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► **Ensuring migrant workers access to justice: An assessment of Thailand's Migrant Workers Assistance Centers**



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Foreword

Thailand has a long history of labour migration, initially as a country of origin, and increasingly over the past two decades as a destination country. Today, Thailand is host to the largest number of migrant workers of all ASEAN Member States, with approximately 2.8 million documented migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar.

These migrants are predominately employed in elementary occupations in fishing, agriculture, construction, manufacturing, domestic work and other services, and were responsible for 4.3–6.6 per cent of Thailand's GDP in 2010.

As a destination country, Thailand is committed to taking necessary and appropriate measures to ensure fair treatment towards migrant workers and to prevent abuses, exploitation and violence towards them. In addition, the country is taking concrete measures to facilitate equal access to justice for migrant workers who seek assistance and legal redress.

To increase migrant workers' access to justice, in 2016 the Ministry of Labour of the Royal Thai Government established Migrant Worker Assistance Centres in ten provinces throughout the country. After running these centres for a few years, the Department of Employment requested the ILO and its TRIANGLE in ASEAN programme to conduct this assessment aimed at holistically reviewing the centres, and providing recommendations on how to enhance their effectiveness in delivering services to migrant workers.

This report presents the findings of the assessment. Overall, it concludes that the operation of these centres strongly aligns with the broader objectives of the Royal Thai Government to ensure the protection and promotion of migrant workers' rights. Importantly, it also concludes that the ten centres have improved migrant workers' access to information, and that they provide important advice concerning migrant workers' employment and working conditions and their overall labour rights. The report identifies areas that should be further strengthened to ensure that a larger number of migrant workers will access these important services. It also provides recommendations to improve collaboration between different actors, and to ensure the overall sustainability of the centres.

The ILO is committed to supporting the Royal Thai Government, including the Ministry of Labour, together with workers' and employers' organizations, civil society organizations and other stakeholders in Thailand to facilitate greater access to justice for women and men migrant workers. I am confident that by working together, we can protect the fundamental rights of migrant workers in Thailand, and ensure that both they and their host nation reap the benefits of a more just and equitable world of work.

Graeme Buckley

Director, ILO Country Office for Thailand, Cambodia
and Lao People's Democratic Republic



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The data collection and analysis was conducted by Kuanruthai Siripatthanakosol, National Programme Coordinator for the Thailand chapter of TRIANGLE in ASEAN. The final report was written by Kuanruthai Siripatthankosol with editorial support from Anna Engblom, Chief Technical Advisor, TRIANGLE in ASEAN.

The report was made possible through the contributions of many people during the design, fieldwork, report preparation and review. The authors are thankful to Adisorn Kerdmongkol for his comments and review of the overall report; Benjamin Harkins for support at the design stage; Alexandra Shepherd for review and editing; and to Nilim Baruah for final review. We are also grateful for the support of Jittima Srisuknam, ILO Programme Officer for Thailand and Lao People's Democratic Republic, for support throughout the conduct of this assessment and completion of the report.

Our special thanks also go to our colleagues from the Department of Employment, including Mr Varanon Pittiwan, former Director-General; Mr Sombat Nivetrat, former Deputy Director-General; Mr Pirote Chotikasatien, General Inspector; Mr Sombat Pothiwat, Director of Central Employment Registration and Worker Protection Division; and Mr Jakkrit Patthanatanya, Chief of Prevention of Human Trafficking on Labour Operation Centre.

We are also grateful for 90 key informants who took time to attend in-depth interviews and join focus group discussions under this assessment.

We want to acknowledge John Maloy who copyedited the report, and Florian Saint-Aubin who created the layout and artwork.

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Table of contents

Foreword	ii
Acknowledgements	iii
Table of contents	iv
Executive summary	vi
Abbreviations and acronyms	viii
1. Introduction	1
1.1. Labour migration trends in Thailand	1
1.2. Protection of migrant workers: The legal framework in Thailand	2
1.3. The complaint mechanism: Establishment of the MWACs	3
2. Assessment objectives and methodology	5
2.1. Objectives	5
2.2. Methodology	5
2.3. Assessment limitations	7
3. MWAC performance: Clients and services	8
3.1. MWAC clients	8
3.2. MWAC objectives and services	10
4. Assessment of MWAC's performance	12
4.1. Relevance	12
4.1.1. MWACs' ability to support the range of employment-related services needed by migrant workers	12
4.1.2. Need for strategic guidance documents	12
4.2. Effectiveness	13
4.2.1. MWACs case management systems	13
4.2.2. Staff training	14
4.2.3. Further need to enhance MWACs translation services	14
4.2.4. Lack of awareness about the MWAC services and community outreach	15
4.2.5. Provision of temporary emergency shelter for migrant workers awaiting outcomes of legal action	15
4.2.6. Coordination and collaboration between agencies and departments and case referral	16

4.2.7. MWACs' referral function	17
4.3. Efficiency	18
4.3.1. Budgets, funding and cost efficiency of services	18
4.4. Impact	19
4.4.1. Need to develop and implement gender-responsive strategies	19
4.4.2. Need to strengthen monitoring and evaluation systems	19
4.5. Sustainability	20
4.5.1. Institutional sustainability	20
4.5.2. Financial sustainability	20
5. Conclusions and recommendations	21
5.1. Conclusions	21
5.2. Recommendations	23
References	24
Appendix. Research questions used during in-depth interview and focus group discussions ...	25
List of map, table and figures	
Map 1. Provinces with MWAC presence	4
Table 1. Characteristics of MWACs assessed by ILO	6
Figure 1. Total number of MWAC clients by gender, 2016–19	8
Figure 2. Number of clients at each MWAC, 2016–19	9
Figure 3. Total number of MWAC clients throughout Thailand by year, 2016–19	9
Figure 4. Total number of MWAC clients by nationality, 2016–19	10
Figure 5. Number of cases handled by MWACs, by case type, 2016–19	11



Executive summary

Thailand has taken many positive steps towards enhancing labour migration governance to promote and protect migrant workers' rights. Improvements to legal frameworks and the expansion of services has conferred greater protections to migrant workers. In particular, the 2017 Royal Ordinance concerning the Management of Employment of Foreign Workers (revised in 2018), demonstrates the Government's commitment to the protection and promotion of migrant workers' rights. The revised Royal Ordinance saw Thailand's domestic law align with several important principles of international labour standards, including the elimination of worker-borne recruitment fees, establishment of a guarantee deposit, and prohibiting employers from withholding workers' identity documents. The Royal Ordinance also oversaw the establishment of a complaints mechanism, enabling migrant workers to lodge complaints and seek assistance for abusive practices during recruitment, placement and employment.

Despite these improvements, migrant workers' access to justice and their ability to seek remedies for violations of labour, employment and social protection rights (as conferred upon them by Thai law) remain limited. In 2016, to enhance migrants' access to justice, the Ministry of Labour (MOL), through the Department of Employment (DOE), established ten Migrant Workers Assistance Centers (MWACs) in provinces with high numbers of migrant workers. The MWACs were established to protect and promote the rights of migrant workers including by ensuring they had access to the various complaints mechanisms available under Thai labour and migration law.

The establishment of the MWACs reflects the Thai Government's commitment to supporting migrant workers in Thailand. In 2017, the Ministry of Labour requested the ILO's assistance, through TRIANGLE in ASEAN, to assess the impact of the MWACs and to identify opportunities for improvement. The fieldwork for the assessment was conducted from October 2017 to February 2018, followed by interviews and a final stakeholder discussion in June 2019.

