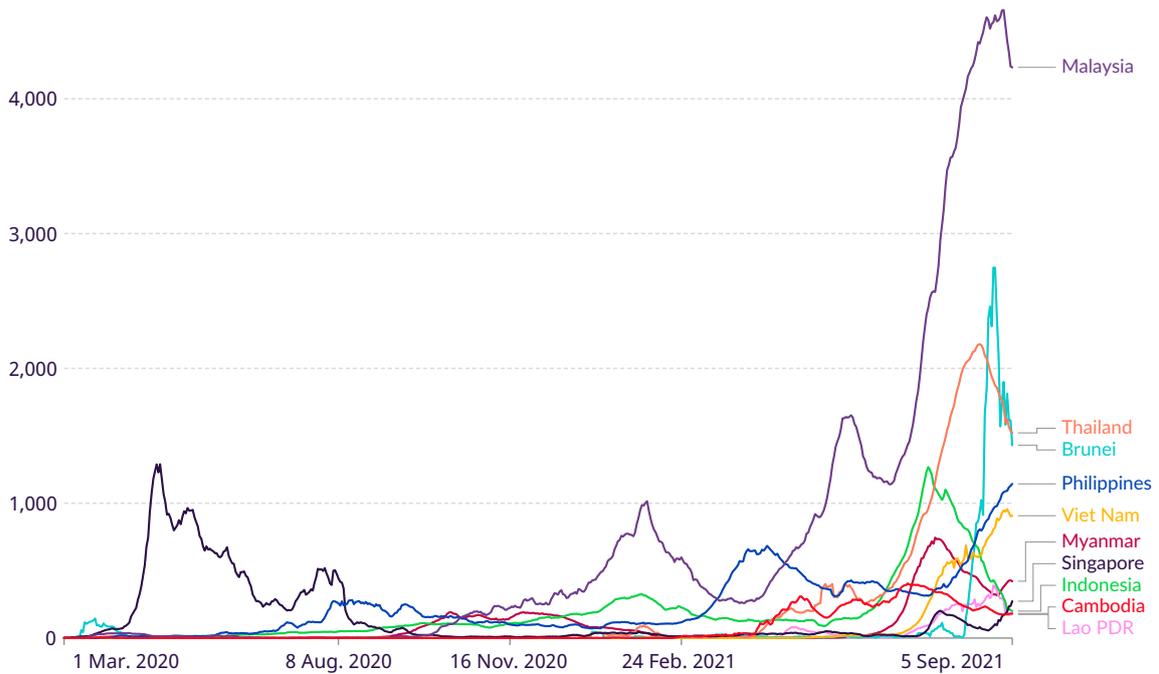
The COVID-19 pandemic and labour migration in the ASEAN region

2.1. Health impacts

At the time of writing, during the second year of the COVID-19 pandemic, the ASEAN region has become one of the global epicentres of the pandemic, with increasing numbers of infections

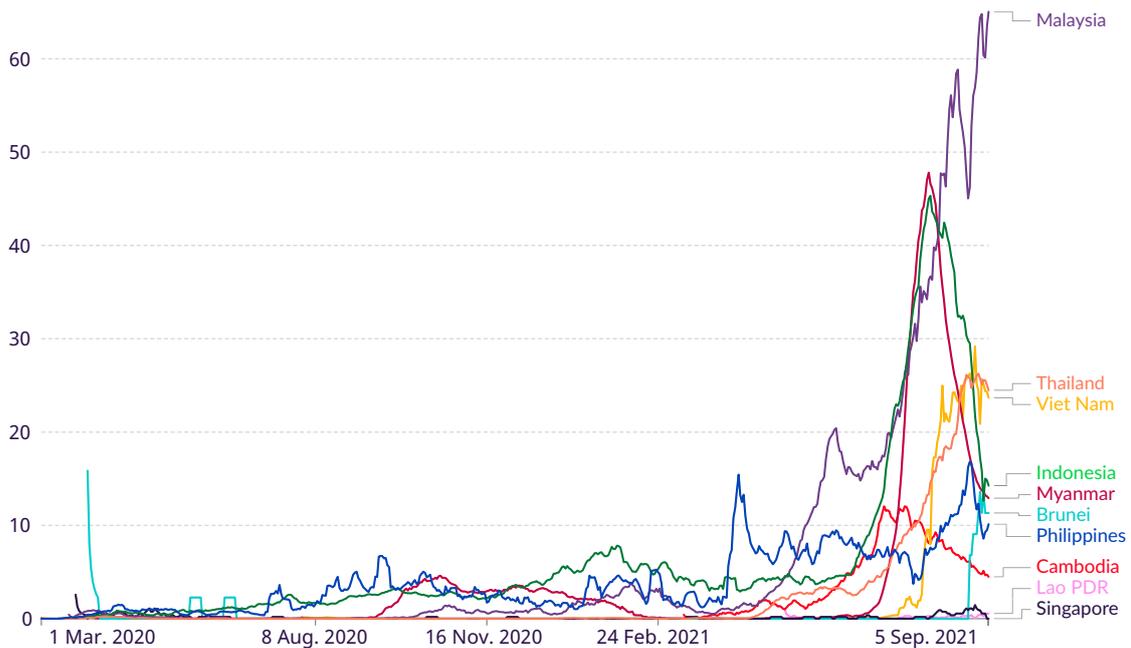
and deaths, and deepening impacts on the health and livelihoods of its people and economy. All ten ASEAN Member States have been affected, and are at different stages of curtailing the disease through vaccines and other measures (figures 1 and 2).

► **Figure 1. Daily new confirmed COVID-19 cases per million people in ASEAN Member States, as of 20 August 2021**



Brunei = Brunei Darussalam; Lao PDR = Lao People’s Democratic Republic. Note: Shown is the rolling seven-day average. The number of confirmed cases is lower than the number of actual cases; the main reasons for that is limited testing. Source: Our World in Data, 20 August 2021. Data Source: Johns Hopkins University CSSE COVID-19 Data.

► **Figure 2. Daily new confirmed COVID-19 deaths per million people in ASEAN Member States, as of 20 August 2021**

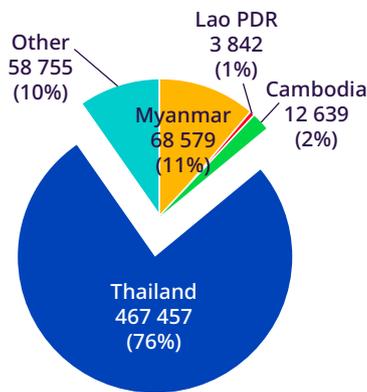


Brunei = Brunei Darussalam; Lao PDR = Lao People’s Democratic Republic. Note: Shown is the rolling seven-day average. Limited testing and challenges in the attribution of the cause of death means that the number of confirmed deaths may not be an accurate count of the true number of deaths from COVID-19.

Source: Our World in Data, n.d. (as of 20 August 2021).

Migrant workers have been disproportionately impacted by the COVID-19 crisis due to various factors, including lack of access to quality preventative and responsive healthcare, overcrowded housing, and employment in informal sector jobs and jobs with limited possibility of physical distancing (ILO 2021b; APHR 2021; UN 2020a). High rates of COVID-19 cases and deaths have been found in migrant worker communities in Thailand, Malaysia and Singapore (APHR 2021; Illmer 2020). In Singapore, close to half (47 per cent) of the migrant worker population was infected with COVID-19 during the first nine months of the pandemic (Illmer 2020). High rates of infection have been linked to overcrowded housing conditions, including shared facilities and sleeping areas, which increase the risk of contracting the virus (APHR 2021). In Thailand, as of 31 July 2021, at least 14 per cent of infections were among migrant workers from Cambodia, the Lao People’s Democratic Republic and Myanmar. COVID-19 cases among migrant workers were at least three times higher (24 per 1,000 persons) compared to Thai nationals (7 per 1,000 persons) (figure 3).

► **Figure 3. Covid-19 infections by nationality in Thailand**



Source: Thailand, Ministry of Public Health 2021, as cited in WHO 2021.

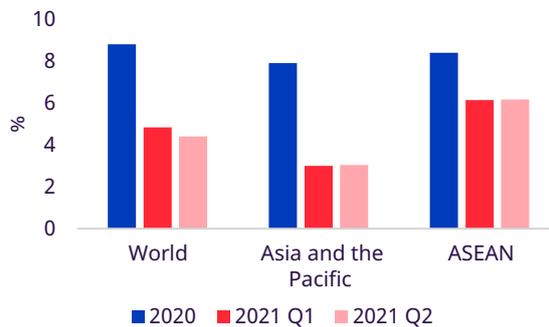
Scientists believe that, over time, COVID-19 will become endemic – in other words, the virus will continue to circulate in certain groups of the global population at a predictable and manageable level. The exact path that COVID-19 will take towards becoming an endemic virus is difficult to foresee. However, there are control measures governments can take to reduce transmission of

the virus until herd immunity³ has been achieved, while also reducing the severity of infections, including through vaccinations (Phillips 2021). With migrant workers playing a crucial role in the economies of destinations across the ASEAN region and beyond, the immediate and long-term control measures, including vaccination programmes, need to be designed with migrant workers in mind.

2.2. Labour market impact in ASEAN

The COVID-19 pandemic has caused unprecedented disruption in labour markets in the ASEAN region. The unemployment rate in the region increased to 3.1 per cent in 2020, compared to 2.5 per cent in 2019. During 2020, an estimated 8.4 per cent of working hours, equivalent to 24 million full-time jobs, were lost as a consequence of the COVID-19 pandemic in ASEAN countries.⁴ In the first two quarters of 2021, working-hour losses are estimated to have been at 6.1 per cent and 6.2 per cent, respectively (figure 4). However, with the COVID-19 pandemic taking an ever-tighter grip on the ASEAN region the labour market situation is expected to deteriorate further (ILO 2021i). Without swift and decisive recovery, these devastating job losses will result in an increased share of the ASEAN population living in poverty.

► **Figure 4. Decreases in working hours due to the pandemic (%)**



Note: Estimated working hour losses are in comparison to 2019 Q4. Source: ILO 2021i.

Although all ASEAN countries have experienced working-hour losses, the level of impact varied from country to country. During 2020, the

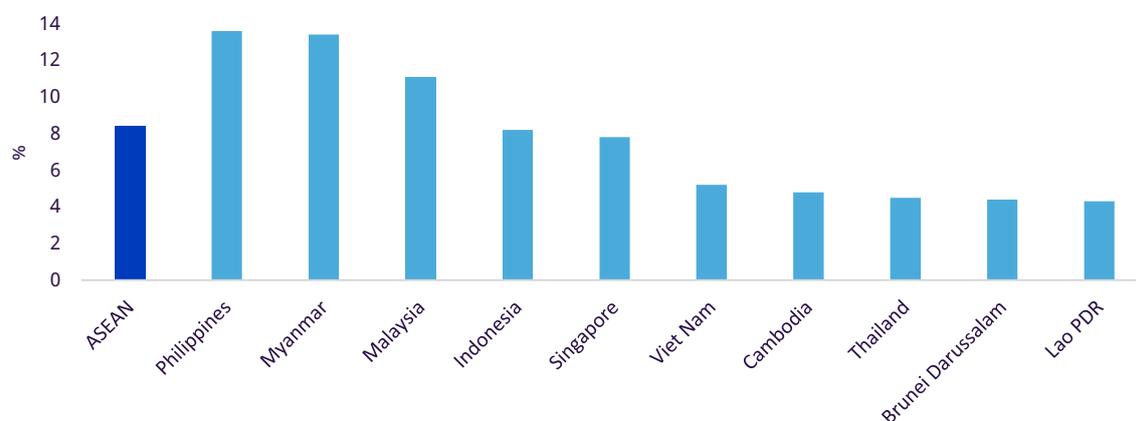
³ Herd immunity, also known as population immunity, is the indirect protection from an infectious disease that happens when a population is immune either through vaccination or immunity developed through previous infection (WHO 2020).

⁴ Lao PDR = Lao People’s Democratic Republic. Note: Estimated working hour losses are in comparison to 2019 Q4. Source: ILO 2021i.

Philippines experienced the highest levels of working-hour losses at 13.6 per cent compared to the last quarter of 2019. Thailand, Brunei Darussalam and the Lao People's Democratic Republic experienced smaller working-hour losses at between 4.3 and 4.5 per cent (figure 5). Several factors influenced these differences, including each country's ability to control the

spread of the COVID-19 virus, policies towards lock-down and workplace closures, and degree of dependence on different sectors of employment (ILO 2021i). Labour markets highly dependent on tourism and global supply chains were generally more vulnerable than, for example, agriculture dependent labour markets (ILO 2021i; ILO 2020a).

► **Figure 5. Decrease in working hours due to the pandemic across ASEAN and in Member States, 2020 (%)**



Lao PDR = Lao People's Democratic Republic. Note: Estimated working hour losses are in comparison to 2019 Q4. Source: ILO 2021i.

Unemployment in destinations

Differences have also emerged between groups of workers, with women, migrant workers, informal workers and youth among those hardest hit by the crisis (ILO 2020d). Within the ASEAN region, migrant workers are overrepresented in sectors of work that have suffered economically from the crisis, such as manufacturing and hospitality, and are often the first to be laid off during an economic crisis (ILO 2020a; ADBI, OECD, and ILO 2021).

Domestic workers, and in particular those in informal employment, are one group that has suffered much as a result of COVID-19 (ILO 2021c). During the second quarter of 2020, the number of employed domestic workers decreased dramatically compared to the fourth quarter in 2019. For example, in the Philippines and Viet Nam, the drop in numbers of domestic workers was of the scale of 45.1 per cent and 17 per cent, respectively (not considering seasonal affects). Domestic workers were thus two to three times more likely to experience job loss than other workers in the two countries (ILO 2021c).

Unemployment in countries of origin

With loss of employment, decreased working hour and wage losses in destination countries, large groups of migrant workers returned to their countries of origin (ILO 2021d; ILO 2021e). However, as countries of origin have been similarly impacted by the COVID-19 induced economic downturns, many returnee migrant workers are struggling to find employment at home (Failor et al. 2021). An ILO survey carried out in October–December 2020 found that only 42 per cent of returning migrant workers in the Philippines and 19 per cent in Myanmar had found paid work (ILO 2021g). This challenge corresponds with the considerable working-hour losses in the Philippines and Myanmar (see figure 5).

Labour shortages

Significant numbers of migrant workers departing from destinations also left some migrant-dependent sectors, such as agriculture and construction, with labour shortages. The lack of available labour within the agricultural sector may result in a loss of productive capacity within the sector, which could have significant consequences for coming production periods (Asia Pacific Foundation of Canada 2021). Similarly,

the construction sector in typical destination countries is likely to experience delays due to a lack of workers (Ganapathy 2021).

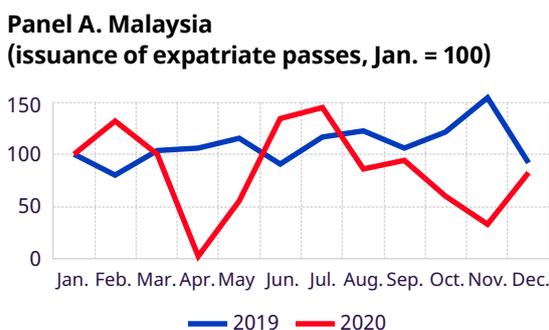
2.3. Impacts on international mobility

The COVID-19 pandemic has resulted in sharp declines in both deployment and admission of migrant workers in the ASEAN region. These declines are due to border closures imposed to limit the spread of the virus and the introduction of new variants.