The assessment's core objective was to review the overall operation of the MWACs and, where appropriate, provide recommendations to enhance their effectiveness in delivering services to migrant workers, with a particular focus on effectiveness of services, expansion and sustainability.

Findings

The assessment found that the MWACs have improved migrant workers' ability to access information and receive advice regarding their employment, working conditions and rights. From August 2016 to April 2019, the ten MWACs delivered services to 124,515 migrant workers (almost 40 per cent of whom were women). The delivery of these services strongly aligns with the broader objectives of the Thai Government to ensure the protection and promotion of migrant workers' rights. However, as MWACs are still fairly new, there are a number of improvements the Thai Government must consider if MWACs are to oversee transformative and long-lasting change.

Administrative arrangements are affecting the services provided by MWACs. The assessment found that MWACs are perceived by many key government stakeholders to be short-term ad hoc bodies, which negatively affects their capacity to provide inputs and to influence the development of long-term migration policy. More broadly, the policy remit of MWACs' authorizing department – the DOE under the MOL – impacts the centres' ability to meet their objectives and provide the breadth of services required by migrant workers. Administrative arrangements also limit the ability of MWACs to directly advocate for the funding they require to sufficiently support migrant workers. Guided by the recommendations of this report, the Government needs to reassess MWAC objectives to identify how MWAC activities can be maximized to generate the most substantial and long-lasting change. Further, to ensure that the centres are sustained in the long-term, provisions for their existence need to be made in policy documents as well as in the regular budget of the MOL.

At an operational level, there are a number of procedural improvements that could substantially improve the impact and effectiveness of MWACs. Overall, MWACs need to be more client-focused. The development and implementation of standardized case management and referral processes will ensure migrant workers are receiving assistance that supports their unique needs and experiences. Implementing community outreach activities to ensure the most vulnerable and marginalized are more aware of the support services available is critical. Establishing trusting partnerships between MWACs and civil society organizations (CSOs) providing services to migrant workers is key to reaching out to migrant workers. Training all staff on gender issues, and ensuring that gender issues are mainstreamed throughout all aspects of MWAC work, will help to promote gender-sensitive engagement with clients and the delivery of services that respond to the specific needs of women migrant workers. The assessment found that many MWACs have difficulty in demonstrating their impact, which largely can be attributed to the lack of effective monitoring and evaluation (M&E) processes.

In addition, this assessment found the lack of legislative protections enabling migrant workers to stay temporarily in Thailand while awaiting the outcomes of legal complaints was impeding migrant workers' right to pursue justice. Consideration should be given to the introduction of legislative protections to enable migrant workers' temporary stays that can extend beyond the expiration of their work permit.

Recommendations

Based on the assessment, the following recommendations are made:

1. Ensure that MWACs are sustainable, by regulating them under the law and providing sufficient financial and human resources for their operation. Once the MWAC model is sustainable and optimized, it should be expanded nationwide.
2. Develop tools and guidelines for MWACs, including standard operating procedures, to enhance collaboration and cooperation and to strengthen the various aspects of MWAC operations.
3. Provide sufficient services to facilitate women and men migrant workers access to the legal complaint mechanism to seek legal redress through the MWACs. Ensure that services are trustworthy, and that the staff handling cases, including language interpreters, are trained and skillful and adhere to migrant and victim-friendly principles. Staff and services need to respond effectively to the specific needs of women migrant workers.
4. Strengthen the cooperation and collaboration between the MWACs and all relevant stakeholders, including government agencies and importantly CSOs, in all aspects of the MWAC mandate, including referrals, outreach activities and awareness-raising activities.
5. Explore possibility of providing financial support to CSOs to improve the collaboration between MWACs and CSOs, and ensure that legal cases are effectively referred to competent legal entities.
6. Design and implement a robust, gender-sensitive monitoring, evaluation and reporting system, and ensure that staff have the capacity to collect M&E qualitative and quantitative data. Ensure that data generated by the M&E system is linked with data/information of other MOL units and used to inform policy and practices.
7. Adopt legal provisions guaranteeing equal treatment for migrant workers to seek redress and protection and to stay in Thailand during case adjudication or prosecution.



Abbreviations and acronyms

ASEAN	Association of Southeast Asian Nations
CSO	civil society organization
DOE	Department of Employment
FGD	focus group discussions
HRDF	Human Rights and Development Foundation (CSO)
M&E	monitoring and evaluation
MOL	Ministry of Labour
MOU	memorandum of understanding
MSDHS	Ministry of Social Development and Human Security
MWAC	Migrant Workers Assistance Center



1. Introduction

1.1. Labour migration trends in Thailand

Over the last two decades, Thailand has become a key destination for migrant workers from neighboring countries, and increasingly from further afield within the Association of Southeast Asian Nations (ASEAN) region. In August 2019, the Ministry of Labour reported 2,877,144 registered migrant workers from Cambodia, Lao People's Democratic Republic, and Myanmar working in Thailand's agriculture, domestic work, construction, and manufacturing sectors (ILO 2019). While the number of irregular migrant workers is unknown, a 2018 report estimates that there are some 3.9 million migrant workers in Thailand, equaling approximately 10 per cent of Thailand's total labour force (Harkins 2018).

It is clear that labour migration has the potential to transform the livelihoods of migrant workers' families and communities while also contributing to the growth and development of their home countries. However, labour migration also carries risks, with many migrant workers vulnerable to abuse and exploitation.

The Thai Government manages the migration of workers in elementary occupations through bilateral agreements, referred to as memoranda of understanding (MOUs). MOUs regulate the official process through which migrant workers can obtain legal work permits, passports and visas. In 2002 and 2003, the Thai Government signed MOUs with the governments of Cambodia, the Lao People's Democratic Republic and Myanmar. However, only a small proportion of migrants entered Thailand through the MOU process due to the complicated, lengthy and expensive procedures involved. In 2015 and 2016, Thailand revised the MOUs to broaden cooperation on labour issues, including skills development and social protection, and signed a new agreement with Viet Nam.

During 2016–18, Thailand developed a more comprehensive legal framework, including the adoption of the Royal Ordinance concerning the Management of Employment of Foreign Workers, B.E. 2560 (2017, revised 2018) to manage labour migration in parallel with the implementation of the MOU processes. The Royal Ordinance sets out that the MOU process is the only official channel for low-skilled migrant workers to enter Thailand. However, section 64 of the Royal Ordinance offers one exception, the so-called "border employment regulation". Section 64 is designed as a more flexible option relative to the MOU modality, as it allows employers to hire workers for a short-term period (for instance, seasonal agricultural workers).

While the MOU channel and the border employment scheme remain the two formal channels for migrant workers to enter Thailand, the Government has periodically allowed irregular migrants already working in Thailand to come forward and formally register through the so-called "nationality verification" regularization process. During the most recent period, more than 1.8 million migrant workers came forward and completed their regularization process. Overall, increased numbers of migrant workers have been recruited through these formal channels from Cambodia, Lao People's Democratic Republic, and Myanmar. The Government of Thailand has announced that with the new legal framework, low-skilled migrant workers from Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam can only be recruited through MOU channels or the border employment mechanism, and that no further amnesties will be allowed¹.

¹ The paper uses the term "low skilled" with reference to the attributes of the occupation rather than the person. Many jobs in agriculture, in construction, in manufacturing, and in services fall in this category. These jobs are classified as elementary occupations in the ISCO-08 international classification of occupations.

In August 2019, the Government announced that migrant workers whose work permits will expire in September or November 2019 or March 2020 will be able to renew their work permits through a simplified process. Instead of having to return to their countries of origin as in the past, these workers can renew their work permits by reporting to the Thai Ministry of Labour. This simplified process is more convenient, as it lowers cost and saves time for both workers and employers.

1.2. Protection of migrant workers: The legal framework in Thailand

Thailand has various legislative provisions stipulating the minimum working and employment conditions for workers, including migrant workers. The Labour Protection Act, B.E. 2541 (1998) ensures that all workers, regardless of their nationality and legal status, are guaranteed equal conditions and protections with regards to minimum wage, working hours and corresponding rest periods, paid leave, discrimination, workplace harassment, etc.

Employers' responsibility to uphold and provide occupational safety and health protections are stipulated in the Occupational Safety, Health and Environment Act, B.E. 2554 (2011). The Act also provides workers, regardless of their nationality and legal status, with the right to lodge complaints in relation to any occupational safety and health concerns (Harkin and Ahlberg 2017).

Thai nationals and migrant workers have equal access to social protection, including social security benefits, as regulated under the Social Security Act, B.E. 2533 (1990). Workers are also conferred rights and entitlements under the Workmen Compensation Act, B.E. 2537 (1994). However, the extent to which a worker can access these rights and entitlements are dependent on factors such as their sector of employment and their legal status. For example, regardless of their nationality, domestic workers are not entitled to social security benefits. In addition, employers of domestic workers do not have any responsibilities regarding occupational health and safety. Consequently, domestic workers (of all nationalities) have no protections regarding work-related health and safety.

The aforementioned Royal Ordinance concerning the Management of Employment of Foreign Workers presents a comprehensive legal framework governing all aspects of labour migration, including recruitment practices such as the licensing and monitoring of private recruitment agencies and regulations concerning employment practices of migrant workers. The Royal Ordinance outlines migrant workers' labour rights, including for example:

- zero recruitment fees;
- protection from abusive practices during recruitment and employment, such as fraudulent practices by either an employer or a recruiter/broker;
- flexibility to change employer under certain conditions;
- requirement to provide a written employment contract in a language the worker understands; and
- right to retain a copy of a written contract and other personal documents.

The Royal Ordinance also mandates the Department of Employment (DOE) with responsibilities related to enforcement of relevant legislative provisions. One of the DOE's key responsibilities is managing the **complaints mechanism** newly established under the Ordinance. This mechanism provides migrants with an opportunity to seek help and refer cases concerning abusive practices during recruitment, placement and employment.

1.3. The complaint mechanism: Establishment of the MWACs

The various laws briefly presented above stipulate that migrant workers, in the event their rights are violated, have access to legal remedies through a complaints mechanism. However, many migrants are not able or not aware of how to exercise their rights due to:

- language barriers between migrants and authorities;
- lack of knowledge, understanding and attitudes among complainants and claimants; and/or
- unclear procedures and gaps relating to the operation and implementation of the existing complaint mechanisms (ILO n.d.).

Other contributing factors include migrants having irregular status, unclear statutory responsibilities, slow legal and administrative process, and discriminatory attitudes (Harkins and Ahlberg 2017).

Responding to the need to strengthen the Government's complaints mechanism and to facilitate migrant workers' greater access to justice, in July 2016 the Cabinet issued a Resolution² that, among others, requested the establishment of Migrant Workers Assistance Centers (MWACs). The overall aim of these centres is to protect and promote the rights of migrant workers by facilitating access to the complaints mechanism. The Cabinet Resolution assigned the Ministry of Labour (MOL) with responsibility for the MWACs, including the development of operational procedures, with the DOE having responsibility for their implementation. According to DOE Order No. 858/2559, the Director-General of DOE has the power and duties to implement MWACs. The Order also outlines the objectives and responsibilities of the MWACs, including the appointment of MWAC chiefs, who are responsible for overseeing the operation of each centre in terms of staffing, budget allocation and reporting.

The duties and responsibilities of MWACs are outlined in DOE Order No. 858/2559 as follows:

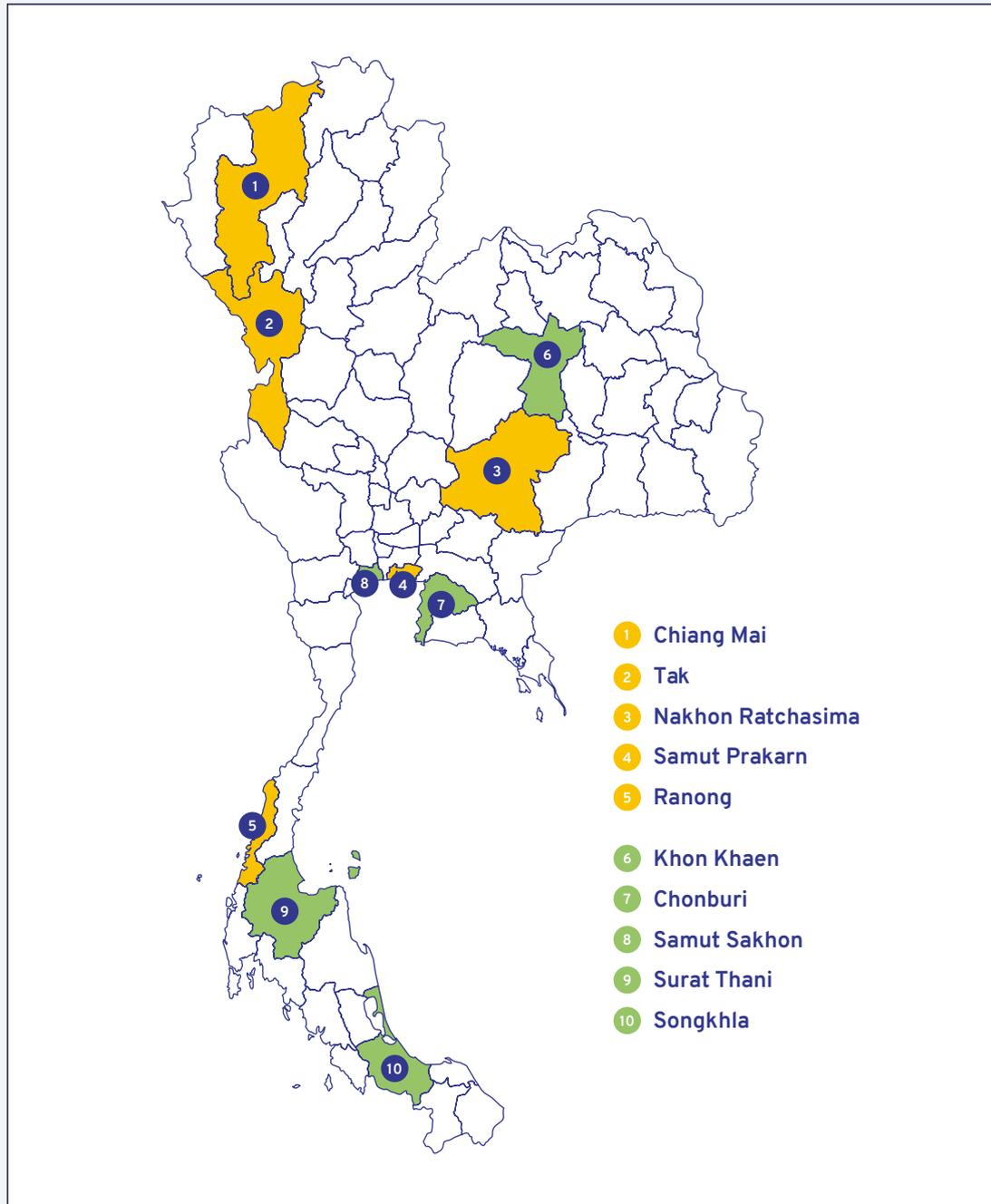
1. Provision of counselling, advice and assistance to migrant workers regarding working and employment conditions.
2. Provision of emergency shelters for migrant workers who are awaiting the outcome of a legal dispute.
3. Coordination and collaboration for assistance or case referral among concerned agencies.
4. Reporting of MWAC operations to the Director-General, Permanent Secretary or the Minister.
5. Carrying out other duties as may be assigned.