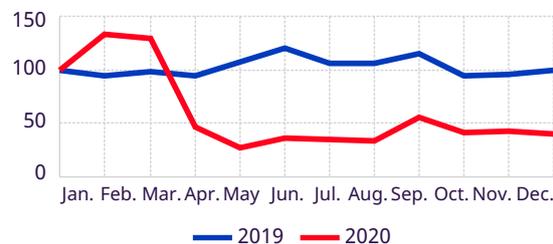
Migrant worker arrivals

Migrant worker destinations have seen declines in inflows of migrant workers. **Malaysia** suspended the entry of non-nationals in March 2020, resulting in a sharp reduction in migrant workers entering during April and May 2020 (figure 6, panel A). Entry restrictions were lifted for certain categories of travellers and workers in June 2020; however, this did not include low-skilled workers such as those in domestic work and manufacturing (ADB, OECD, and ILO 2021). The numbers of migrant workers entering **Thailand** also declined, with registration of work permits decreasing by one-third compared to pre-COVID levels (figure 6, panel B). In **Singapore**, the total stock of migrant workers declined by 5 per cent during the first six months of 2020, equivalent to 70,000 migrant workers. In December 2020 there were 1.23 million migrant workers in Singapore, a decrease from 1.43 million in the previous year (Tjendro 2021) (see figure 7).

▶ **Figure 6. Decline in labour migration inflows to ASEAN destination economies, in thousands, 2019–20**

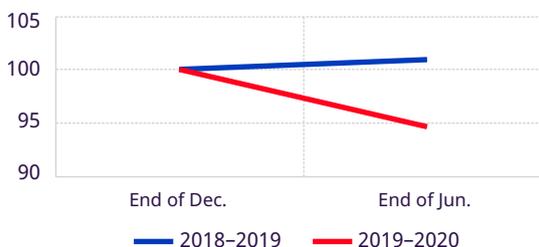


Panel B. Thailand (work permits registered, Jan. = 100)



Source: ADB, OECD, and ILO 2021.

▶ **Figure 7. Changes in stock of foreign workers in Singapore, 2019–20**



Source: ADB, OECD, and ILO 2021.

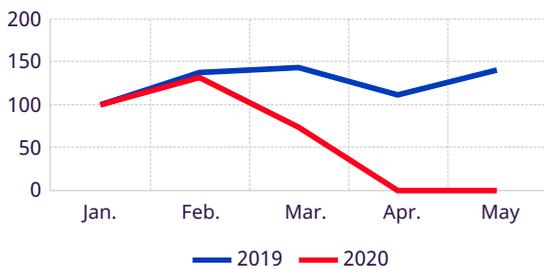
At the time of writing this report, some destinations consider the reopening of their economies, allowing for the re-entry of migrant workers, to be crucial. In **Singapore**, for example, migrant workers are expected to be allowed to return to ease the pressure on specific sectors largely dependent on migrant workers, including construction and domestic work (Ng 2021). A first step towards a reopening of labour migration was taken in July 2021 when a pilot programme started bringing in migrant workers from India to fill labour shortages in the construction, marine and processing sectors in Singapore. The pilot includes a pandemic-adapted recruitment process that integrates existing training, testing and onboarding processes with COVID-19 testing and quarantine on arrival (Pinsent Masons 2021). A similar need for migrant workers has been reported in **Malaysia**, where companies have requested the opening of borders; however, the Government is yet to make a policy decision on this issue (Bunyan 2021). **Thailand** is also reportedly seeking 400,000 migrant workers to meet workforce demands in the wake of COVID-19 downturns in admission (Thein 2021).

Migrant worker departures

Some countries of origin also suspended deployment of migrant workers to destinations affected by the pandemic. The **Philippines** experienced a sharp decline in the deployment of migrant workers, with merely 71,000 newly hired Overseas Filipino Workers (OFWs) deployed between January and May 2020, a 60 per cent decrease from the same period in 2019 (ADBI, OECD, and ILO 2021; see figure 8, panel A). In **Viet Nam**, the total deployment of migrant workers during the first three quarters of 2020 was only 41 per cent of deployment in 2019 (figure 8, panel B). **Indonesia** also saw a decrease in deployment numbers, with deployment at only 38 per cent of 2019 levels (figure 8, panel C).

► **Figure 8. Changes in outgoing deployment, 2019-20 (Jan. = 100)**

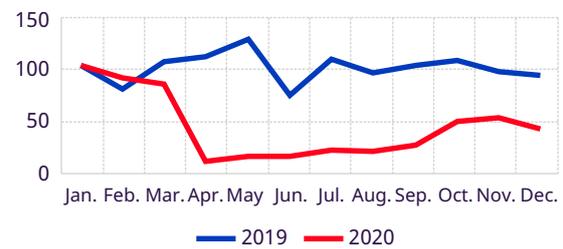
Panel A. Philippines, New OFWs



Panel B. Viet Nam



Panel C. Indonesia



Source: ADBI, OECD, and ILO 2021.





▶ 3

Subtheme 1. Protection of migrant workers during the COVID-19 pandemic – The current situation

The COVID-19 crisis in the ASEAN region has been worsening throughout 2021, with many countries, and the migrant workers residing in them, experiencing a sharp increase in the numbers of infections and fatalities. Migrant workers are facing the same COVID-19-related challenges they experienced during the early months of the pandemic, including food insecurity, lack of shelter and safe passage, but additional challenges have also emerged, including discriminatory access to vaccines, restrictive work-to-accommodation “bubbles” and now-prolonged periods of reduced wages and unemployment.

This sub-theme discusses the continued impact of COVID-19 on migrant workers, highlighting both the enduring and new challenges they face. The

issues explored in this section include migrant workers’ humanitarian needs, equal access to healthcare and vaccine programmes, restrictions in migrant workers’ access to social protection, safety and health in the workplace, access to due wages, the importance of adequate housing, and return and integration support. Key learnings from the impacts of public health measures – including movement restrictions and workplace closures – are also explored.

3.1. Humanitarian and other immediate needs

Migrant workers' livelihoods are untenable in destinations if they lose their jobs or experience significant income reductions and social security or other forms of emergency assistance is not provided. Many migrant workers have been stranded in destinations since the beginning of the pandemic and continue to face situations where they cannot get back home due to lack of funds, because they have been quarantined in accommodation, transportation is stopped or not allowing migrants, or because borders are closed to their crossing. Food shortages have been acute in some ASEAN destinations among certain groups of migrant workers. The immediate needs of migrant workers are those seen in other humanitarian crises: food, water, safe shelter, hygiene and safe passage.

The ILO (2021g) conducted a survey on migrant workers experiences during the COVID-19 crisis in ASEAN in October–December 2020, interviewing a total of 456 migrant workers in Malaysia, Myanmar, the Philippines, Singapore and Thailand. In this survey, 40 per cent of returnee respondents reported having experienced a period in the destination when they had no work and could not return to their country of origin, and a majority (66 per cent) reported struggling for one to three months without wages. Of the migrant workers surveyed in destinations and no longer working, most responded that they were not receiving any salary payments or benefits. In addition, a majority said that they have no savings to cover their immediate needs, such as food (67 per cent), healthcare (79 per cent), housing (77 per cent) and personal needs (69 per cent).

When workers lose jobs, many also lose their housing if it was employer-provided. They are homeless and provision of shelter must be allocated. For example, in **Malaysia** migrant workers are supposed to have four weeks' notice to leave their employer-provided accommodation at the end of their contract, regardless of whether they resigned, their employment was terminated or their contract ended. However, during COVID-19, when the human rights guidance was to implement a moratorium on evictions, Malaysia chose not to issue any such prohibition (Malaysia 2020; OHCHR 2020a; OHCHR 2020b; ILO, forthcoming).

In **Thailand**, construction workers have reported confinement to their accommodation without work, as building sites have been ordered to close.

COVID-19 spread through some accommodation camps, creating both health and humanitarian crises, as workers lacked food, supplies or income if they were not part of the social security scheme (Charoensuthipan 2021b).

Despite these challenges, few migrant workers have been able to access unemployment insurance or emergency income support in countries of destination (see more in section 3.6). To make up for this gap, workers' organizations, CSOs and employers' organizations have stepped in to assist migrant workers with their daily needs (boxes 3 and 4), but major challenges remain. In the aforementioned ILO (2021g) survey, just around one half of migrant returnees had received any services or support assistance – such as food and financial aid or counselling and advice – since their return, with such assistance coming from the government (40 per cent of respondents), community or religious organizations (11 per cent), non-government organizations (22 per cent) or trade unions (7 per cent). Without the provision of support, migrant workers are forced to make decisions that put them at greater risk of exploitative recruitment and work. In the absence of humanitarian support being provided, migrant workers are also more likely to make decisions that increase the risk of COVID-19 transmission, including avoiding quarantines through irregular border crossings, engaging in unsafe work or working without personal protective equipment (PPE). Ultimately, regardless of the intention of lockdowns and other measures, failure to meet the humanitarian needs of migrant workers will prolong the pandemic.

Major humanitarian needs have also been observed in quarantine facilities on return. Several governments in countries of origin have sought ILO and United Nations (UN) assistance to deliver basic needs in quarantine to returning migrant workers, indicating, among others, a lack of resources to support human quarantine processes. See box 9.

► Box 3. Survival kits for migrant construction workers

To curb the growing number of COVID-19 cases in Thailand the Government announced the total lockdown of all accommodation for construction workers, both inside and outside of construction sites. It is estimated that over 48,000 migrant workers in the construction sector in Bangkok were locked in their accommodation, which are commonly congested, unhygienic and unsafe. During such lockdowns, migrant construction workers faced increased health risks, and women migrant workers and children were at greater risk of violence and harassment.

The Thai Government assured workers that they would receive financial assistance through the social security system; however, very few migrant workers in the construction sector are registered under this system. This left large numbers of workers without income

and with no possibility to leave for food or other necessities.

Data collection conducted by partner organizations of the ILO–UN Women Safe and Fair programme identified the immediate needs of the migrant workers, including food and water and sanitary items. The Employers Confederation of Thailand, with support from the Safe and Fair programme, provided assistance in the form of survival kits to migrant workers locked in construction site housing. As of September 2021, a total of 4,000 kits – which include sanitary items, food, water and information leaflets on COVID-19 in migrant languages – have been distributed since the issuance of the closure order, but many more workers must be provided with these essential supplies.

Source: ILO–UN Women Safe and Fair programme.

► Box 4. COVID-19 emergency and legal support through the ILO TRIANGLE in ASEAN programme

Since the COVID-19 pandemic hit the ASEAN region in early 2020, Migrant Worker Resource Centres (MRCs) supported by ILO TRIANGLE in ASEAN programme have been quick respond to the emergency and legal support needs of migrant workers affected by the crisis. TRIANGLE in ASEAN also expanded its existing partnerships to extend the reach of support services to further migrant communities and quarantine facilities.

The support provided by the MRCs and other partners included humanitarian assistance, such as distribution of food and PPE, as well as counselling and legal support to migrant workers experiencing COVID-19-related labour rights violations, including delayed or non-payment of wages, dismissal, or delayed deployment. In 2020, 361 legal cases in Cambodia, the Lao People's Democratic Republic, Malaysia, Myanmar, Thailand and Viet Nam involving 5,008 complainants (31 per cent women) were handled by partners. In 2021, partners supported 1,193 complainants up to 30 September.

In **Cambodia**, the MRCs operated by Provincial Departments of Labour ¹, the Cambodian Labour Confederation and the Phnom Srey Organization for Development are providing support to returning migrant workers. These partners provide counselling and legal support, and share information during outreach events to returnees in quarantine facilities and in communities. PPE and food are provided at quarantine facilities, and in a few cases, transport to migrant workers' home communities has been arranged. In 2020, 2,575 returnees were reached, including 719 women, 871 men and 985 without their gender specified. In 2021, 3,958 returnees (869 women, 1,079 men and 2,010 not specified) were reached. In addition, 4,540 posters and banners were printed and distributed, and 54 legal cases were resolved.

In the **Lao People's Democratic Republic**, 575 women and 475 men in quarantine facilities were reached with emergency supplies, including PPE and food, in 2020, and 1,241

women and 1,259 men have been reached in 2021 (as of 30 September).

In **Malaysia**, the Malaysian Trades Union Congress (MTUC) reached 6,802 (mostly Bangladeshi) migrant workers in collaboration with the Bangladesh High Commission, and volunteers across Malaysia distributed food and PPE. Civil society partners Our Journey and Tenaganita reached 563 women, 674 men and 306 children through the targeted provision of food and PPE to out of work migrant workers and their families. In addition, in 2021, 24 legal cases, involving 27 women and 214 men, were resolved. See box 6 for more information on two major cases handled by the MTUC.

In **Myanmar**, support to returnees was provided through the Government of Myanmar, the Confederation of Trade Unions Myanmar, the Northern Shan State Baptist Convention, and the Mawk Kon Local Development Organization. In 2020, partners supported 12,128 returned migrant workers,

including 5,902 women and 6,226 men, with PPE and food. In 2021, 6,074 beneficiaries, including 2,786 women, 3,270 men, and 18 not specified were reached. A total of 8,019 flyers and posters were distributed. In addition, the partners resolved 33 legal cases through informal mediation. The cases covered overcharging, charging for recruitment costs, arrests and delayed deployment.

In **Thailand**, the Human Rights and Development Foundation, MAP Foundation, Committee for Protection and Promotion of Child Rights, and Migrant Working Group (MWG) supported 3,274 women migrant workers, 2,755 men migrant workers and 629 family members in 2020 with emergency supplies across the country. Support was channelled through MWG to other partners to expand the reach. In 2021, 6,371 migrant workers – including 2,272 women, 2,377 men and 722 dependents – were reached overall, and the support continues.

¹ Provincial Departments of Labour referred to here operate MRCs in the provinces of Battambang, Kampot, Prey Veng and Kampong Cham.

Source: TRIANGLE in ASEAN.

3.2. Access to healthcare and vaccines

As mentioned in section 2.1 above, migrant workers have been disproportionately impacted by the COVID-19 crisis due to various factors, including overcrowded housing and employment in informal sector jobs and jobs with limited possibility of physical distancing (ILO 2021b; APHR 2021; UN 2020a). For example, sectors of work such as construction, transport and logistics – where employees (many of them migrant workers) have been required to work irrespective of lockdown measures – are inherently risky (ADB, OECD, and ILO 2021). Further, many migrant workers – and particularly women migrant workers – provide essential health-related services in jobs including domestic work, healthcare work or caregiving, which place them on the frontlines of the pandemic (UN 2020a; ILO 2021c). Many informal sector and gig economy jobs, including delivery work, work in restaurants and food preparation, and cleaning work have been deemed “essential” to societal wellbeing during the pandemic; however, the concomitant

protection of these workers has been less evidently considered “essential”.

Despite these ongoing challenges, many migrant workers in the region are still unable to access affordable testing and treatment for COVID-19, putting both them and the broader host community at risk. Further, migrant workers’ eligibility under national vaccination programmes varies considerably, and migrant workers in irregular status are finding it especially difficult to obtain vaccines in a timely manner. In some ASEAN Member States, migrant workers do not have access on par with citizens to testing, treatment and vaccines, or they face practical barriers to getting vaccinated, including when faced by movement restrictions or concerns about detention and deportation. Information on vaccines and healthcare must be communicated in ways that migrant workers understand and trust. Access to universal health coverage is vital, and migrant workers, irrespective of status, should be able to access healthcare; the alternative is a prolonged pandemic with continuing health, social and economic implications.

Experiences during COVID-19 have demonstrated that protecting the health of migrant workers benefits not only individuals' health, but the public health and well-being of communities (ILO 2020g). Migrant workers who do not have access to COVID-19-related testing, healthcare and vaccination as well as paid sick leave are placed in a situation of risking their own health as well as contributing to continued community transmission.

Testing and treatment

Many migrant workers have been provided with free COVID-19 testing and treatment in Brunei Darussalam, Singapore and Thailand, and initially in Malaysia (ILO 2021e); though not all migrant workers have been able to access such services.

In **Singapore**, all migrant workers are entitled to free testing and treatment for acute respiratory illness at regional medical centres; however, employers remain responsible for covering migrants' healthcare for other illnesses (Singapore, MOM 2021b). In June 2021, the Ministry of Manpower issued a Request for Proposal for the provision of primary healthcare services to migrant workers to strengthen the existing (and largely reactive) healthcare available to migrant workers. The revised healthcare system for migrant workers will organize healthcare services into six regions providing comprehensive medical care, including mobile clinics and telemedicine, from November 2021. It is mandatory that healthcare providers can communicate in major migrant worker languages (Xiang and Ying 2021).

Thailand extended financial protection for health expenses to both nationals and foreign residents, through granting access to the UCEP (Universal Coverage for Emergency Patients) to all COVID-19 patients. This measure enabled COVID-19 patients to seek treatment at their nearest private or state hospital free of charge (ILO and ESCAP 2021). In practice, however, access to COVID-19 testing and care is very challenging for migrant workers due to insufficient hospital capacity, especially since the start of the third COVID-19 outbreak in April 2021. The Ministry of Public Health (MOPH) issued a notification in March 2020 to ban hospitals from rejecting patients who have tested positive for COVID-19, and this made the overcrowded hospitals reluctant to provide COVID-19 tests. The MOPH also operates active COVID-19 testing, which initially covered all migrant workers regardless of legal status. However, due to difficulties associated with reimbursement, the

healthcare providers have been reported to be avoiding testing migrant workers.

Indonesia provides free medical treatment to all (including expatriates) regardless of their registration to the nation health insurance scheme (BPJS Kesehatan). The costs are covered by general government revenues, but are channelled through the scheme (ILO and ESCAP 2021). The **Malaysian** Government has had differing policies during the pandemic regarding migrant workers' access to testing and treatment for COVID-19. Migrant workers, including those in irregular status, were initially provided with free testing and treatment for COVID-19; however, this policy was reversed on 29 April 2020. On 4 May 2020, the Government announced mandatory COVID-19 tests for migrant workers prior to returning to work, with the cost paid for by their employers. However, following objections from the Malaysian Employers Federation, the Government announced that the costs could be covered by the Social Security Organization (SOCSSO) for contributing (that is, regular) migrant workers (ILO 2021e), but employers would still need to pay for tests if the workers were in an irregular status (The Star 2020). Importantly, as of June 2021, domestic workers – including migrants – are now covered under the SOCSSO and the Employment Injury Scheme and Invalidity Scheme (Daim 2021). Migrant workers in irregular status, or those not contributing to SOCSSO, remain excluded from the subsidized COVID-19 tests (ILO 2021e).

Across the ASEAN region, countries increased the funding of national health systems in response to the pandemic. In countries of origin, these investments have benefited returnee migrant workers. For example, in **Cambodia**, the Ministry of Health covered the costs of COVID-19 testing and treatment for nationals and non-nationals (ILO 2021e). The Government of **Viet Nam** has covered costs associated with quarantine, testing and treatment of COVID-19 (ILO 2021e). The **Philippines** increased funding for social protection of vulnerable workers, and the Philippine Health Insurance Corporation (PhilHealth) allocated US\$583 million to certified hospitals to strengthen their capacity to treat COVID-19 patients (ILO 2021e).

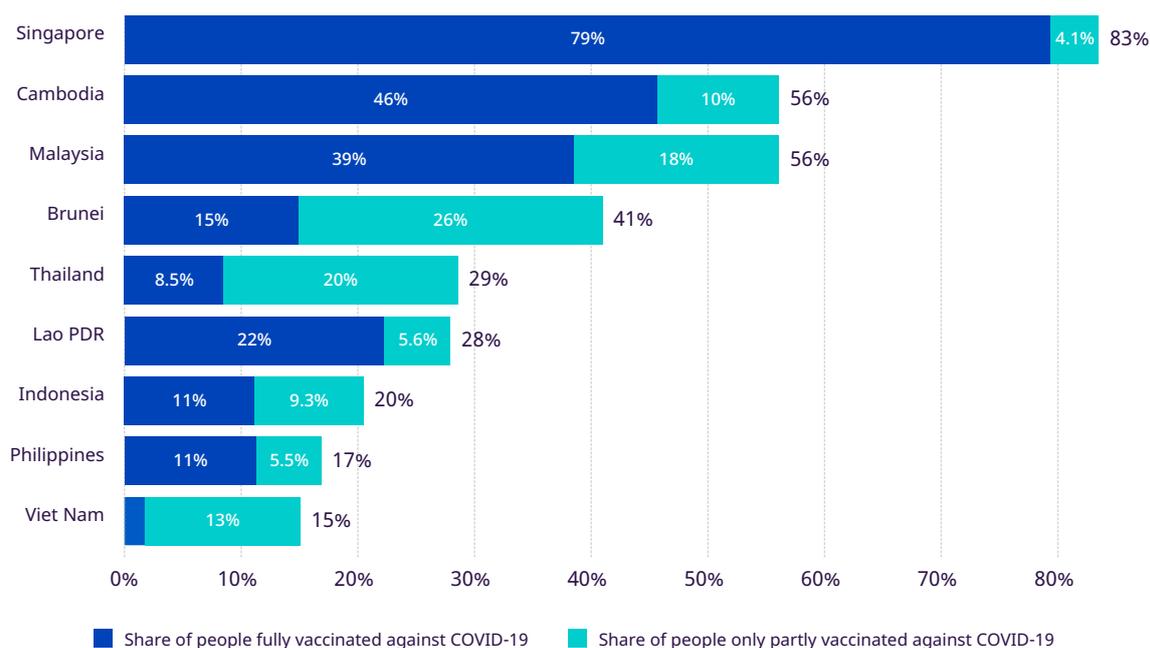
Access to vaccines

Migrant workers' access to health services should cover their inclusion in COVID-19 vaccination programmes, irrespective of migration status.

Vaccination programmes that collect information on migrant workers' migration status will deter migrant workers in irregular status, presenting risks to both the migrant worker and to public health. Information and registration on vaccination programmes should be made

available in languages spoken by migrant workers and delivered through community partners trusted by migrant workers. At the time of writing, ASEAN Member States are at different stages in their national COVID-19 vaccination programmes (figure 9).

► **Figure 9. Share of people vaccinated against COVID-19 by country, as of 20 August 2021**



Brunei = Brunei Darussalam; Lao PDR = Lao People's Democratic Republic. Source: Ritchie et al. 2020. Visualization provided by Our World in Data.

The inclusion of migrant workers under national vaccine programmes in ASEAN migrant worker destinations varies according to migration status. In **Malaysia**, immigration enforcement drives have deterred migrant workers from registering for the COVID-19 vaccine (HRW 2021). As part of efforts to combat this, a walk-in vaccine programme started on 1 August 2021 in Kuala Lumpur and Selangor, and a public-private partnership has been initiated to allow migrant-dominant sectors to get workers vaccinated (see box 5). In **Thailand**, at the beginning the vaccine rollout, vaccine registration was available to nationals and those with Thai ID numbers,

effectively excluding migrant workers. However, migrant workers living and working in identified outbreak areas were vaccinated as part of targeted vaccination drives. Other migrant workers were mainly only able to access vaccines if they were covered by social security (section 33 only) and their employers were able to register them for the vaccination, or if their employer had access to alternative vaccines. Language barriers further hinder many migrant workers' access to vaccines, as mobile applications and websites for registration are not available in migrant workers' languages (Charoensuthipan 2021a).

► Box 5. Initiatives to vaccinate migrant workers in Malaysia

On 11 February 2021, the Malaysian Government announced that all non-nationals residing in Malaysia, including migrant workers in irregular status, would receive free COVID-19 vaccines. Six days later, the coordinator of Malaysia's COVID-19 vaccination programme announced that migrants with irregular status would not be arrested when receiving the vaccine. This decision was, however, overturned on 29 May by the Home Ministry, announcing that migrants with irregular status would be located and arrested. The Government conducted a number of raids detaining more than 530 migrant workers in June 2021.

The immigration enforcement drives on migrants deterred some non-nationals from getting the COVID-19 vaccine. To reverse this trend a number of different initiatives are operational in Malaysia.

For example, a walk-in vaccination programme for individuals hesitant to register for the COVID-19 vaccine, such as migrant workers with irregular status and refugees, was initiated on 1 August 2021 in Kuala Lumpur and Selangor. The administration of vaccines is to be handled by non-governmental organizations to increase trust among migrant worker and refugee communities.

Source: HRW 2021; Bernama 2021; Maelzer 2021.

Community leaders have, however, noted that many migrants will continue to avoid receiving the vaccine due to fears of arrest, despite government assurances of safe passage. This underscores the need for migrant community organizations and government to build positive relationship prior to future crises.

The UN Resident Coordinator, the World Health Organization, IOM and the UN High Commissioner for Refugees are also operating the COVID-19 Vaccine Rollout for Vulnerable Non-citizen Groups programme, which aims to create migrant-friendly vaccination registration processes and vaccination centres as well as to engage with migrant communities to disseminate information and address fears and misinformation related to the vaccination. The initiative is also supported by the ILO TRIANGLE in ASEAN programme.

Another initiative is a public-private partnership between the federal Government and companies in prioritized sectors. Companies are required to pay a small administrative fee for each worker in order to participate in the partnership and receive vaccines. As a result, migrant workers are starting to receive the COVID-19 vaccine in Malaysia.

Countries of origin are also rolling out programmes to vaccinate migrant workers. Indonesian migrant workers are entitled to receive two doses of a COVID-19 vaccine before departure as well as COVID-19 insurance for the duration of their migration. The Indonesian Ministry of Manpower has also prioritized vaccination of returnees during their quarantine period on return. Flexibility has been given for migrant workers to use their passport as ID rather than national ID cards, which some migrant workers do not have. However, returnees without any documentation face procedural difficulties obtaining the vaccine. Recognized

vaccine certification is an emergent problem, with the Ministry of Manpower and civil society reporting that migrant workers' certificates have not been recognized in various destinations including Kuwait, Hong Kong (China) and Taiwan (China). Certificates were initially only in Bahasa Indonesia language but are now also available in English to facilitate recognition. It must also be noted that because vaccines are not free for non-nationals in Indonesia, barriers exist related to (non-reciprocal) negotiations for free vaccinations for Indonesian citizens abroad.⁵

Similar efforts are underway in the Philippines, with outbound migrant workers re-categorized

⁵ Tripartite discussion and presentations at the ASEAN Forum on Migrant Labour Indonesia National Tripartite Preparatory Workshop, 25 August 2021.

as a vaccination priority group on 21 May 2021.⁶ Migrant workers must show proof of upcoming deployment, and there is flexibility for migrant workers to get their second dose in a different location than the first if they have relocated for pre-departure training. Further, the Philippines Government has been able to offer vaccines to nationals in Myanmar through the Philippines Embassy. The Department of Health gave virtual trainings to embassy staff, contracted providers and was able to supply 2,000 vaccine doses to Filipina/os in Myanmar.⁷

3.3. Labour protection and access to due wages

During the COVID-19 crisis, migrant workers have been more at risk of unfair dismissal and more likely to experience deteriorating working conditions, such as non-payment of wages, violence and harassment, or coercion (ILO 2021g; ESCWA 2020).

Job losses

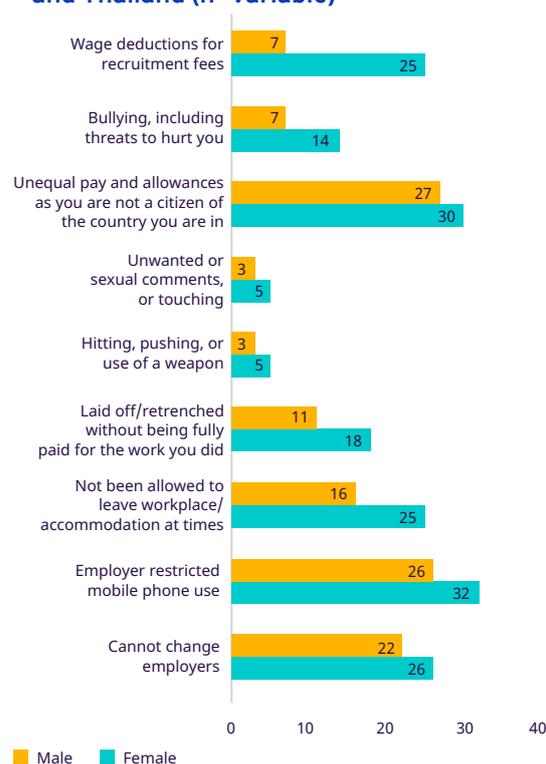
As indicated in section 2.2, in ASEAN destinations, migrant workers are overrepresented in sectors of work that have suffered economically from the COVID-19 crisis, such as manufacturing, hospitality and tourism, and have therefore often been the first to be laid off (ILO 2020a; ADBI, OECD, and ILO 2021). Further, in some countries, such as Malaysia, businesses have been explicitly advised to terminate migrant workers first, if they must lay-off employees (ILO 2021e). Migrant domestic workers, in particular those in informal employment, have also suffered disproportionate loss of employment and working hours compared with better protected workers, which has left many stranded in destination after dismissal (ILO 2021c). These experiences during COVID-19 highlight the urgent need to improve migrant workers' labour protections related to dismissal and payment of due wages and the need for a relaxation of regulations concerning migrant workers' rights to change employer.

Labour rights abuses

Migrant workers who remain employed in destination have also faced serious challenges and labour rights abuses. An ILO (2020c) rapid

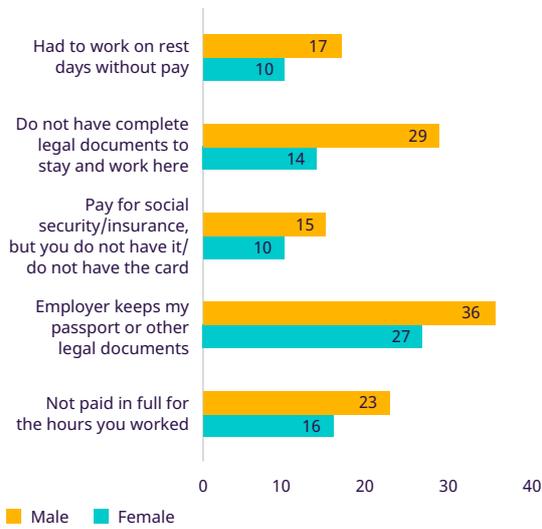
assessment conducted during March and April 2020 found that 32 per cent of surveyed migrant workers had experienced employment challenges and abuses as a result of COVID-19. A follow-up survey conducted between October and December of the same year found that the number of workers experiencing employment-related challenges and abuses had increased significantly to 64 per cent (ILO 2021g). The prevalence of challenges and abuses varied between the three surveyed destinations, standing at 70 per cent of migrant worker respondents in Malaysia, 63 per cent in Thailand and 59 per cent in Singapore. The employment-related challenges and abuses most commonly faced by the surveyed migrant workers were: withholding of passports or other legal documents; lack of social security despite its requirement by law; restricted mobile phone use; and unequal pay and allowances as compared to nationals. The abuses and challenges experienced by migrant workers also varied between women and men migrant workers. Figure 10 shows on the left the problems predominately faced by women, and on the right, those predominantly faced by men (ILO 2021g).

► **Figure 10. Employment-related challenges/abuses predominantly faced by women and men migrant workers during COVID-19 in Malaysia, Singapore and Thailand (n=variable)**



⁶ Inter-Agency Task Force for the Management of Emerging Infectious Diseases Resolution No. 117, Series of 2021.

⁷ Philippines Department of Health presentation at Philippines National Tripartite Preparatory Workshop, 19–20 August 2021.



Note: Number of respondents varies for each question, ranging from 8 to 58 for the graph on the left, and 25 to 63 for the graph on the right. Source: ILO 2021g.