As a direct result of the Cabinet Resolution, the MOL (through the DOE) established ten MWACs in 2016 in ten provinces throughout the country (see map 1). All ten MWACs are located within the Provincial Employment Offices.

² The same Cabinet Resolution also approved the establishment of "Reception and Reintegration Centers". These centres were established to provide post arrival training for newly arrived MOU migrant workers on working and living conditions in Thailand, and to verify and screen migrant workers both on arrival and prior to departure from Thailand. The centres were also mandated to act as a focal point for all matters concerning employment of migrant workers. In 2016, three such centres were established in Thailand along the borders of Cambodia, the Lao People's Democratic Republic and Myanmar under DOE Order No. 782/2559.

► Map 1

Provinces with MWAC presence



Provinces with MWAC presence

Yellow indicates MWACs visited by the assessment team.



2. Assessment objectives and methodology

2.1. Objectives

To ensure that the MWACs were successfully meeting their objectives, in early 2017 the MOL asked the ILO TRIANGLE in ASEAN programme to undertake an assessment of the MWACs with the following objectives:

1. Document the various operations and interventions performed by the MWACs, including migrant workers' utilization of the services.
2. Identify and review cooperation, collaboration and engagement strategies between the MWACs and other government agencies, tripartite members, civil society organizations (CSOs), and other stakeholders at both local and national levels.
3. Assess strength and weaknesses of the MWACs – including areas for improvement – with the aim to further develop a comprehensive complaints mechanism for migrant workers.
4. Provide a concrete set of recommendations on how to improve service provisions at the MWACs, and provide suggestions for possible medium- and long-term measures for programme and policy changes to enhance service delivery, expansion and sustainability.

2.2. Methodology

This assessment employed a multidisciplinary methodology and was conducted during 2017-19. An initial desk review enabled consideration of topical literature and relevant policy and legal frameworks, and helped to inform the development of a detailed assessment framework and to set the assessment's overall parameters.

From October 2017 to February 2018, ILO staff visited five MWACs (see map 1) to collect data and information regarding MWAC operational activities. This was achieved through a combination of interviews and focus group discussions (FGDs). These five MWACs were selected to ensure that the assessment reflected the breadth of labour migration experiences throughout Thailand, encompassing, for instance, different labour markets, different countries of origin, etc. The five MWACs are detailed in the table immediately below:

▶ **Table 1**

Characteristics of MWACs assessed by ILO

Province	Region represented	Country of origin of local migrant workers	Sector(s) of employment of local migrant workers
Nakhon Ratchasima	North-eastern	Cambodia and Myanmar	Predominantly manufacturing
Samut Prakarn	Central	Cambodia, Lao PDR and Myanmar	Seafood processing, food processing, construction, and services
Tak	Border areas	Myanmar	Agriculture, small and medium manufacturing, and construction
Chiang Mai	Northern	Myanmar	Agriculture, construction and services
Ranong	Southern	Cambodia and Myanmar	Fishing and seafood processing, and agriculture

Note: Lao PDR = Lao People's Democratic Republic

During the MWAC visits, a range of government officials – including MWAC staff – were interviewed. FGDs with local tripartite representatives, CSOs and migrant workers were also conducted. In total, 90 respondents (M 50: F 40) were interviewed and/or attended the FGDs, as follows:

- 19 government officials from the MOL, DOE, Department of Labour Protection and Welfare, and the Social Security Office
- 19 employers
- 18 representatives from CSOs
- 22 representatives from trade unions, including migrant workers.

A set of criteria³, further elaborated upon in the appendix, was used to assess and evaluate each MWAC's performance:

1. **Relevance:** The extent to which the centre's interventions met beneficiary requirements and needs.
2. **Effectiveness:** The extent to which the centre's objectives and intended results were achieved.
3. **Resource efficiency:** The extent to which the centre's resources were utilized in cost-effective ways.
4. **Impact:** Positive and negative, intended and unintended long-term effects.
5. **Sustainability:** The immediate benefits and probability of the continued long-term benefits and sustainability of the centres.

³ Adopted from the OECD/DAC criteria for evaluating development assistance found in The DAC Principles for the Evaluation of Development Assistance (OECD 1991); The Glossary of Terms Used in Evaluation, in 'Methods and Procedures in Aid Evaluation' (OECD 1986); and the Glossary of Evaluation and Results Based Management (RBM) Terms (OECD 2000).



Photos: Stakeholder discussions in Mae Sot, Tak Province; photo by Kuanruthai Siripatthanosol, ILO

In June 2019, a national validation workshop was organized with DOE, MWACs, CSOs and other stakeholders. This workshop enabled the preliminary findings to be considered by all relevant parties. Comments and observations from participants are reflected in this final report.

2.3. Assessment limitations

The assessment was conducted in five of the ten MWACs, and as such there may be some possible limitations in the findings. The findings do not include specific problems of non-selected MWACs, which may have existed. Therefore, the findings cannot be generalized to reflect some particular dimensions of the operations in non-selected MWACs.

In addition to interviews and FGDs, the assessment relies on data collected and reported on by the MWACs themselves. However, it is clear that the data collection and reporting methods of MWACs require substantial improvement, and consequently the data collected may not reflect the extent to which migrant workers request and receive MWAC services. There are also no data on the success rate of the services that each MWAC has provided to migrant workers. The need to strengthen the monitoring and evaluation (M&E) systems of the MWACs are discussed in section 4.4.



3. MWAC performance: Clients and services

This section provides a brief overview of the number and profile of MWAC clients during the period from August 2016 through April 2019, and the types of support services of which these clients availed themselves.

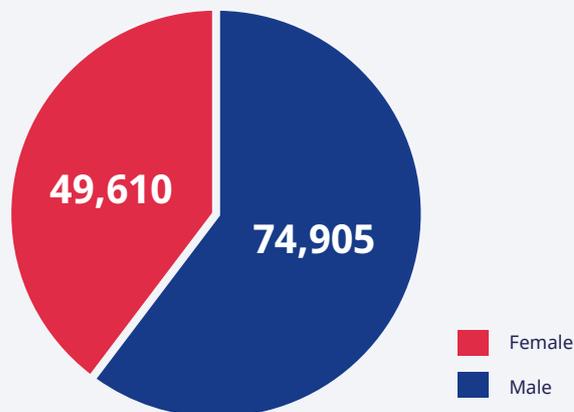
3.1. MWAC clients

During the period under assessment, a total 124,515 migrant workers (40 per cent women) sought support from one of the ten MWACs in Thailand (figure 1). However, as MWACs do not collect data regarding case referrals, it is difficult to determine how many migrant workers in total have visited an MWAC. The MWAC located in Chonburi had the largest number of clients, while the MWAC in Tak had the lowest (figure 2). Figure 3 indicates that there has been a gradual decline in in the number of migrants who have sought assistance since 2017 (note that the numbers for 2016 and 2019 are not for the full year). Based on interviews with stakeholders conducted during the field research process, one reason for the declining numbers may be that complainants often face a protracted complaint-lodging process. Once a complaint is received by an MWAC, the migrant is then directed to the appropriate direct mandate department, where they have start the complaint process all over again. It appears clear that this on-going practice has discouraged many migrant workers from visiting an MWAC, as they see no value in lodging their complaints twice.