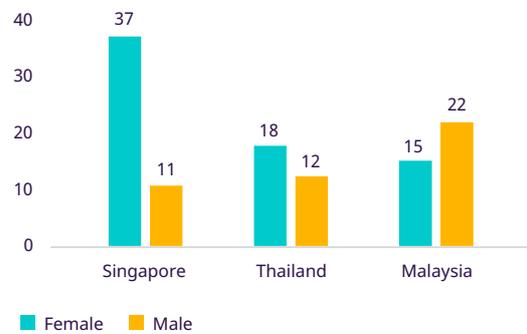
Wage violations

Denial of due wages by way of non-payment of wages or wage loss is often experienced by women and men migrant workers and has been exacerbated by COVID-19. In the ILO (2021g) survey, almost two in five (36 per cent) migrant workers reported wage losses as a consequence of COVID-19 (see figure 11).

Wages gradually decreased during COVID-19. I decided to return home as [the] cost of living allowance and baht price became high, and I could not send remittance to my family

► Myanmar female migrant worker returned from the agriculture sector in Thailand

► Figure 11. Average wage loss experienced during COVID-19 in destination, by sex (%) (n=variable)



Note: Data derived from 225 respondents who answered a survey question of salary before COVID-19, and 223 respondents who answered the question on salary during COVID-19. Source: ILO 2021g.

Some migrant workers are not paid in full before their departure, leaving some returnees with more debt than when they migrated (Subramaniam 2020b; ADBI, OECD, and ILO 2021). In **Malaysia**, during the pandemic, the Migrant Worker Resource Centres (MRCs) operated by the Malaysian Trades Union Congress (MTUC) with ILO support have been successfully able to mediate with employers and ensure that migrant workers received their wages (see box 6 for details).

► **Box 6. Wage violations during the Movement Control Order in Malaysia: Two major legal cases settled with support from the MTUC MRC**

The Malaysian Government instituted the Movement Control Order (MCO) under the Prevention and Control of Infectious Diseases Act 1988 on 18 March 2020. The MCO required that all enterprises, except those involved in essential services, cease their operations. Some companies were allowed to continue operations with permissions issued by the Ministry of International Trade and Industry (MITI). Soon after the start of the MCO, the Migrant Worker Resource Centres

(MRCs) operated by the Malaysian Trades Union Congress (MTUC) started to receive complaints from migrant workers who had not been paid their salaries during the closure, and were struggling without money to support themselves.

MRT construction case

In early May 2020, five network leaders representing 10,455 migrant workers contacted the MTUC MRC in Selangor to

lodge a complaint against 13 subcontractors of a major construction project in Kuala Lumpur and Serdang. The construction project had to stop during the MCO, and the 13 subcontractors had stopped wage payments to their total of 10,455 men migrant employees. The construction workers from Bangladesh, Indonesia, Myanmar, Nepal and Viet Nam were left without money for basic expenses, including food.

Due to the urgency of the matter, the MRC and MTUC leadership decided that informal mediation was the fastest way to proceed. Filing a case at the relevant government agency would not have been helpful, as at that point no cases were being heard. MTUC officers contacted the 13 subcontractors concerned to investigate why the salaries were not paid. The subcontractors claimed that they could not pay because they had not received payments for the work done from the main contractor, or that they intended to conserve their cash flow by not making any wage payments. The MTUC, however, informed the companies that regardless of the situation, non-payment of salary is a fundamental breach of contract and if a case were to be filed, the companies would be ordered to pay the due wages. Constant reminders and follow-up calls were made to human resources personnel and the directors of the 13 companies as well as to the five network leaders to check on the status of salary payments.

With consistent pressure and negotiations, due wages were finally paid to the 10,455 migrant workers. The total amount of the settlement was 12,546,000 Malaysian ringgit (US\$3,100,840), equaling a payment of 1,200 ringgit (US\$297) to each of the 10,455 migrant workers. The five network leaders confirmed that all workers received their pay.

Manufacturing case

In another case, seven network leaders representing 4,441 workers from Bangladesh,

India, Indonesia, Myanmar (including from Rakhine State), Nepal, Pakistan and Viet Nam brought a complaint against seven different manufacturing companies producing wood and steel products, furniture, electrical components and other products. These companies were allowed to continue operating at a reduced capacity during the MCO, but the permission granted by the MITI stipulated that only 50 per cent of the staff were allowed to report to work. The companies selected 50 per cent of their staff for continued work and paid salaries only to those 50 per cent. The migrant workers who were not working and did not receive their salaries complained about non payment of wages. They also claimed that the companies did not explain clearly how the selection of the 50 per cent was made and that the selection was not done in a fair manner.

Migrant worker network leaders in the seven companies consulted their co-workers and coordinated among themselves, and then approached the MTUC MRC together. The concerned workers did not want to lodge a formal complaint against their employers, as they were afraid of losing their jobs, but sought the MTUC's assistance in negotiating with the employers to receive their due wages and to be able to resume work. The MRC contacted human resources personnel in each of the seven companies to investigate the issue. The companies claimed that they could not pay wages to those workers who were not working, as they needed to preserve their business cash flow. As in the previous case, the MRC officers informed the companies that payment of salary is a fundamental breach of contract and insisted on payment of due wages.

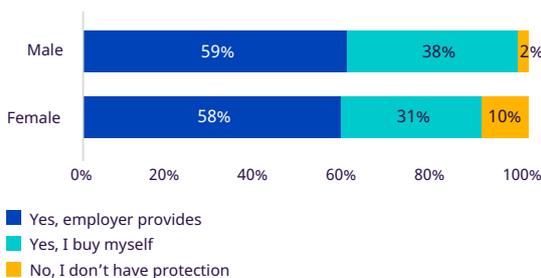
Finally, the persistence of the MRC officers led to the seven companies agreeing to pay due wages to the 4,441 migrant workers. The total value of the settlement was 5,329,200 ringgit (US\$1,317,153), including 1,200 ringgit (US\$297) payments to each of the 4,441 migrant workers.

3.4. Safety in the workplace, including movement restrictions and workplace closures

Occupational safety and health

In an ILO (2021g) survey of migrant workers in ASEAN countries carried out in October–December 2020, 94 per cent of respondents had personal protective equipment (PPE), including masks, gloves and hand sanitizer, in their current or most recent jobs in destination. A small majority of the surveyed women migrant workers (58 per cent) and men migrant workers (59 per cent) said that their employer provided PPE, and around one-third of respondents reported purchasing their own PPE (figure 12). However, the figures for employer-provided PPE in the October–December survey represented a drop compared to the ILO’s first survey carried out in March–April 2020 (ILO 2020c), in which 67 per cent of respondents had received PPE from their employer. The migrant workers reporting not having any PPE were predominately women employed in the domestic work sector (ILO 2021g).

▶ **Figure 12. Migrant workers provided with PPE in destination, by sex (n=247)**

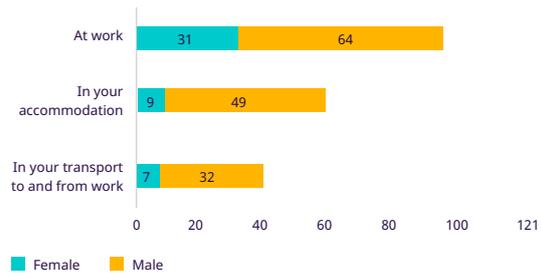


Note: Percentages have been rounded. Source: ILO 2021g.

Safety and health in the workplace includes having sufficient space to practice social distancing to minimize the spread of COVID-19. An ILO (2021g) survey found that a majority of migrant worker respondents (95 out of 121) had sufficient space at work for social distancing. About half of the respondents had enough space in their accommodation to practice social distancing, and about one third had enough space during transport to and from work. Women are, however, disproportionately affected by a lack of adequate space at work, as well as in other environments, including accommodation and transport (figure 13). The majority of women surveyed worked in domestic work, where social distancing is difficult

due to the nature of the work often requiring close proximity to members of households (ILO 2021g). Further, these homes/workplaces can be unventilated and enclosed.

▶ **Figure 13. Migrant workers with enough space to practice social distancing in destination, by sex (n=121)**



Note: Respondents could choose more than one option; 47 responses were from women, 74 were from men. Source: ILO 2021g.

Ensuring that employers and migrant workers are aware and have the capacity to comply with required health and safety measures at the workplace is important, including the provision of information understandable by migrant workers. Workplaces compliance with these regulations should be monitored, with particular attention paid to sectors where migrant workers, and especially women migrant workers (per figure 13), are dominant (ILO 2020g).

Violence and abuse

Movement restrictions and lockdowns have also disrupted migrant workers’ social interactions and may be resulting in an increase in violence in the workplace as well as in the home, including where home and workplace overlap for live-in domestic workers. Pre-pandemic migrant domestic workers reported high incidence of violence and abuse that may have increased further during lockdowns; they are often living in isolation with their employers (ILO and UN Women 2020).

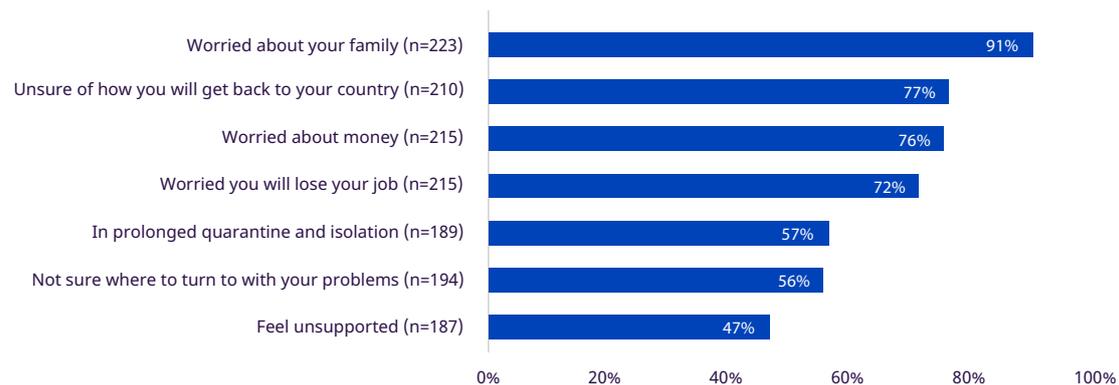
Mental health

The restrictions have also limited migrant workers’ access to support and legal services for stress, mental health, and violence and harassment (ILO 2021e). An ILO (2021g) survey found that a majority of migrant workers (83 per cent) reported that they felt severe worry, stress or sadness during COVID-19. More women than men experienced this (87 per cent versus 78

per cent). The reasons for sadness, stress and worry among migrant workers varied, with most respondents concerned with family, how to get home, finances or losing their job (figure 14). These findings suggest that language support

and culturally appropriate mental health and other support services are needed, even if through modified means such as hotlines or online services.

► **Figure 14. Reasons for severe worry, stress or sadness among migrant workers in destination (n=variable)**



Note: Respondents could choose multiple reasons for their stress. All respondents selected more than one option.

Source: ILO 2021g.

Workplace closures, “bubble and seal” measures and other movement restrictions

With the aim of preventing and mitigating COVID-19, most ASEAN Member States introduced broad lockdown measures, including movement restrictions and border and workplace closures. As the pandemic progressed, some governments increased containment measures through introduction of targeted “bubble” measures that confine workers to their workplace (including for sleep) or only permit travel between housing and workplaces. This all-encompassing employer control over workers’ lives necessitates – at a minimum – labour inspections ensuring that workers’ rights are met, including freedom to leave the job and freedom from exploitative or coercive work. Freedom of movement on par with nationals is paramount.

In **Thailand**, the “bubble and seal” method has been used for migrant-heavy sectors such as manufacturing and construction. In general, workplaces, accommodation and transportation are controlled by the employer and workers must remain within these controlled “bubble” areas. Some workplaces built accommodation on site to make a clear “seal”, out of which no one is allowed (The Star 2021a). Workers have reported not being allowed to leave for food, water or medical treatment, as well as being confined in congested

spaces with poor sanitation (Apisitniran 2021; Wiriyapong 2021). In the manufacturing sector, a “factory sandbox” scheme (playing on the name for alternative beachside quarantine for holidaymakers in Phuket) is being created to build investor confidence by preventing outbreaks that disrupt export supply chains. Thailand’s “factory sandbox” is to include manufacturing plants with at least 500 workers, an isolation facility, a field hospital and capacity to test workers every seven days (The Straits Times 2021).

In March 2021, **Malaysia** also put in place a “Safe@Work Bubble Initiative” in the manufacturing sector. Its aim is “to empower employers to be accountable for containing the pandemic among their workers” and “to allow close contact workers to continue working” (Malaysia, MITI 2021). Similar methods have been employed in **Singapore** where migrant worker dormitories were sealed on 21 April 2020 to contain outbreaks among the migrant working population. If positive cases were found, migrant workers were confined to mainly over-crowded dormitories and provided with only basic meals until the dormitory was declared clear of the virus (Tan 2020).

Employers do not allow workers to leave their homes because they fear COVID-19 infections.

▶ Indonesian male migrant worker in factory work in Malaysia

“Bubble and seal” measures were imposed with a view to short-term virus response, rather than comprehensive consideration of long-term ramifications and impacts on different populations. For many migrant workers, the measures have left them struggling to survive due to a lack of wages, food and healthcare (Subramaniam 2020a). Families of migrant workers have also been placed at greater risk of poverty and hunger due to a decrease in remittances (Subramaniam 2020b). Within the domestic work sector, ad hoc decisions or expectations of employers have resulted in some workers working without pay or for longer and more intense hours as official restrictions have kept them confined to the homes of their employers (ILO 2021c).

[I] cannot go to work because the employer is afraid that I [will] bring the virus.

▶ Indonesian female migrant worker in the domestic work sector in Malaysia

The problematic nature of the above measures is amplified by the fact that they were introduced specifically to target non-nationals. For example, in **Singapore** the restrictions on migrant workers detailed above were different to the restrictions placed on Singaporean nationals, who were allowed to shop and encouraged to do daily exercise during lockdown (Tan 2020). In another example of unequal treatment, the Transport Company banned those without Thai ID from their busses in **Thailand** (Burton 2020). While these measures may have contributed to curbing transmission, they are examples of discriminatory treatment between migrant workers and nationals. It is essential for governments in the ASEAN region to review and revise public health policies to ensure that the treatment of migrant workers is equal with that offered to the national population.

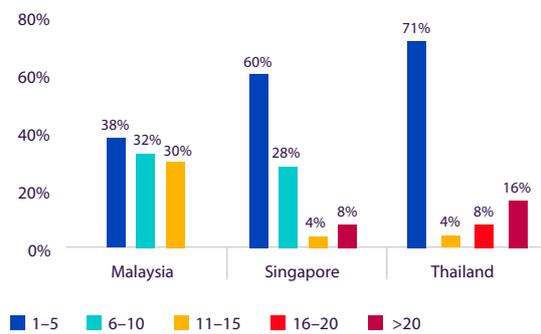
3.5. Accommodation

Migrant workers commonly live in inadequate and crowded accommodation together with

other migrant workers, limiting their ability to maintain social distance and proper hygiene due to inadequate bathroom and sanitation facilities (ADB, OECD, and ILO 2021), and thereby increasing the risk of disease transmission, including of COVID-19. These living conditions have contributed to the spread of COVID-19 among migrant workers. In **Singapore**, for example, it was reported that of the 320,000 migrant workers living in dormitories, more than 54,000 had tested positive for COVID-19 during 2020 (Singapore, MOH 2020). The COVID-19 cases identified among migrant workers in Singapore accounted for 93 per cent of all cases in the country (Illmer 2020).

An ILO (2021g) survey found that close to 60 per cent of respondents in Malaysia, Singapore and Thailand had a sleeping area of 1–5 square meters. The sectors of employment most likely to have sleeping areas of 1–5 square meters were domestic work (71 per cent), the service sector (67 per cent) and construction (60 per cent). Of the three destinations, migrant workers living and working in Thailand and Singapore reported the smallest sleeping areas (1–5 square meters for a majority of respondents, see figure 15). As noted above in figure 13, only about half of the respondents had enough space in their accommodation to practice social distancing, and about one-third had enough space during transport to and from work.

▶ Figure 15. Floor area of your sleeping area in square meters, by country of destination (n=136)

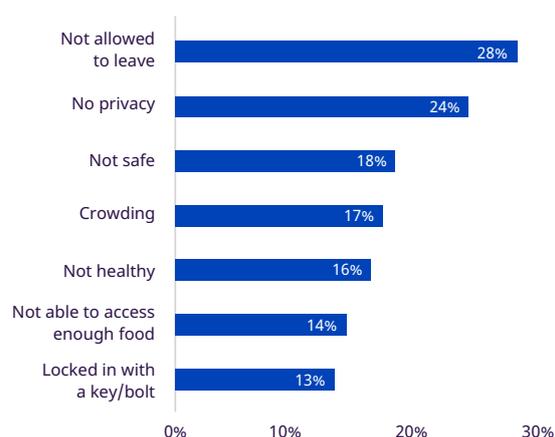


Source: ILO 2021g.

Migrant workers in the ILO (2021g) survey also reported other problems with their accommodation. Roughly one in four surveyed migrant workers indicated that they were not allowed to leave (13 per cent locked in with a key/bolt) and that they lacked privacy. Safety concerns and crowding were also reported as a concern by around a fifth of migrant workers (figure

16). Across every problem area, more women than men migrant workers reported poor living conditions.

► **Figure 16. Problems with migrant workers' accommodation (n=variable)**



Note: Number of respondents varies for each question, ranging from 195 to 219. Source: ILO 2021g.

In response to the COVID-19 outbreak in **Singapore**, primarily in migrant worker dormitories, the Ministry of Manpower (MOM) announced a review of standards in dormitory accommodation. The MOM anticipates a set of common requirements covering issues such as cleanliness, space and ventilation, as well as additional requirements based on the size of the dormitory. The Foreign Employees Dormitory Act of 2015 originally applied only to dormitories housing over 1,000 workers, and the Government is in the process of expanding its scope to cover all dormitories (Singapore, MOM 2021a). The Government also plans to construct new purpose-built dormitories with improved standards over the next few years to house up to 100,000 workers. Prior to breaking ground on these new dormitories, the improved standards are being piloted at temporary Quick Build Dormitories that include more living space per occupant, lower occupancy per room, and a lower ratio of workers to sanitary facilities, with at least one toilet, sink and bathroom for every five occupants (Asokan 2020).

Malaysia revised the Workers Minimum Standards of Housing and Amenities Act (Act 446) in 2019 before the pandemic, and the amendments came fully into force on 26 November 2020. The minimum requirements specified in the regulations include a sleeping area with minimum floor area of 3.6 square meters for non-dormitory accommodation and 3 square meters for dormitories, and a minimum bathroom

ratio of one bathroom to six employees in non-dormitory accommodation and one bathroom to 15 employees in dormitories. Employers who fail to comply with the regulations risk a 1,000 ringgit (approximately US\$242 fine) or a prison sentence of up to six months. In addition, as part of its COVID-19 response, the Government further amended Act 446 with the Emergency Ordinance 2021, which came into force on 26 February 2021. The most recent amendment extends protection to migrant workers throughout Malaysia, but still excludes migrant domestic workers (ILO, forthcoming). Inspections conducted between 1 February and 15 April 2021 found that nearly three quarters of employers did not comply with the housing requirements in Act 446 (The Star 2021b). **Thailand** does not have any legislation addressing migrant worker housing, though it does have a standard on employer-provided housing in limited sectors. This was extended and now applies to all work sectors as of February 2021.

The pandemic has sparked interest, regulatory change and enforcement related to migrant worker housing, particularly employer-provided housing in dormitories. It is crucial to rethink migrant workers' accommodation in the ASEAN region and to review national standards for employer provided housing to ensure decent, humane and healthy conditions in migrant worker accommodations. Strict enforcement of national regulations is also needed. In addition, accommodation in the domestic work sector has not seen change during the pandemic, and there remains an urgent and overlooked need for improved housing for domestic workers in ASEAN (see HOME 2017).

3.6. Social protection and other government schemes

Migrant workers remain among the least protected in the ASEAN region when it comes to social protection (Marius 2018). The COVID-19 crisis offers a stark demonstration of this situation, with migrant workers in most destinations unable to access unemployment benefits or other forms of income relief and wage subsidy schemes (ILO 2021e). The lack of inclusion in social protection schemes and other COVID related emergency scheme is an important reason why a majority of migrant worker respondents in the aforementioned ILO (2021g) survey indicated having inadequate finances to cover needs such as healthcare (79 per

cent), housing (77 per cent), personal needs (69 per cent) and food (67 per cent).

One positive exception in the region is **Thailand**, where migrant workers in the formal sector are entitled to a range of benefits, including unemployment insurance. However, many migrant workers are excluded from government assistance (Bangprapa 2021, see also box 7). In **Singapore**, the Government has provided employers of quarantined workers as well as self-employed workers in quarantine with US\$68.5 per day throughout the duration of the quarantine under the Leave of Absence Support Programme. Eligible employers have been also entitled to receive support for foreign workers (Singapore, MOM 2020).

Due to limited access to social protection, many migrant workers rely on emergency assistance and humanitarian aid disseminated by UN organizations, CSOs and trade unions. In **Thailand** for instance, the Migrant Working Group and its partners, with support from the ILO Ship to Shore Rights South-East Asia programme, provided assistance to migrant workers and their families affected by COVID 19, including food and hygiene kits (ILO 2021f). In **Singapore**, the COVID Migrant Support Coalition has provided food aid and other essentials such as toilet paper and soap to migrant workers isolated in worker dormitories (Phua 2020). In **Myanmar**, the Livelihoods and Food Security Fund together with the Department of Social Welfare has provided emergency COVID-19 cash transfers for vulnerable groups, including returning migrant workers (LIFT 2020).

Several countries of origin in ASEAN, including **Cambodia, Viet Nam and Philippines**, have migrant welfare funds or other emergency funds intended to respond to migrant worker needs in emergencies. Migrant welfare funds are a self-sustaining mechanism that enables the governments of countries of origin to provide welfare benefits and services to their migrant workers in destination, using a fund grown from the initial capital investments of employers, recruitment agencies and/or migrant workers (ILO 2015). They may also be used to fill gaps in the social security coverage of destinations, a need that has been made abundantly clear during the COVID-19 pandemic. In most countries, however, little evidence indicates that these funds were used to support stranded or returning migrant workers during COVID-19.

One example of financial support to returning migrant workers can be found in the **Philippines** where the Government established an emergency fund providing displaced OFWs with a one-time payment of US\$200 (Philippines 2020). See box 8 for more details. In **Cambodia**, the Government has launched cash transfer programme for poor and vulnerable households, which is also accessible to returning migrant workers and their families. The Ministry of Labour and Vocational Training of Cambodia has worked closely with labour attachés and authorities in the destination countries to provide supports such as food supplies, personal protective equipment, medicines, etc., for Cambodian migrant workers staying and working in the destination countries.

► Box 7. Migrant workers eligibility for social security in Thailand

The social security status of migrant workers in Thailand is linked to their migration status, the duration of their employment and the economic sector in which they are employed. The central social security instrument is the Social Security Act (1990), which stipulates that all employees who are 15 to 55 years of age should be insured in the Social Security Fund. Agricultural workers and workers in a few other sectors (including forestry, fishery and animal husbandry) are excluded from coverage unless they work on a full-year basis; while domestic workers and workers

hired by street-vending employers are fully excluded (regardless of contract duration). These eligibility provisions apply to both Thai and migrant workers.

Inclusion in the Social Security Fund provides a range of benefits, including for injury or sickness, unemployment, maternity, old-age, children, invalidity, pension and death. In a non-pandemic situation, most benefits are accessible to migrant workers, excluding unemployment and pension benefits. Limited portability of pension benefits means

workers are unable to claim these benefits unless they come back to Thailand at the age of 55. Claiming unemployment benefits is particularly difficult, as the regulation governing migration requires migrant workers to find new employment within 30 days to maintain their legal residency in Thailand. However, in response to the COVID-19 pandemic an extension of unemployment benefits due to force majeure was made available to workers employed in businesses forced shut due to lockdown measures; although migrant workers have faced challenges accessing these unemployment benefits.

Further, throughout the COVID-19 pandemic the Thai Government has approved various economic stimulus packages to support workers impacted by lockdowns. Most recently in June 2021, the Government approved a stimulus package worth 140 billion baht (US\$4.5 billion) to cover the period of July to December 2021. However, the financial aid is conditional and requires that workers are:

- ▶ registered under section 33 of the Social Security Act (that is, in the case of migrants, documented migrant workers who are registered for social security and whose employers are duly paying into the scheme for at least six months);
- ▶ employed in one of the red or dark red zone provinces (with high COVID-19 caseloads); and

- ▶ employed in one of the following sectors – construction; accommodation and food services; arts, entertainment, and recreational activities; other services as stated by the Social Security Office; transportation and warehouses; wholesale and retail businesses; administration and service support; science and academic activities; and information and communications.

As many migrant workers are not registered under section 33 of the Social Security Act, they are not eligible for this aid, despite working within the qualifying red zones and sectors of employment. Migrant workers eligible for unemployment benefits in previous rounds of financial aid have also faced access challenges, as they were required to physically visit the Social Security Office to receive assistance because the online system required a Thai ID number. Some migrant workers also received support from NGOs to navigate the social security system and access the financial aid.

According to statistics provided by the Ministry of Labour*, in 2020, a total of 103,785 insured migrant workers (65,178 Myanmar, 12,663 Cambodian, 7,282 Lao and 92 Vietnamese) received benefits under the Social Security Fund. During the January to July 2021 period, a total of 62,343 migrant workers (38,847 Myanmar, 3,895 Cambodian, 3,051 Lao and 31 Vietnamese) received benefits.

*Statistics provided during the AFML preparatory meeting for Thailand, 26 August 2021.

Source: Marius 2018, Bangprapa 2021.

3.7. Return, reintegration, quarantine and remigration

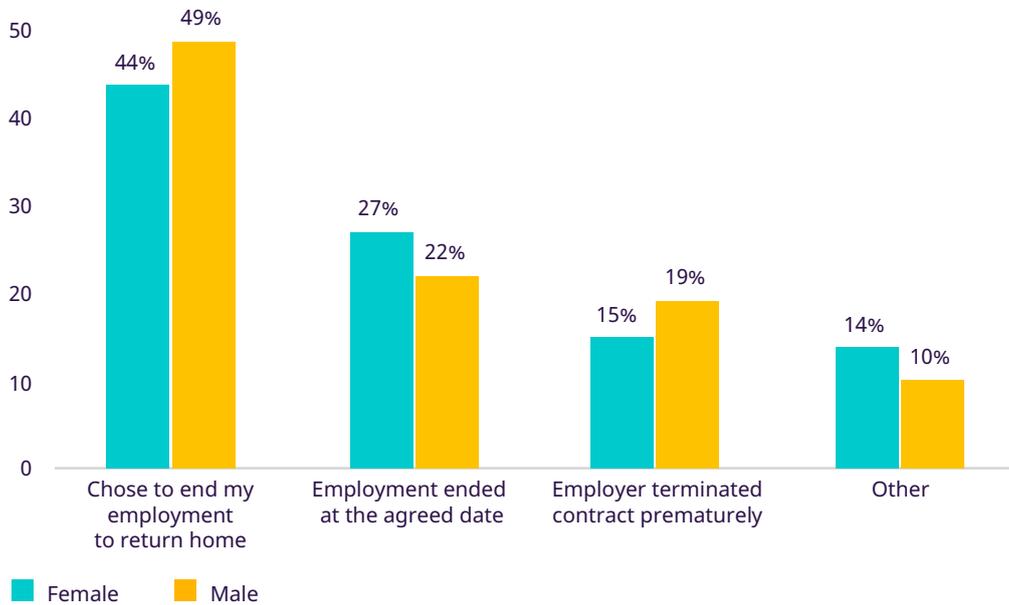
Return and reintegration

Migrant workers continue to experience complications in return and reintegration processes during the pandemic. The challenges experienced by returning migrant workers and the large numbers returning at the same time during the pandemic have highlighted the inadequacy of existing country of origin policies

that emphasize outbound, rather than returning, migrant workers (Failor et al. 2021).

An ILO (2020c) survey conducted between March and April 2020 found that 47 per cent of returnee migrant workers from Cambodia, Indonesia, Myanmar, the Philippines and Viet Nam had left their jobs of their own accord, and 24 per cent had a contract that was due to end. However, notably, 16 per cent of returnees reported having employers that ended their contract prematurely (figure 17).

► **Figure 17. Job-related reasons for migrant workers’ return to selected countries of origin (%) (n=132)**



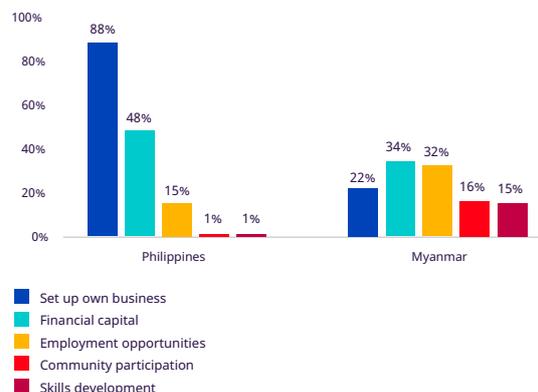
Source: ILO 2020c.

Migrants are returning to communities grappling with economic downturns, and consequently, they are struggling to find new employment. Only a third (31 per cent) of returnees in Myanmar and the Philippines surveyed by the ILO were engaged in paid work after return – Myanmar returnees more likely than Philippine returnees to be employed (42 per cent versus 19 per cent). There were no notable gender differences among those who have and have not found paid work. Most returnees in paid work were either engaged in agriculture (39 per cent) or the service sector (36 per cent), and a majority (73 per cent) looked for one to three months before getting a job. Similar concerns were reported by returnee migrant workers in Lao People’s Democratic Republic (Oxfam et al. 2021). See box 8 for reintegration interventions.

The October–December 2020 ILO survey found that despite economic hardships, just around half of returnee respondents had received any assistance, services or support – such as food and financial aid or counselling and advice – from the government (40 per cent), community or religious organizations (11 per cent), non-government organizations (22 per cent) or trade unions (7 per cent) since their return (ILO 2021g). Returnees were asked what they need to successfully reintegrate into the community and labour market in their home country. Most Philippines returnees reported needing support to set up a

business (88 per cent) and financial capital (48 per cent). Others said they need employment opportunities (15 per cent) and skills development and community participation (1 per cent each). Among Myanmar returnees, roughly a third expressed a need for financial capital (34 per cent) and support with employment opportunities (32 per cent); a fifth need support for setting up a business (22 per cent); and some said they need community participation (16 per cent) and skills development (15 per cent). See figure 18.

► **Figure 18. Support needed to successfully reintegrate into the community and labour market, by origin country (n=95 for the Philippines and n=82 for Myanmar)**



Note: More than one response possible. Source: ILO 2021g.

The gender dimension of return and integration is significant. Women migrant workers may return to local communities and be required to reassume care responsibilities (McAdam 2020). This has become even more common during the pandemic with the burden of care work largely falling on women (ILO 2021d; Failor et al. 2021). The impacts of the pandemic on the employment of women, including migrant workers, highlight

the need to ensure return and reintegration policies and services are gender-responsive. In the most recent ILO (2021g) survey, employed Myanmar returnees earned US\$5 per day (7,261 kyats), with women earning 29 per cent less than men; while employed Filipino returnees earned US\$8 per day (379 pesos), with women earning 34 per cent less than men (ILO 2021g).