Figure 4 shows that the largest number of clients come from Myanmar (73,034), followed by Cambodia (40,360), the Lao People’s Democratic Republic (11,016) and Viet Nam (105). This data loosely reflects the broader migration trends into Thailand from these countries of origin. In 2018, Myanmar migrants comprised 58.13 per cent of the total number of registered migrant workers, followed by Cambodians at 32.12 per cent, Lao at 8.76 per cent, and Vietnamese at 0.99 per cent.

▶ Figure 1

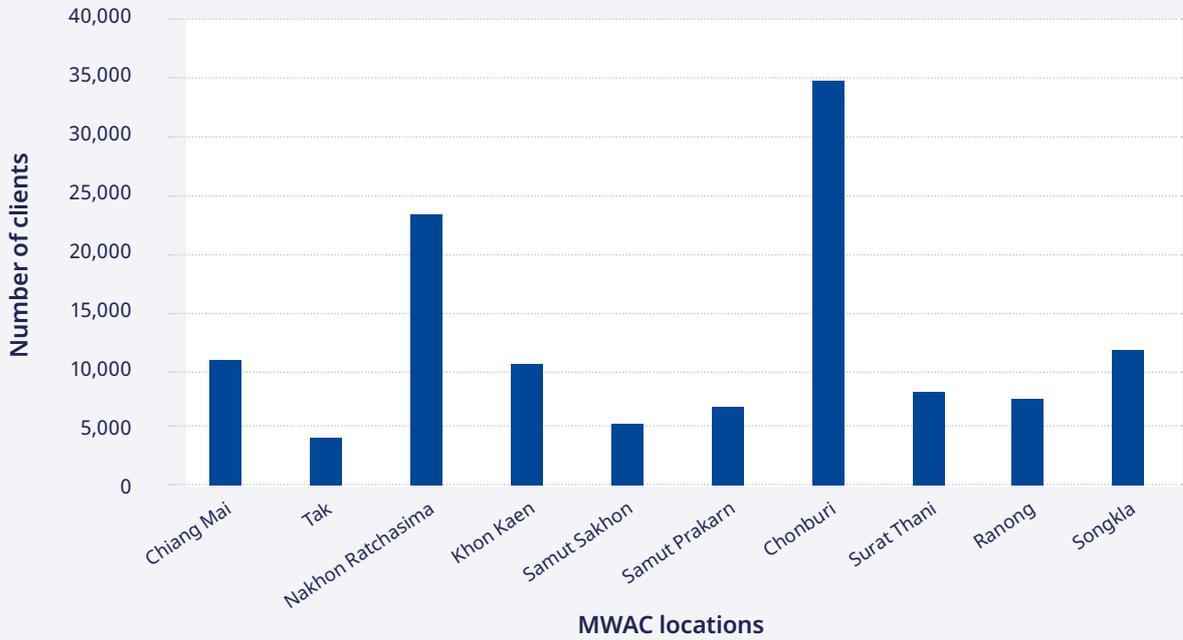
Total number of MWAC clients by gender, 2016–19



Notes: Data cover period from 1 August 2016 to 30 April 2019, and include all ten MWACs.

► **Figure 2**

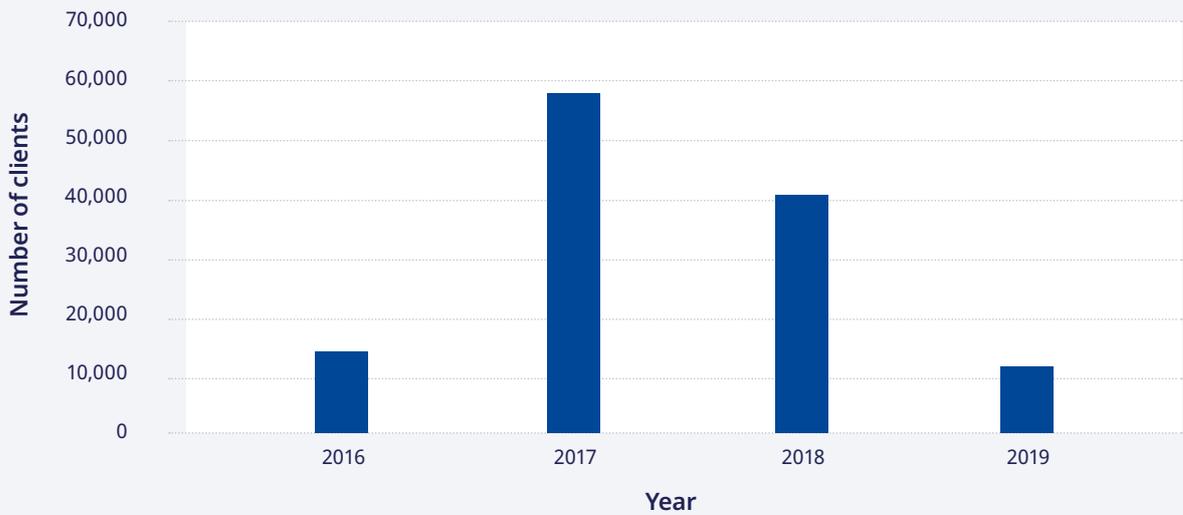
Number of clients at each MWAC, 2016–19



Notes: Data for 2016 cover the period from 1 August to 31 December; data for 2017 and 2018 cover the full year; and data for 2019 cover the period from 1 January – 30 April

► **Figure 3**

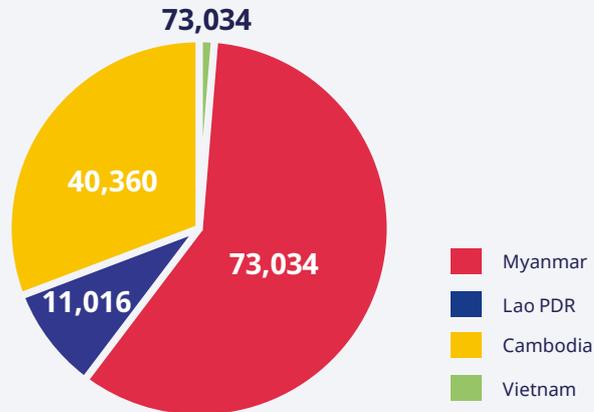
Total number of MWAC clients throughout Thailand by year, 2016–19



Notes: Data for 2016 cover the period from 1 August to 31 December; data for 2017 and 2018 cover the full year; and data for 2019 cover the period from 1 January – 30 April

► Figure 4

Total number of MWAC clients by nationality, 2016–19



Notes: Lao PDR = Lao People's Democratic Republic. Data cover period from 1 August 2016 to 30 April 2019, and include all ten MWACs.