► Box 8. Reintegration interventions for migrant workers

Since the outbreak of the COVID-19 pandemic and as of August 2021, more than 640,000 Overseas Filipino Workers (OFWs) have returned home.

The Department of Employment and Labor has provided financial assistance to OFWs affected by the pandemic through the Abot Kamay ang Pagtulong Program (AKAP), with beneficiaries receiving a one-time cash payment of 10,000 pesos (US\$200). As of 7 April, 497,122 OFWs had received financial support through the AKAP programme.

Other initiatives have included job-matching, competency assessments and certification, skills development, identification of e-commerce-friendly jobs as well as increased financial and livelihood assistance to e-commerce, agriculture and entrepreneurial activities.

The Philippines Technical Education and Skills Development Authority has supported OFWs with free online training courses for upskilling and reskilling during the pandemic. In 2020, more than 1.2 million Filipinos registered for the online training courses, of whom 86,100 were OFWs and their dependants.

Source: ILO 2021e; Bernardo 2021; Depasupil 2021.

Quarantine

The pandemic introduced a new dimension to return and reintegration – namely, quarantine – with all ASEAN countries of origin establishing quarantine centres for returning migrant workers (ILO 2021e). A rapid assessment conducted by the ILO between March and April 2020 found that 93 per cent of returnee migrant workers had been quarantined upon return. However, some returnees experienced problems during quarantine, including food shortages, crowded sleeping areas, unhygienic drinking facilities and high temperatures. Many reported mental health concerns (ILO 2020c).

In **Cambodia**, the Ministry of Labour and Vocational Training and the Ministry of Health have collaborated with relevant provincial departments to provide returning migrant workers with food supplies, personal protective equipment, medicines, quarantine, COVID-19 testing and treatment as well as vaccination. See box 9 on similar initiatives in Lao People's Democratic Republic.

▶ **Box 9. Quarantine for Lao returnee migrant workers**

The authorities in the Lao People’s Democratic Republic have been screening all returnees presenting at official points of entry since the beginning of the pandemic, with all those entering undergoing body temperature checks prior to being transferred to Quarantine Centres for 14 days. The quarantine duration was extended to 28 days (14 days in central quarantine and an additional 14 days at district quarantine) in August 2021. Between 20 April 2020 and 18 July 2021 close to 140,000 returnee Lao migrant workers were quarantined.

There were 1,647 government-led Quarantine Centres for returning migrant workers established across all 18 provinces, with most based in schools (some have been closed due to the reopening of schools). The Quarantine Centres have not been centrally managed and

do not fall organizationally under any specific ministry. Management is based on the interest and capacity of local authorities. On request from the Lao Government, the ILO and other UN agencies worked with partners to support returned migrant workers through provision of food and basic hygiene items.

The Ministry of Health developed guidance on the management of returning migrant workers to prevent the spread of COVID-19 in the community. This guidance has also been applied to the Quarantine Centres established throughout the country. Technical standards for gender-based violence prevention and sanitary supplies, including soap, were developed for all Quarantine Centres. Those who passed through these Centres were also provided with information on basic hygiene practices and national regulations.

Source: UN 2020b.

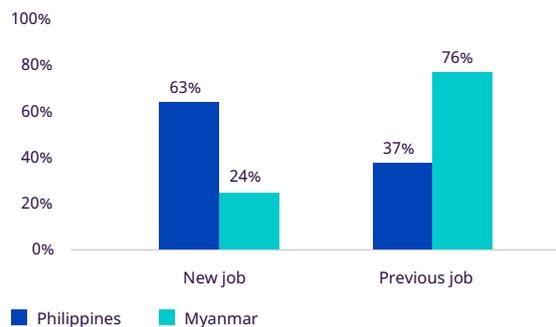
Remigration plans

While the possibilities for remigration remain limited as long as the pandemic persists, it is clear that many migrant workers who returned home during the pandemic are keen to remigrate. For many, the wish to remigrate is driven by stark economic necessities. As indicated above, unemployment remains high for those who have returned home, and remigrating might be seen as the only way to secure a livelihood. Others might be pushed to remigrate to pay off debt from their previous migration journey, particularly in instances where the migration journey was cut short due to workplace closure.

The October–December 2020 ILO survey found that almost half of returnee migrant worker respondents in the Philippines and Myanmar (49 per cent) were planning to remigrate outside the country within the next six months (ILO 2021g). More men (58 per cent) than women (43 per cent) indicated plans to remigrate, and most respondents anticipated remigrating when restrictions are lifted (55 per cent). The majority of surveyed returnee migrant workers from the Philippines planned to secure new employment overseas; while the majority of returnees in Myanmar overwhelmingly anticipated returning to their previous employment (figure 19), though

political developments in Myanmar may have since affected these intentions.

▶ **Figure 19. Returnees planning on remigrating within the next six months to take up a new job or previous job, by country of origin (n=98)**



Source: ILO 2021g.

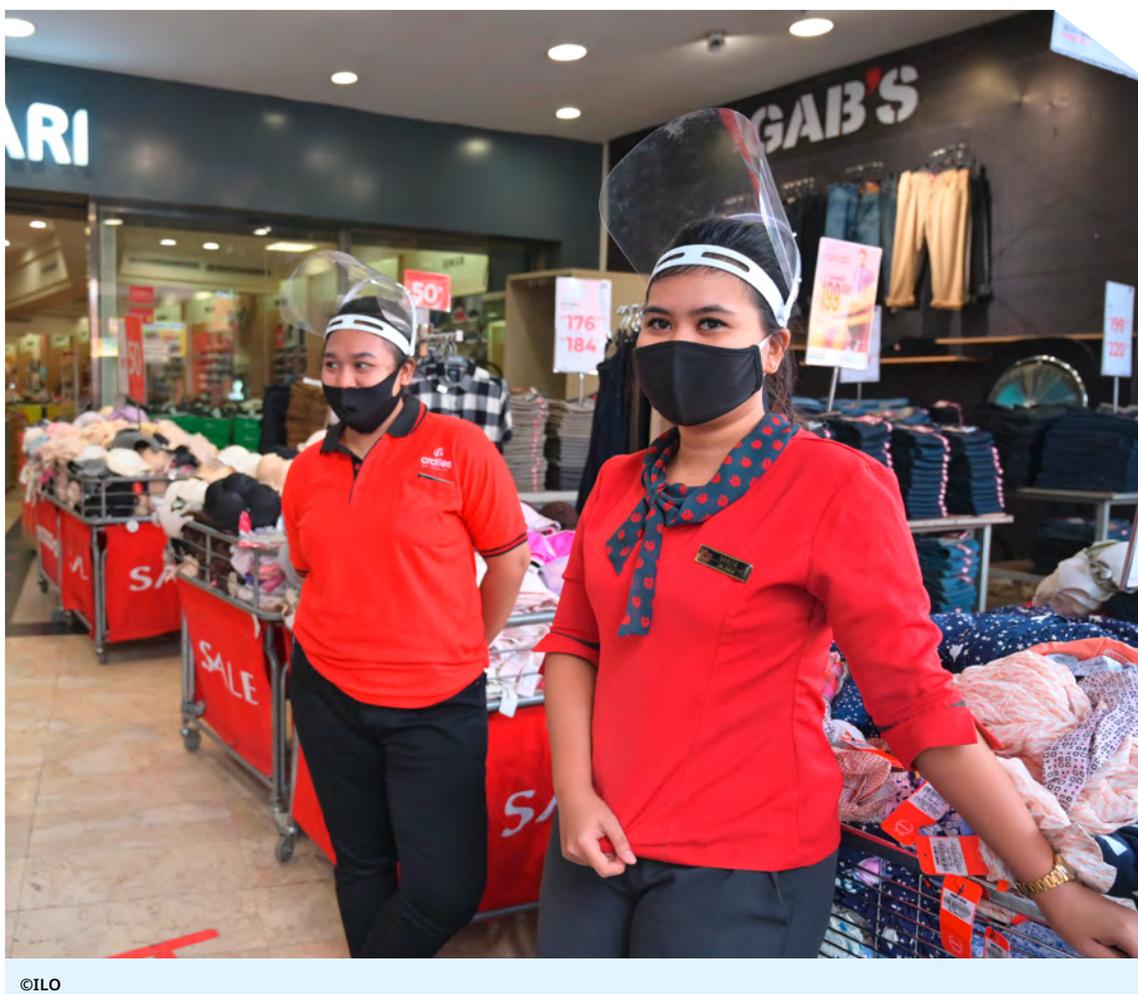
3.8. Visa amnesties and enabling safe passage

Many migrant workers who have been stranded and unable to return home either after dismissal or workplace closures, or at the end of their contracts, are at risk of falling into an irregular situation, as a result of visa or work permit

expiration (ILO 2020b). Other migrant workers might have challenges renewing visas, contracts and work permissions due local mobility restrictions put in place to reduce the spread of the virus. It is therefore necessary to protect migrant workers against falling into irregular status by allowing change of employers and providing visa extensions or special passes to those who have lost their job but are unable to return home. A moratorium on detention of migrant workers with irregular status would assist in easing return migration and encourage regular border crossings and receipt into quarantine centres in countries of origin.

Across the ASEAN region, governments have granted some migrant workers visa extensions or amnesties to remain in destination (ADB, OECD, and ILO 2021). In **Thailand**, the Government announced that migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar who are in irregular status would be allowed to work legally in the country for

two years; if they signed up online and were registered by an employer before mid-September 2021 they could receive a work permit valid until February 2023. By the time the registration period ended in February 2021, 654,864 migrant workers had registered under the amnesty programme (Charoensuthipan 2021c). Migrant workers and their families were also allowed to remain temporarily in Thailand if their visa expired during the pandemic. **Singapore** similarly extended all expired work visas for two months and provided food, housing and income support to migrant workers. Migrant workers left without a job were also entitled to search for and take up work in other sectors of employment without leaving the country. **Malaysia** also permitted migrant workers already in the country to seek employment in other sectors. Early in the pandemic Malaysia placed a moratorium on the entry of low-paid workers (ADB, OECD, and ILO 2021), which, as of September 2021, is still in place.





▶ 4

Subtheme 2. Recovery and the post-pandemic future

The COVID-19 crisis in the ASEAN region has been Recovery from the pandemic and the post-pandemic future will – and should – look very different for migrant workers, with a view to “building back better”. While COVID-19 has been disastrous in many ways, it has also created an opportunity to start building more inclusive and equitable labour migration governance systems in the ASEAN region. This involves filling the gaps in the legislative and social protection systems that have been exposed by the pandemic.

Migrant workers have suffered disproportionately during the COVID-19 pandemic, as detailed in Chapter 3. While virtually all migrant workers have been impacted, women migrant workers have been particularly affected by deteriorating working conditions, working times and wages (ILO 2021c; ILO 2020b). Looking ahead, to build conditions that support decent work and address inequalities will require a rights-based and gender-responsive approach. Stronger systemic protections for vulnerable workers and effective implementation of these standards are the first

step in bolstering migrant workers’ resilience to future pandemics.

The **Global Call to Action for a Human-Centred Recovery** adopted at the ILO’s 109th International Labour Conference in June 2021 outlines a comprehensive agenda towards an inclusive, sustainable and resilient recovery from the COVID-19 crisis. This agenda includes specific measures to promote inclusive employment and economic growth, protection of all workers, universal social protection, and social dialogue. It acknowledges that the impact of the crisis has exacerbated pre-existing decent work deficits, increased poverty, widened inequalities and exposed digital gaps within and among countries (ILO 2021a).

The ILO Global Call to Action offers guidance on addressing gaps in the protection of migrants that were exposed and exacerbated by the ongoing pandemic. These measures are needed to ensure that the current crisis does not result in a backsliding of decent work conditions and so that future crises do not result in similar

humanitarian emergencies, irregular movements, wage violations and uncompensated job losses as observed during COVID-19. The following sections discuss measures that will support inclusive economic growth and development that will also benefit migrant workers. These include improving protection of migrant workers, with reference to some key steps in the ILO Global Call to Action.

It is evident that countries with greater realization of labour standards and decent work have been more resilient labour markets during the pandemic. A range of measures in the following areas are critical to ensure that all workers, including migrants, are able to enjoy decent work in the post pandemic future:

- ▶ adequate labour protection, including transition to formality, addressing irregularity, improved job security, wage protection, minimum wage coverage, fair recruitment and social dialogue;
- ▶ safety and health at work and in housing;
- ▶ universal social protection; and,
- ▶ a transformative agenda for equality, non-discrimination and fundamental rights.

4.1. Filling gaps in labour protection to build resilience

The ILO Global Call to Action commits governments and employers' and workers' organizations to providing all workers with adequate protection, with particular attention to areas where serious gaps have been revealed by the pandemic crisis. This includes respect for fundamental principles and rights at work; an adequate minimum wage; limits on working time; and safety and health at work, with particular attention to the ongoing challenges presented by the COVID-19 pandemic (ILO 2021a, para. 11(B)(a)).

As described in Chapter 3, the COVID-19 pandemic has drawn attention to huge decent work deficits and gaps specific to the protection of migrant workers. While there are a number of migrant-specific issues that require attention – for example, reduction of recruitment fees and related costs is critical to protecting those who migrate during and post pandemic – broader labour protection deficits also need to be addressed to ensure migrant workers benefit in the “new normal”. Legislative and policy reforms in line with international labour standards are needed across the ASEAN region to address sectoral gaps in protection, but equitable implementation and enforcement of existing

protections is just as important to building resilience against future crises and labour market shocks.

Transition to formality

When the COVID-19 pandemic hit, migrant workers employed in the informal economy – as street vendors, most domestic workers, and gig workers, among others – were among the first to lose their employment and livelihoods. They have also experienced challenges in accessing healthcare and social protection throughout the crisis. Bringing informal economy workers to formality through extending labour and social protection to all persons regardless of sector or contract arrangement should be prioritized to secure a just and sustainable recovery from the COVID-19 pandemic. The ILO Global Call to Action commits governments and employers' and workers' organizations to upholding the continued relevance of the employment relationship as a means to provide certainty and legal protection to workers. It recognizes the extent of informality and the urgent need to ensure effective action to achieve the transition to formality and decent work (ILO 2021a, para. 11(B)(f)). In the South-East Asia and the Pacific subregion, for instance, 71.3 per cent of domestic workers (3.4 million) remain in informal employment. Only three countries in ASEAN (all net countries of origin) extend legal entitlements to social security benefits to migrant domestic workers, namely Indonesia, the Philippines and Viet Nam (ILO 2021c).

Attention must also be paid to workers in informal employment within formal sectors, including many migrant workers in the construction and manufacturing sectors. ILO research has found that women migrant workers in construction, for example, are more likely to be in informal jobs despite the ability of the sector to formalize their employment (Napier Moore and Sheill 2016).

Addressing irregularity

Various measures need to be taken to reduce irregular migration in the region, including making formal channels for labour migration work better. A recent ILO survey among migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar working in Thailand found that only 38 per cent had migrated through the regular channels (ILO 2020h). This is explained partly by the fact that the regular mechanisms are perceived as complicated,

lengthy and expensive compared to the option of entering Thailand irregularly through porous borders. While paying less in recruitment costs and fees, irregular migrant workers make trade-offs, as they are more likely to earn less, have poorer employment conditions, and are more at risk of violations of fundamental principles and rights at work. Irregular workers also worked more days per week and are less likely to have a day of rest. Building back better calls for increasing the effectiveness of legal pathways so that they can act as a disincentive for irregular migration. Labour mobility may be facilitated in line with labour market requirements, and the formal channels need to be streamlined to reduce time and cost (ADB, OECD, and ILO 2021).