3.2. MWAC objectives and services

The MWACs were established as one-stop centres for migrant workers originating from Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam. Based on their overarching objectives, the types of services currently offered by the MWACs include:

- Provision of general counselling concerning employment and recruitment practices.
- Approval of changes to employment conditions, for example, change of employer, new workplace, etc.
- Provision of emergency shelter for migrant workers who are awaiting outcomes of the complaints process.
- Coordination and collaboration for assistance or case referral among concerned agencies.

The DOE requests all MWACs to submit a monthly report on the types of cases handled. There are seven types of cases; some falls fully under the mandate of the DOE and are therefore handled directly by the MWACs while others require MWACs to facilitate solutions through the case referral mechanism:

1. **General counselling and advice:** Essentially information dissemination on labour-related issues.
2. **Recruitment/employment-related services:** Cases related to migrants seeking to change employment or renew work permits. These cases also include certain labour rights violations under the Royal Ordinance concerning the Management of Employment of Foreign Workers, such as confiscation of a migrant's personal documents.
3. **Social security benefits:** Cases concerning rights under the Social Security Act and access to the Workmen Compensation Fund under the Workmen Compensation Act (such cases are referred to and handled by the Social Security Office).
4. **Labour protection-related complaints:** Alleged violations/cases related to working conditions, such as deduction or non-payment of wages, excessive working hours, etc. (such complaints are referred to and handled by labour inspectors).

5. **Dispute settlement:** Dispute settlement is not specified in the MWACs' mandate, and based on the field research, there are no guidelines for MWAC staff on dispute settlement. Even so, MWACs do work in this space, with staff settling cases at their discretion if they believe the employer and worker can still work together.
6. **Case referral:** Referral of complaints to relevant concerned agencies.
7. **Shelter:** Provision of emergency shelter to victims of labour related violence and/or abuse.

Figure 5 highlights the degree to which migrants sought specific types of services from MWACs. Roughly 60 per cent of clients sought general counselling advice and legal assistance, for instance, questions concerning living and working conditions. About 38 per cent of clients had recruitment/employment-related requests, such as approval of the change of employment or renewal of a work permit. As noted above, both of these services fall under the DOE's mandate, meaning MWACs were able to handle them directly.

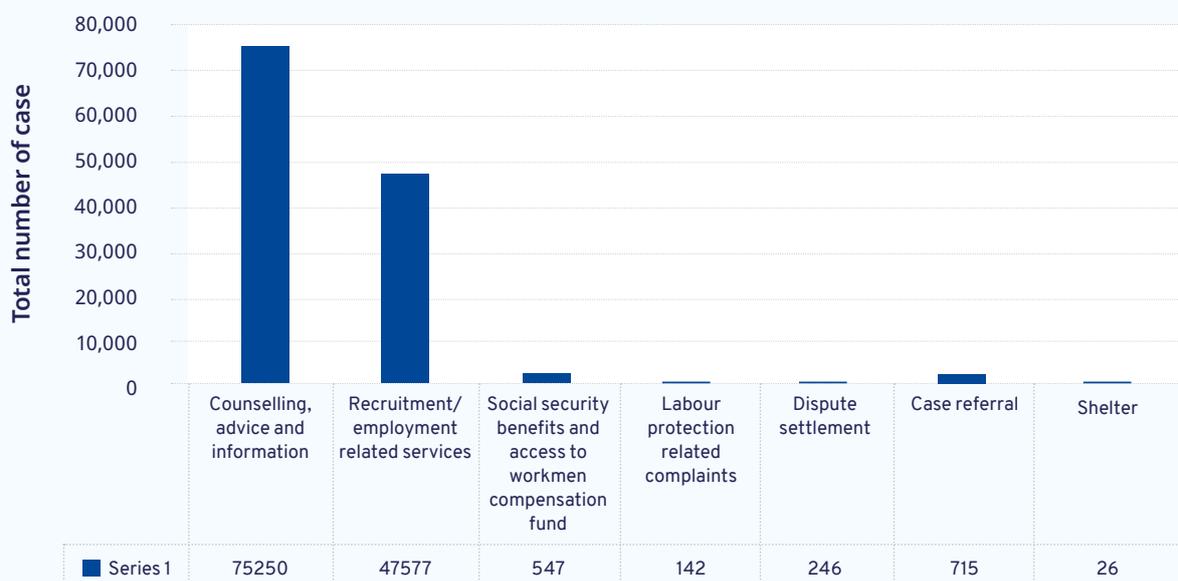
Only a very small number of the cases brought to the MWACs – 1.36 per cent – concerned issues that did not fall under the mandate of the DOE to handle directly. These include:

- Cases seeking assistance regarding social security benefits (0.44 per cent). Such cases are typically handled by the Social Security Office.
- Cases concerning labour protection-related complaints (0.11 per cent). Such cases are typically handled by the Department of Labour Protection and Welfare.
- Cases relating to the need for emergency shelter service (0.02 per cent). See section 4.1.1 and 4.2.5 for more on the division of shelter responsibilities between MOL and the Ministry of Social Development and Human Security.

According to the figures from the DOE, all cases that could not be handled directly by the MWACs were referred to direct mandate agencies. However, during the FGDs, participants stated that case referral mechanisms/practices varied depending on the degree of coordination and good relations among concerned agencies. None of referred cases have been followed up by the MWACs to learn whether they are closed, dropped, settled or ongoing.

► Figure 5

Number of cases handled by MWACs, by case type, 2016–19



Notes: Data cover period from 1 August 2016 to 30 April 2019, and include all ten MWACs.



4. Assessment of MWAC's performance

As noted in section 2, five criteria – relevance, effectiveness, efficiency, impact and sustainability – and a set of research questions (see appendix) were used to assess the MWACs' performance. This section summarizes the main findings under these criteria.

4.1. Relevance

MWACs were established to protect and promote the rights of migrant workers in Thailand by ensuring they could access the complaints mechanism and other relevant government support services. The data and information presented in section 3 demonstrated that MWACs have reached a large number of migrant workers throughout Thailand, and hence are clearly very relevant. However, this section will show that the MWACs face many challenges that impact their ability to provide the relevant services required to address the breadth of migrant workers' needs. These challenges can be overcome through the implementation of standardized strategic guidance documents, and by a reassessment of their objectives to ensure MWACs are better placed to offer the most relevant services.

▶ 4.1.1. MWACs' ability to support the range of employment-related services needed by migrant workers

MWACs were established under the authorizing power of the Department of Employment (DOE), and as a result they do not necessarily have the ability to provide the breadth of support needed by migrant workers. The DOE is only authorized to deal with issues relating to employment, including recruitment, placement, and approval, renewal or withdrawal of work permits and other processes concerning employment of migrant workers. Yet figure 5 above indicates that clients also request services from MWACs that extend beyond the authorizing remit of the DOE. For example, key employment-related issues pertaining to working conditions, safety, housing and social security are the responsibility of other departments within the Ministry of Labour (MOL), namely the Department of Labour Protection and Welfare and/or the Social Security Office, which put them beyond the scope of the MWACs to handle directly. This issue is perhaps most acute in cases where there is need of an emergency shelter. The MOL does not have a mandate to provide such shelter, as this service typically falls under the Ministry of Social Development and Human Security.

To remedy these issues, discussion should be held among MOL departments on the possibility of allocating staff from relevant departments to be seconded at MWACs, or on otherwise finding means for strengthening case referral coordination within the Ministry. For cases that require assistance from outside the MOL, the ministry and the DOE should consider developing a standardized case referral system, ideally one that encourages MWACs to draw upon their local networks to ensure migrant workers receive the assistance they require. On the particular matter of emergency shelter, collaboration and cooperation between the Ministry of Social Development and Human Security and the DOE/MOL should be seriously discussed and established through a more official format.

▶ 4.1.2. Need for strategic guidance documents

The lack of internal guidance elaborating upon the high-level objectives of the MWACs has made it difficult for MWAC staff to identify the scope of services the Government has authorized them to provide. Although DOE Order No. 858/2559 outlines the MWACs overall objectives, strategic guidance documents have not yet been developed. The absence of such guiding documents detailing operational procedures

for case handling, case referral, case management and case reporting poses major difficulties to MWAC staff and other stakeholders, including other MOL departments, other ministries, and CSOs and trade union partners. These issues were confirmed in the validation workshop where, for instance, CSO representatives shared that many migrant workers who sought MWAC assistance on issues relating to working conditions were told to visit the Labour Protection Office. Such experiences discourage migrant workers from seeking assistance from the MWACs, as they find themselves lodging their cases multiple times.

While MWACs have a responsibility to support all migrant workers, including those with irregular status, they also work with the DOE to oversee the implementation of the Royal Ordinance concerning Management of Employment of Migrant Workers, which explicitly outlines the imposition of penalties for irregular migrant workers. To effectively address these seemingly contradictory activities that the MWACs and DOE are required to initiate and support, standard operating guidelines need to be developed outlining step-by-step procedures for MWAC staff and other stakeholders to undertake an action. Such guidelines ensure smooth operation, in part, by providing MWAC staff with clear cut directions with regard to the government departments or outside partners they are to engage with to resolve a given case. In addition, annual action plans and other programme documents need to be developed as guiding documents for the operation of MWACs.

Prior to developing internal strategic guidance documents the Government should reassess the strategic objectives of MWACs, including the specific types of activities they should offer to migrant workers. A core consideration should be whether the number of departments and ministries responsible for the MWACs should be increased to expand the scope of activities that can be handled by MWACs, or alternatively, whether some of MWAC responsibilities should be transferred to other Government departments and ministries. In making this assessment, the financial limitations of MWACs needs to be considered, particularly whether they would be able to cope with an expansion of responsibilities.

4.2. Effectiveness

The effectiveness of MWACs can be measured against their ability to meet their core objectives (section 3.2). Overall, MWACs have had mixed success in meeting these objectives. To improve, the Government must consider the introduction of standardized case management procedures, the development of case referral systems, and ensuring continuous training of MWAC staff. In addition, to meet all of their objectives MWACs should receive sufficient funding so they can conduct outreach activities and engage with the most vulnerable.

The core objectives of MWACs must also be reassessed, allowing a consideration of who is best placed to address the issues experienced by migrant workers. Lastly, the Government should support MWACs in increasing their visibility and presence so they can play a more decisive coordination role.

► 4.2.1. MWACs case management systems

Currently, MWACs are not required to adhere to any standardized case management system. To provide more effective service to migrant clients, a case management system needs to be established, complemented by a guiding document on the processes/steps involved in case management and how to handle various types of cases.

At present the MWAC case management process largely consists of MWAC staff asking a set of standard initial screening questions to identify the types of services a migrant worker client may require. This initial screening does not meet the minimum needs of a comprehensive case management process. It also includes questions concerning the migrant's legal status, which may hamper the willingness of migrant workers to disclose information.

To develop a comprehensive case management system other steps need to be systemized, such as assessment (to identify and document clients' needs as well as risks faced by clients), case planning, case adjudication/intervention, monitoring, evaluation and reporting. All of these steps have the potential to impact the quality and effectiveness of the assistance being provided to migrant clients. The establishment of a standardized case management system – accompanied by step-by-step guidelines and an institutionalized capacity-building programme – would help to ensure that the services delivered to migrant clients would be in their best interests.

► 4.2.2. Staff training

One major limitation found in the MWACs' budget structure was the lack of resources allocated to capacity building for MWAC staff. At present, each MWAC is staffed by one DOE official, one contract employee (on a one-year contract), and one interpreter. All staff work under the supervision of the Chief of the Provincial Employment Office. Each year, MWACs face staff turnover and rotation (in the case of the DOE official). Particularly given the high level of staff turnover, the lack of an institutionalized capacity-building programme for the MWACs impacts the quality of service delivery.

As such, a capacity-building programme should be designed to capture both the technical and soft skills required for MWAC service delivery. All staff should be informed of and regularly updated on policy and legal frameworks in a manner that takes into account the capacities of staff who have not had legal training or who are themselves migrants (for instance, interpreters). In addition, dealing with migrant clients requires various soft skills, such as communication skills and cultural sensitivity. Such skills are critical to staff building the rapport and trust needed to effectively and meaningfully engaging with their clients about the issues impacting their lives.

► 4.2.3. Further need to enhance MWACs translation services

Many migrant workers require the use of translation and interpretation services. Being able to communicate effectively is critical to ensuring effective case management. Each MWAC is supposed to have at least one full time translator on duty during office hours. The language services offered by an MWAC are determined in accordance with the backgrounds of the migrant workers in the province. In some provinces, there can be two translators; however, one will need to be on call for other assignments as requested by other MOL departments.

The FGDs found that the current number of interpreters is insufficient. Increasing the number of interpreters should be a priority, as this substantially impacts the ability of MWACs to offer approachable, accessible and relevant services. As noted above, these interpreters must also receive specific training regarding the needs and experiences of migrant workers so they can build a rapport and sensitively support migrant clients. The need for such training was identified during discussions with migrant workers, many of whom said they prefer to use interpreters from local CSOs, as they feel more confident in their abilities to provide an accurate translation. To gain trust, it is very important that all MWAC interpreters are trained and adhere to ethical conduct in the provision of translation services, including issues of confidentiality and the usage of standardized language.

► 4.2.4. Lack of awareness about the MWAC services and community outreach

The assessment found that many migrant workers had limited knowledge about the role – or even the existence – of MWACs and other labour-related centres operated by the MOL. To ensure migrant workers have better access to the Government's complaint mechanism and services, MWACs should be actively engaged in outreach activities. Currently, there are insufficient funds allocated for these types of activities. Instead, MWAC outreach activities are often subsumed into other DOE activities, such as the process of registering migrant workers. Interestingly, discussions with migrant workers revealed that many of them became aware of MWACs through local CSOs. This reiterates the importance of implementing a robust referral strategy so that migrant workers understand the role of key organizations.

► 4.2.5. Provision of temporary emergency shelter for migrant workers awaiting outcomes of legal action

DOE Order No. 858/2559 states that migrant workers who are awaiting the outcome of legal action could seek temporary emergency shelter from MWACs. Figure 5 indicates that only 26 migrant workers were provided with temporary emergency shelter. While this is a relatively low number, it should not be used to conclude that there is no demand for this service. Indeed, there are legal barriers and resourcing issues at play that effect the ability of MWACs to provide such a service.

In general, the mandate to provide emergency shelter is vested in the Ministry of Social Development and Human Security (MSDHS). The MOL and DOE are not responsible agencies for directly providing emergency shelter, nor have they been allocated the financial resources or trained personal needed to meet the objective laid out in Order No. 858/2559. The FGDs found that such limitations mean that some migrants who seek emergency shelter from MWACs are accommodated at temples or schools, where their privacy and personal security may be at risk.