Without impinging on the rights of States to control their borders, the human and labour rights of all migrant workers, including those of workers in an irregular situation, should also be upheld. The ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) – while calling for all necessary and appropriate measures to suppress clandestine movements of migrants for employment and illegal employment of migrants, including measures against the concerned organizers and employers – grants all migrant workers the right to payment of remuneration, to social security and to benefits arising out of past employment as well as the right to seek redress for wage claims (ADB, OECD, and ILO 2021).

Job security

As discussed earlier, migrant workers have been disproportionately affected by job losses and reduction of working hours during COVID-19. To ensure that future crises do not result in similar uncompensated job losses, legal and policy reforms are needed in destinations to ensure women and men migrant workers' right to equal treatment with respect to job security. International labour standards stipulate that migrant workers should not be discriminated against if the workforce has to be reduced. Migrant workers who have been dismissed should not automatically lose their residence or work permit, but rather should be allowed sufficient time to find an alternative job (ILO 2007).

Wage protection

In regard to strengthening migrant workers' wage protection, the ratification and implementation of the Protection of Wages

Convention, 1949 (No. 95), should be prioritized. The provisions of Convention No. 95 concerning insolvency are especially relevant during crises, and require that when employers become insolvent, payment of wages is given precedence. States are also required to ensure the swift and full settlement of all wages due in case of termination of employment. The Convention also specifies that workers are entitled to wages paid in legal tender at regular intervals, and in cases where workers receive part of their wages in kind, that these allowances are fair and reasonable and benefit the worker. Currently only Malaysia and the Philippines have ratified Convention No. 95 in the ASEAN region.

The pandemic has also highlighted the importance of effective grievance mechanisms to give migrant workers experiencing wage violations access to remedies. All migrant workers, including those in an irregular situation, who have lost their employment – including due to measures related to COVID 19 – should enjoy equality of treatment with respect to rights arising out of past employment regarding remuneration (including severance pay), social security (especially related to work injury), and other benefits. These rights are provided for in ILO Convention No. 143 and its accompanying Recommendation No. 151. To date, the Philippines is the only ASEAN country that has ratified Convention No. 143.

Minimum wage

A minimum wage is an essential measure to protect workers against unduly low pay and to prevent employers from exploiting workers, as provided for in the ILO Minimum Wage Fixing Convention, 1970 (No. 131). Among the ASEAN migrant worker destinations, **Malaysia** has ratified Convention No. 131 and established a minimum wage system, and **Thailand** has a national minimum wage system (ADB, OECD, and ILO 2020). It should, however, be noted that many groups of workers, such as domestic workers, are regularly excluded from minimum wage provisions (ILO 2021c), and many migrant workers do not receive the minimum wage despite it being a legal requirement (ILO 2017). It is necessary to extend the minimum wage system to cover all sectors employing migrant workers and to ensure its equitable implementation.

Working time

Migrant workers should receive equal treatment with regard to working conditions compared to national workers, in line ILO standards. Besides pay, conditions of work include, among others, hours of work, rest periods, overtime arrangements and holidays with pay (ILO 2007). The experiences of migrant workers during the COVID-19 pandemic show that stronger regulation and enforcement are needed to realize these rights for migrant workers in ASEAN.

Fair recruitment

The COVID-19 pandemic has resulted in new regulations and restrictions on the movement of migrant workers that – if not appropriately managed – may also increase fees and costs related to the recruitment of migrant workers (ILO 2020f). These additional costs may be related to COVID-19 testing, vaccination, health insurance and quarantine, among others. It is crucial to for each ASEAN Member State to regulate migration costs – including those related to COVID-19 – in line with the ILO Private Employment Agencies Convention, 1997 (No. 181), and the ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs, and to ensure that these costs are not borne by migrant workers.

ILO Convention No. 181 requires that recruitment agencies shall not charge costs to migrant workers. The ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs provides further clarity that no recruitment fees or related costs should be charged to, or otherwise borne by, migrant workers and jobseekers. Related costs include, among others, medical costs, insurance costs, and travel and lodging costs, which can logically be construed to include costs related to COVID-19 testing, vaccination and quarantine. Related costs should be regulated and should not be charged to workers when:

- ▶ initiated by an employer, labour recruiter or an agent acting on behalf of those parties;
- ▶ required to secure access to employment or placement; or
- ▶ imposed during the recruitment process.

The ILO's Definition of Recruitment Fees and Related Costs does, however, recognize that the competent authority has the flexibility to determine exceptions to cost categories, but only after consulting the most representative organizations of workers and employers. Any exceptions should be in the interest of the workers concerned and should be limited to certain categories of workers and specified types of services, and the corresponding related costs should be disclosed to the worker before the job is accepted. The Employment Service Convention, 1948 (No. 88), further provides that public employment services should be provided free. Governments are also required to take measures to provide adequate protection for and prevent abuses of migrant workers by private employment agencies under Convention No. 181.

In **Indonesia**, the Ministry of Manpower, recognizing the importance of labour migration for the recovery of the economy, adopted Decree No. 294/2020 on the Placement of Migrant Workers during the New Normal Adaptation on 29 July 2020. Importantly, the decree states that prospective and current Indonesian migrant workers may not be charged as a result of the application of health protocols in the placement process, or in the application of destinations' health protocol policies when they arrive. This includes not being charged for COVID-19 testing or quarantine (ILO 2021e).

Further, the **Philippines** has issued interim guidelines regarding costs for COVID-19 testing and quarantine for migrant workers. The guidelines clarify that recruitment agencies and/or the employers of migrant workers shall provide COVID-19 testing and also cover the costs of quarantine, including expenses for accommodation, food, further testing and medical treatment, if required. The workers' leave credits may not be used for the duration of the quarantine period. However, under the guidelines recruitment agencies and employers are not required to pay workers a salary during quarantine.⁸

Seeking to regulate all costs of migration, **Viet Nam** adopted Law 69/2020/QH14 on 13 November 2020, which strengthens protections for migrant workers (see box 10). The **Lao People's Democratic Republic** has revised Decree 245 on the placement of Lao workers abroad, and is also in the process of revising Agreement 043 on the

⁸ As per the [Interim Protocol/Guidelines on the Recruitment, Deployment and Employment of Overseas Filipino Workers \(OFWs\)](#), Philippine Overseas Employment Administration Memorandum Circular No. 01, Series of 2021, 7 January 2021.

regulation of recruitment agencies. Regulating the charging of costs and fees more stringently will allow for the prevention of potential increased costs related to COVID 19. In **Cambodia**, to further promote fair recruitment, the new Code

of Conduct for Cambodian private recruitment agencies were adopted on 2 January 2020 under the Association of Cambodian Recruitment Agency (ACRA) and Manpower Association of Cambodia (MAC).

► Box 10. Viet Nam law prohibiting broker fees

The new Law on Contract-Based Vietnamese Overseas Workers (69/2020/QH14) was adopted by the National Assembly on 13 November 2020. The revised law builds on a series of consultations with employers' and workers' organizations and, importantly, with migrant workers and civil society. Anti-human trafficking stakeholders were also engaged in the revision process to help create clarity on the nexus between labour migration legislation – including attention to fair recruitment – and prevention of forced labour and human trafficking.

Important developments in the new law include the removal of brokerage commissions payable by migrant workers to recruitment agencies and the prohibition of charging migrant workers who use public, non-profit entities to migrate. The law retains certain categories of costs chargeable to migrant workers, such as service charge and deposits, but it sets limits on chargeable costs that will be detailed in subordinate legislation. The law clarifies the costs associated with labour migration and will enable potential migrant workers to make more informed decisions about migration.

Source: ILO 2021h.

Social dialogue

Social dialogue between employers, workers' organizations and the government with participation of CSOs is vital in addressing gaps in the protection of migrant workers to enable a human-centred recovery. Stronger organizing efforts are needed to ensure voice and representation of migrant workers in such a human-centred recovery, especially within those sectors in which migrant workers have historically not been as able to claim their rights. The ILO Global Call to Action recognizes the role that social dialogue has played in the immediate response to COVID-19, and sees ongoing, meaningful social dialogue as critical to achieving the outcomes in the Global Call (ILO 2021a, para. 11(D)).

4.2. Ensuring safety and health at work and in housing to prevent transmission of COVID-19

As noted in Chapter 3, limited opportunities for social distancing at work, in accommodation and during transport have been major contributing factors to disproportionately high COVID-19 infection numbers among migrant workers in ASEAN. It is therefore crucial for governments in the region to review their national safety standards for workplaces and employer-provided housing, strictly enforce such regulations, and support employers in implementing practical improvements.

Workplace safety

Recognizing that safe and healthy working conditions are fundamental to decent work, the ILO Global Call to Action commits tripartite partners to strengthening occupational safety and health measures by cooperating with public institutions, private enterprises, employers, workers and their representatives on:

- i. the provision of tailored practical guidance;
- ii. support for risk management;
- iii. the introduction of appropriate control and emergency preparedness measures;
- iv. measures to prevent new outbreaks or other occupational risks; and
- v. compliance with health measures and other COVID-19-based rules and regulations (ILO 2021a, para. 11(B)(d)).

Improved occupational safety and health measures should be supported by an effective inspection system to promote and monitor compliance with national labour standards and occupational safety and health legislation. This is particularly important, as evidence shows that migrant workers are often working under poor working conditions and in sectors that are hard to reach and hence often excluded by regular labour inspection.

Housing and accommodation

Human-centred recovery from COVID-19 and prevention of similar health emergencies requires rethinking migrant workers' accommodation in the ASEAN region. This can mean greater flexibility for migrant workers to choose their own housing and/or bringing national housing standards and actual housing conditions in line with international standards on adequate and decent housing. At a minimum, adequate housing needs to meet seven criteria as specified by the UN Committee on Economic, Social and Cultural Rights (CESCR) (1991). These include: habitability; affordability; location; accessibility; the availability of services, materials, facilities and infrastructure; legal security of tenure; and cultural adequacy. These minimum requirements also align with the ILO Workers' Housing Recommendation, 1961 (No. 115).

A forthcoming ILO study of three key destinations – **Malaysia, Singapore, and Thailand** – reviewed existing housing laws and regulations as well as the initiatives introduced in Malaysia and Singapore in response to COVID-19. The report provides valuable recommendations⁹ for strengthening migrant workers' housing, focusing on the seven CESCR criteria. These include, but are not limited to:

1. Revise and amend any laws that make living in employer-provided accommodation compulsory for migrant workers.
2. Ensure that minimum standards on spatial allowance are in line with international standards and set a low limit on the number of workers per room, making sure to prevent "hot bedding"¹⁰.
3. Ensure decent housing does not cost more than a reasonable proportion of income (within guidelines of a maximum of 30 per cent), and that migrant worker are charged directly and transparently for accommodation.
4. Ensure no migrant worker is evicted due to their or their employer's inability to pay the rent due to financial challenges arising from COVID-19.
5. Ensure migrant worker accommodation is not geographically segregated from the host community, and that migrant workers enjoy easy access to their workplace and other facilities and services.
6. Ensure sleeping quarters are well ventilated, including in multiple occupancy sleeping areas.
7. Provide adequate facilities that allow tenants to cook for themselves and use bathrooms without areas becoming too crowded, and ensure access to Wi-Fi across all floors.
8. Protect migrant workers' privacy and avoid surveillance.
9. Extend labour inspections to employer-provided housing, including for domestic workers.

Revisions of existing housing regulations should be developed through social dialogue with all relevant stakeholders, including migrant workers (ILO, forthcoming).

The pandemic has also highlighted the importance of regulating minimum standards for living conditions for live-in domestic workers, which remain largely unregulated. The ILO Domestic Workers Convention, 2011 (No. 189), requires that live-in domestic workers need to have decent living conditions that respect their privacy. The Domestic Workers Recommendation, 2011 (No. 201), further provides that accommodation provided to domestic workers should include a

⁹ For a full list of the recommendations see: *ILO, Home Truths: Access to Decent Housing for Migrant Workers in the ASEAN region*, forthcoming.

¹⁰ "Hot bedding" is a term used to describe the sharing of beds by workers on different shift work times, borrowed from the concept of "hot desking". "Hot desking" is an organizational system in any given workplace in which desks are used by different people at different times. The aim of both is to maximize space efficiency and reduce costs, but the practices also reduce privacy and cleanliness.

separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker. Domestic workers shall also have access to suitable sanitary facilities (shared or private) and have adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household. While destinations do not regulate minimum standards for the living conditions migrant workers, related provisions may be included in the Memoranda of Understanding between origin and destination countries to fill this gap.

4.3. Universal social protection to guard against humanitarian emergencies

The COVID-19 pandemic has laid bare migrant workers' limited access to social protection measures in the ASEAN region. As noted in Chapter 3, lack of basic income security and

unemployment protection led to acute food insecurity and humanitarian crisis for large numbers of migrant workers; while limited access to affordable healthcare prevented COVID-19 testing, healthcare and vaccines for many.

The ILO Global Call to Action underscores the need for universal access to comprehensive, adequate and sustainable social protection, including nationally defined social protection floors. It should be ensured that, at a minimum, over the life cycle all in need have access to basic income security and to essential healthcare. The Global Call to Action requires enhancing access to unemployment protection to ensure support for workers who have lost their jobs and livelihoods due to the pandemic and to facilitate transitions. It further calls for access to adequate paid sick leave and sickness benefits, as well as health and care services, family leave and other family-friendly policies for all workers, ensuring coverage in cases of quarantine and self-isolation and developing faster delivery mechanisms for benefits¹¹ (ILO 2021a, paras 11(C)(a)–(c)). Migrant workers should not be treated less favourably



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in which desks are used by different people at different times. The aim of both is to maximize space efficiency and reduce costs, but the practices also reduce privacy and cleanliness.

¹¹ These rights are provided in various ILO instruments, including:

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19);
- Employment Injury Benefits Convention, 1964 (No. 121);
- Social Security (Minimum Standards) Convention, 1952 (No. 102);
- Equality of Treatment (Social Security) Convention, 1962 (No. 118);
- Maintenance of Social Security Rights Convention, 1982 (No. 157); and
- Social Protection Floors Recommendation, 2012 (No. 202).

Ratification of these Conventions in ASEAN is low. Thailand, Indonesia, Malaysia and the Philippines have ratified Convention No. 19, and the Philippines has ratified Convention No. 118.

than nationals with respect to social security benefits (Migration for Employment Convention (Revised), 1949 (No. 97)). Realizing the social protection-related commitments of the Global Call to Action for migrant workers in ASEAN involves overcoming many challenges, but do so will create societies more resilient to future pandemics or crises.

Access to social protection

Overall, effective access to social protection remains a challenge for a majority of workers in ASEAN. As one of the most vulnerable group of workers, migrant workers face significant additional challenges in terms of access. Urgent actions are needed to extend social protection to all migrant workers in all sectors of the economy. The reasons for migrant workers' ineligibility for social protection include, among others: legal exclusion; employment in sectors of work not covered by social security or where compliance with social security laws is poorly enforced (such as domestic work); or employment in small businesses that are excluded from social protection. In some cases, social protection for migrant workers is provided through separate schemes that provide less beneficial protection in comparison with what is available to other groups. In regard to long-term benefits, temporary or seasonal migrant workers are often unable to meet the eligibility criteria, and are therefore excluded due to the absence of arrangements for portability of social security between origin and destination, which would allow for the combination of rights acquired in different countries. Further, many migrant workers have inadequate time to claim and finalize social security benefit payments upon termination of employment, or may face other bureaucratic and administrative barriers impeding their effective access to benefits (Marius 2018). Removing these barriers to migrant workers' effective access to social security is essential for a sustainable and inclusive post-pandemic future.

Particular attention should be given to the extension of social protection to the domestic work sector, as few domestic workers are currently covered by social security laws, and coverage is even lower among migrant domestic workers (ILO 2021c). The effective extension of social security coverage to domestic workers requires the removal of existing legislative gaps to ensure domestic workers are granted access to social protection on equal footing with other employees. The removal of administrative barriers

and the introduction of digital technologies can help facilitate the registration and payment of social security contributions (ILO 2021c).

Realization of effective access to social security for migrant workers in ASEAN requires a combination of unilateral, bilateral and multilateral interventions and practical assistance:

- ▶ As an important first step, countries of destination should ensure equality of treatment in social protection independent of nationality. Social security systems need to eliminate barriers for registration and establish effective access to benefits by migrant workers.
- ▶ Unilateral measures in destination include the extension of social protection to previously uncovered sectors. A notable development is **Malaysia's** extension of social security coverage to domestic workers in 2021 (see box 11 for details).
- ▶ Countries of origin can also unilaterally provide social security coverage for their outgoing workers. Migrant welfare funds are another mechanism that can be employed by countries of origin to support migrant workers during a crisis.
- ▶ Bilateral social security agreements should be negotiated between countries of origin and destination to help migrant workers meet the eligibility criteria for long-term benefits and to set up arrangements for the portability of social security.
- ▶ Government, trade unions, employers and CSOs – including through Migrant Worker Resource Centres (MRCs) – should coordinate to provide services to migrant workers who need assistance in accessing the social protection schemes to which they are entitled.

Unemployment benefits and basic income security

In most destinations in ASEAN, migrant workers have been largely excluded from basic income security during COVID-19. One exception has been regular migrant workers in **Thailand**, who are eligible for unemployment insurance benefits (ILO 2021e; see box 7 above). Overall, **Thailand** and the **Lao People's Democratic Republic** are the only ASEAN countries where migrant workers are covered under the national social security unemployment scheme (Marius 2018); although in Thailand, there are challenges with regards to access, as pointed out in box 7. In **Malaysia**,

the Employment Insurance Act covers citizens only, with three narrow exceptions that are not applicable to migrant workers. Indonesia and Viet Nam also exclude non-citizens from unemployment schemes (Tsuruga 2021). Extending unemployment benefits and basic income security to cover migrant workers should be a priority for the ASEAN region in realizing a human-centred recovery from COVID-19.

Migrant welfare funds

Countries of origin in ASEAN should also review their migrant welfare funds to ensure that they can effectively provide welfare benefits and services to their migrant workers in destination in case of future crises. As noted above, there is limited evidence of countries in the region using

migrant welfare funds to support stranded or returning migrant workers during COVID-19.

Essential healthcare

In principle, social security in all ASEAN countries covers migrant worker access to essential medical care, with certain limitations (Marius 2018). In practice, however, challenges and barriers remain, with migrant workers in the informal sector and those with irregular status remaining least protected. Urgent action is needed to by governments to delink sanctions for immigration violations from healthcare provision to migrant workers, as recommended by the 13th AFML. Universal healthcare will never be achieved if migrant workers feel unsafe accessing these services.

► Box 11. Malaysia extends social protections to domestic workers

Despite being a key sector in the employment market, domestic workers in Malaysia are excluded from key provisions in the Employment Act 1955, such as weekly rest and paid annual leave, and up until recently from social security coverage. The poor conditions often provided by employers of domestic workers have been further exacerbated during the COVID-19 pandemic, as many domestic workers continued to go to work without access to adequate healthcare or social protection, creating a particularly high risk should they be exposed to and fall ill from COVID-19.

Source: ILO 2021c; Tang 2021.

On the 1 June 2021 the Employees Social Security Act 1969 and the Employment Insurance System Act 2017 were extended to domestic workers, including migrant domestic workers. The extension of social security coverage is expected to benefit 104,400 domestic workers in Malaysia, 89,400 of whom are migrant domestic workers. The extension of social security coverage to domestic workers is an important step towards achieving decent work for domestic workers.

4.4. Implementing a transformative agenda for equality, non-discrimination and fundamental rights

► We should not treat migrant workers different from any other workers. They are as much entitled to have their livelihoods protected and they are entitled to have their health protected.

► Guy Ryder, ILO Director-General

The COVID-19 crisis has caused greater inequality and exclusion and left deep scars on overall development performance towards the ambitions of the 2030 Agenda for Sustainable Development (ILO 2021k). To reverse this trend the ILO Global Call to Action requires governments, employers' organizations and workers' organizations to deliver a transformative agenda for gender equality, non discrimination and protection of fundamental rights. To counter the impact on already vulnerable groups of workers – including migrant workers, youth and women – ASEAN countries should take decisive action to revise laws and policies to ensure equal treatment in employment opportunities and working

conditions, in public health measures, and in access to healthcare, vaccinations and social protection. Widening gender inequalities need to also be addressed to ensure that all migrant workers benefit from the region's recovery from COVID-19.

Equal treatment and fundamental rights at work

As described in Chapters 2 and 3, migrant workers have experienced disproportionate health impacts and job losses, as well as limited access to healthcare and vaccines and exclusion from emergency income support and social protection during the COVID-19 pandemic, which has caused a humanitarian crisis among some migrant worker populations. Many of these impacts would have been substantively cushioned if migrant workers enjoyed equal treatment with nationals in areas of labour protection, access to healthcare and public health measures in countries of destination.

For these reasons, the transformative agenda for equality, diversity and inclusion put forward in the ILO Global Call to Action to eliminate violence, harassment and discrimination while taking into account the specific circumstances and vulnerabilities of migrant workers is particularly relevant for the protection of migrant workers (ILO 2021a, para. 11(B)(h)). Equality and non-discrimination are at the heart of the fundamental Discrimination (Employment and Occupation) Convention, 1958 (No. 111), ratified by only seven out of the ten ASEAN Member States. The principle of equal treatment is also at the core of the Migration for Employment Convention (Revised), 1949 (No. 97), which stipulates that migrant workers are entitled to treatment by the State that is “no less favourable than that which it applies to its own nationals” in relation to working conditions, including remuneration, accommodation, trade union rights and legal proceedings. The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), goes further and requires equality of opportunity and treatment in employment and occupation, social security, trade union rights and collective freedoms. It also calls on ratifying States to “respect the basic human rights of all migrant workers” irrespective of their legal status, and guarantees equality treatment for migrant workers whose situation cannot be regularized with regard to rights arising out of past employment in respect of remuneration, social security and related benefits. Therefore, it

is essential for ASEAN Member States to review and revise their laws and policies to ensure migrant workers have equality of opportunity and treatment with nationals in regard to employment, public health measures, and access to healthcare, vaccines and social protection.

The ILO Global Call to Action also calls on tripartite partners to redouble efforts to address the increasing fundamental rights violations resulting from the pandemic (ILO 2021a, para. 11(B)(b)). Key actions to implement this commitment should include review of public health measures such as the “bubble and seal” measures imposed during the COVID-19 pandemic, and ensuring migrant workers access to effective dispute resolution and healthcare. Migrant workers, regardless their status, have the right to receive medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their life on the basis of equality of treatment with nationals, as provided in Article 28 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Going forward, it is crucial to ensure that public health measures to curb COVID-19, or any other future health crisis, are designed so that migrant workers are not – directly or indirectly - denied access to healthcare nor treated in a discriminatory manner in terms of limitations on their freedom of movement.

Gender equality

As demonstrated in Chapter 3, women migrant workers have felt the impacts of the COVID-19 crisis more deeply than men migrant workers. Women migrant workers are particularly exposed, as they are often over-represented in the informal economy and among migrant workers in irregular status, and they are often employed as frontline and healthcare workers, placing them at increased risk of contracting COVID-19 (ILO 2020b). Data from the October–December 2020 ILO survey shows that women migrant workers had the least space for social distancing, were more likely to be confined to workplaces, and faced higher rates of bullying and threats. Upon return their pay in jobs at home was roughly one-third less than that of men (ILO 2021g). To reverse the trend of widening gender inequalities in the labour market, a human-centred recovery from COVID-19 requires the implementation of a transformative agenda for gender equality.

The transformative agenda for gender equality outlined in the ILO Global Call to Action requires

governments and employers' and workers' organizations to:

- i. ensure equal pay for work of equal value, supported inter alia by pay transparency;
- ii. expand policies providing adequate paid care leave and promoting a more balanced sharing of work and family responsibilities;
- iii. promote employment creation and lifelong learning policies that close gender skills gaps;
- iv. invest in education, healthcare, social work, the care economy and other sectors, addressing understaffing and improving working conditions;
- v. remove legal and other types of barriers to entry to and advancement in education, training, employment and careers, including by combating gender stereotypes; and
- vi. prevent and protect against gender-based violence and harassment in the world of work (ILO 2021a, para. 11(B)(g)).

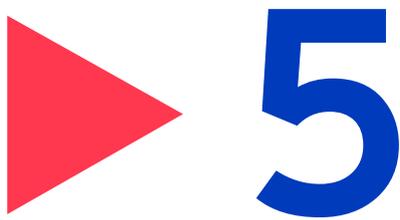
In regard to protection of women migrant workers, key measures to implement in the ASEAN region include:

- addressing pay gaps between women and men migrant workers;
- eliminating gender-specific hiring, including within private enterprises, so that workers are hired based on merit;

- repealing discriminatory gender-based migration bans or moratoriums; and
- improving systems for coordinated responses to violence against women, including women migrant workers.

Looking to the future, the women-dominant care work sector in particular will continue to grow, due to increasing demand and continued supply of workers. Providing direct and indirect care to households, the demand for domestic workers is also likely to grow, particularly in light of demographic changes, population ageing and increasing need for long-term care. Lower birth rates and longer life expectancy have shifted the age structure of the region. Therefore, domestic work needs to be considered as a key sector for post-pandemic recovery, with the ability to provide work for women unduly impacted by job losses during COVID-19. The goals of pandemic recovery, however, will not be met if domestic work jobs are not decent. Key measures to protect care workers, including domestic workers, include formalizing the economy and ensuring full coverage of domestic work in national labour laws. Integrated and tripartite approaches must be taken to ensure that formalization is beneficial in practice for domestic workers and employers.





Key considerations and recommendations

Migrant workers have been disproportionately impacted by the COVID-19 pandemic. To strengthen ongoing responses to the immediate needs of migrant workers and to support a human-centred, inclusive, sustainable and resilient recovery towards a post-pandemic future, the below recommendations may be considered by ASEAN Member States and stakeholders. Gender-responsiveness should be taken into consideration when translating these recommendations into practice.

Sub-Theme 1: Protection of migrant workers during the COVID-19 pandemic – The current situation

1. Ensure support for all migrant workers, including those in irregular status, to prevent loss of life, dignity or undue health effects during the crisis, through provision of food, water, shelter and safe passage to meet basic humanitarian needs, including those specific to gender.
2. Ensure that all migrant workers, including those with irregular status (who are disproportionately women), have access to free COVID-19 vaccines, testing and essential healthcare in destination without risk of arrest or deportation and on an equal basis with the national population. Prioritize the vaccination of outbound migrant workers in origin countries and coordinate with destinations to ensure mutual recognition of the vaccines provided. Ensure that information on access to vaccines is understandable and considered trustworthy by migrant worker communities.
3. In case of workplace closures or “sealing” due to COVID-19, ensure that migrant workers’ quarantine facilities are safe and humane, respect privacy as well as gender-specific needs, allow social distancing, and are equal to quarantine facilities provided to the national population. Ensure migrant workers’ access to adequate healthcare, including gender-responsive psychological support, food, water and basic income support, during such closures.

4. Improve and equitably implement safety and health practices for all migrant workers, especially women migrant workers, and take practical measures to enable social distancing at work, in accommodation and during transport to reduce migrant workers' exposure to infection. Ensure workers' access to adequate, appropriately sized, climate-relevant and employer-provided personal protective equipment (PPE) and implement work from home, when possible.
5. Extend government emergency income support measures and support services to all migrant workers, regardless of status, whose incomes have been affected by job loss, lockdowns and other COVID-19 control measures in destination. Ensure returning migrant workers' access to emergency income support and gender-responsive services in countries of origin.
6. Protect migrant workers against falling into irregular status by allowing change of employers and providing visa extensions or special passes to those who have lost their job but are unable to return home. Consider allowing undocumented migrant workers to regularize their status through amnesties. In cases where their situation cannot be regularized, ensure equal treatment with regular status migrant workers with regard to swift and full payment of wages and social security benefits due, and in case of a dispute, enable access to appropriate complaints mechanisms.
7. Improve the access of all migrant workers – including informal workers – to justice and effective remedies for labour rights abuses, including wage and working time violations, unlawful termination, and violence and harassment at work. Provide the right to fully participate in any judicial mechanisms either through remote participation or by enabling the right to remain in the destination country until a final decision is reached, and ensure non-deportation and the right to work during legal proceedings. Support returning migrant workers in pursuing cross-border claims after their return home.
8. Strengthen cooperation between government, employers' organizations, workers' organizations, civil society and embassies to access to hard-to-reach and isolated migrant communities to deliver emergency assistance, share information on vaccination, and provide gender-responsive support services, including legal aid.



9. In coordination with employers and the private sector, provide travel support in accordance with MOU and contract agreements, and facilitate gender-responsive reintegration support to returning migrant workers, including access to employment services, training and entrepreneurship programmes.

Sub-Theme 2: Recovery and the post-pandemic future

10. Review national labour laws and policies to ensure migrant workers receive equal treatment with national workers with respect to job security, wage levels, wage protection, working conditions and minimum wage coverage, with specific focus paid to sectors currently excluded from these protections, such as domestic work. Address informality and improve labour protection of workers in non-standard forms of employment, such as domestic workers and gig and seasonal workers.
11. Invest in human resources, capacity-building and independence for robust labour inspectorates so that they are able to access vulnerable and hard-to-reach workplaces to better implement labour regulations for migrant workers. Enhance the number of labour inspectors, and increase the number of women inspectors so that they are proportionate to the number of women in the workforce.
12. Review national safety standards for workplaces and employer-provided housing – including those regulations specifically related to the safety of women – and strictly enforce such regulations.
13. Prohibit the charging of recruitment fees and related costs to migrant workers, including additional COVID-19-related costs for testing, vaccines and insurance. Firmly enforce the standards around migration costs, ensuring accountability for illegal charging or fraudulent recruitment.
14. Extend social protection, including essential medical care and unemployment benefits, to all migrant workers in all sectors of the economy, and ensure migrant workers have effective access to social protection. Extend basic income security to cover all migrant workers.
15. To build resilience to future health crises, reform and invest in healthcare systems and practices to build infrastructure that fulfils the needs of migrant workers, including women and those in irregular status, and that ensures that the preventative and sexual and reproductive healthcare choices provided to migrant workers are equal to those provided to the national population.

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► Recovery and labour migration in the post-pandemic future

Thematic background paper for the 14th ASEAN Forum on Migrant Labour

This report was prepared to inform and guide discussions on the theme “Recovery and labour migration in the post-pandemic future” at the 14th ASEAN Forum on Migrant Labour (AFML) hosted by the Government of Brunei Darussalam on 6 and 8 September 2021. The AFML is a tripartite meeting that brings together governments, employers’ and workers’ organizations, alongside civil society groups, to discuss migration governance issues across the Association of Southeast Asian Nations (ASEAN) region, and aims to promote and protect migrant workers’ rights. The AFML is supported by the ILO through its TRIANGLE in ASEAN programme, the International Organization for Migration (IOM) and UN Women.

This background paper maps out impacts of the COVID-19 crisis on ASEAN migrant workers in the second year of the pandemic and highlights the need to strengthen ongoing responses to address migrant workers’ immediate needs. The report also proposes addressing gaps in the protection of migrants that were exposed and exacerbated by the ongoing pandemic to support a human-centred, inclusive, sustainable and resilient recovery towards a post-pandemic future.

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