In addition, there is a problem that can arise when a labour violation takes place and a migrant ceases to work for their employer. Thailand's labour law only grants a migrant worker permission to stay and work in Thailand for the duration of their employment. When migrants loses their jobs and cannot find new employment within a specified timeframe, their work permit is withdrawn. If a migrant is the victim of serious violations such as forced labour or human trafficking, they will have the right to stay and to a temporary work permit while awaiting adjudication of the case, but this is not true for many other violations that may prompt a migrant worker to leave their employment. The Thai Government should consider legislative amendments that would enable migrant workers awaiting outcomes from legal action to apply for temporary permits.

The preceding issue is exacerbated by the emergency shelter policy of the MSDHS, which will only provide shelter to migrants if they are victims of forced labour or human trafficking – other forms of labour exploitation are not considered to constitute an emergency situation.

In light of the myriad factors hampering the MWACs' capacity to provide emergency shelters, the assessment recommends this objective be transferred to the direct mandated agency – the Ministry of Social Development and Human Security – which has the administrative and budget resources to address these needs. However, this transfer should be accompanied by broader reforms and changes to the national policy and legal framework to ensure that migrant workers who are victims of labour exploitation qualify for an emergency shelter. The transfer of this responsibility to another agency would not entirely abdicate MWACs from their responsibility to secure emergency shelter. Instead, MWACs referral and case management processes must be strengthened to ensure they can refer workers to

local providers who are able to assist them, and that they then follow up to ensure migrant workers have received appropriate services.

► 4.2.6. Coordination and collaboration between agencies and departments and case referral

Coordination and collaboration between the MWACs and other relevant government ministries, departments and agencies is critical to their success. However, the existence of the MWACs and/or their mandates are not known among all MOL staff. Further, interviews with MOL departmental officials found there is a lack of operational procedures or official coordination channels between MOL departments. This results in a lack of recognition of MWAC operations, lack of coordination among relevant MOL departments, and lack of systematic data collection and reporting procedures. Indeed very few officials knew about the role and purpose of the MWACs; some who had been referred clients from MWACs has mistakenly believed the referral came from DOE instead of the MWACs. Some of the officials interviewed also thought that MWACs were not necessary and were duplicating the function of other departments and ministries. The implementation of standard operating and strategic guidance documents would help to outline the role of MWACs and promote their role among relevant departmental officials.

For MWACs to be fully effective, collaboration and coordination need to extend beyond government departments to include social partners and CSOs at the national and provincial levels. All of the MWACs visited for this assessment had adopted different methods to collaborate and coordinate with social partners and CSOs, which typically reflected the nature of their pre-existing engagement and relationships. However, the ability to evaluate these collaboration efforts was hampered by the lack of monitoring and evaluation (M&E) processes (see section 4.4). During the FGDs, some MWACs noted that they are using mobile apps, such as setting a Line group for employers, to extend their collaboration with employers, especially in terms of information dissemination and question-and-answer sessions.

Some MWACs have already recognized the need to improve their coordination functions and are actively engaged with stakeholders from their local communities. See the box below for an example from Mae Sot Province that exemplifies how MWACs can increase their capacity and outreach activities through close alignment and collaboration with key stakeholders.

Mae Sot case study

To ensure migrant workers in Mae Sot can receive recruitment and employment information and access appropriate services, the local MWAC and the Human Rights and Development Foundation (HRDF) have established a working group to promote a strong culture of collaboration between local government agencies and other CSOs. The MWAC has assumed a leadership position on the government side, and the HRDF has assumed a leadership position on the CSO side; and both share the secretariat function of the working group.

The working group meets regularly to share their organizations' experiences and to identify partnership opportunities. Together, they have identified key operational challenges impacting the Mae Sot MWAC, including:

- lack of cooperation and referral mechanisms between relevant agencies from the MOL;
- lack of standard operating procedures to guide and inform relevant agencies of the MWAC's role, function and operation;
- insufficient knowledge of the relevant legislative and policy frameworks regarding migrant workers and the support and services to which they are entitled; and
- insufficient budget and resources allocated to operate the MWAC.

Having identified these challenges, the working group has now developed an action plan. For the year 2018 (the time of this assessment), the working group would work together to conduct a needs assessment and to develop materials for the MWAC operation, including standard operating procedures on case referral and case management. In addition, there were also plans for capacity-building activities for working group members, be they MWAC, CSOs or community-based organizations, focusing on the provision of legal knowledge and the development of soft skills such as communication strategies for sensitively engaging with migrant workers who visit MWACs.

► 4.2.7. MWACs' referral function

MWACs' referral mechanisms should be strengthened. Currently, MWACs provide an initial referral, but they do not necessarily share information regarding the migrant worker's case with the provider to which the migrant has been referred. This impacts the timeliness of the assistance that can be offered to migrant workers, and it is not an efficient use of resources. A standardized referral mechanism for government agencies needs to be implemented to enhance information-sharing capacity, preferably in a central database. In addition, such a function would help MWACs to conduct follow-up checks with migrant workers to ensure they received assistance. In developing a referral mechanism and a database, consideration needs to be given as to the types of data/information recorded, how and where that data is stored, and for how long.

More broadly, the Ministry of Labour should also consider merging all labour-related issues/matters for migrant workers into one-stop-service operation centres, as there are other channels at the provincial level that provide services relevant to migrant workers⁴. Consequently, migrant workers are confused about which provider will provide the appropriate services to address their particular issue. Establishing a holistic MOL service centre would minimize this confusion and enhance the accessibility of services offered by the Ministry to migrant workers.

⁴ MOL operates several departments at the provincial level including the provincial office of labour protection and welfare, the provincial employment office, and the provincial social security office. These work independently and each department is required to provide services in line with their respective mandate.

4.3. Efficiency

There were a number of constraints that made it difficult to assess the efficiency of MWACs. In particular, the lack of effective M&E processes (see section 4.4) that limit the ability to identify whether the activities supported by MWACs were being delivered in an efficient way. To properly assess the impact of MWACs and to ensure their ongoing operation these processes need to be strengthened.

► 4.3.1. Budgets, funding and cost efficiency of services

Currently, MWACs receive funding from two different sources:

1. The budget for staff and resources is allocated from the Government's fiscal budget.
2. The budget for the operation of the individual MWACs, including MWAC activities, is funded by the Management of Employment of Migrant Workers Fund.

The Management of Employment of Migrant Workers Fund was established specifically to finance all activities concerning migrant workers, but is not considered to be a Central Government fund. Agencies able to apply for moneys from the Fund include all MOL departments and other government ministries, but also registered CSOs/NGOs and registered social partners. Requests/applications to the Fund are reviewed annually and approved by the Management of Employment of Migrant Workers Committee, of which the DOE is the secretariat. Therefore, should the DOE wish to request funding/budget to run MWAC activities, the Department must submit a proposal – including the estimated budget – to the Committee. Funding will not be secured unless the proposal meets the Fund's criteria.

The DOE does not require MWACs to provide consolidated financial reports or establish a results-based M&E systems for the MWACs' operation. Therefore, it is not possible to fully assess how MWACs are using their resources to achieve their objectives. This, in turn, makes it difficult to evaluate whether the activity being allocated the greatest amount of funding is the most useful or most utilized service.

Even so, the assessment found that the current budget allocation is insufficient to meet the MWACs' four objectives (see section 3.2). All five of the MWACs participating in this assessment reported difficulty in operating within current budget constraints. Consequently, MWACs are limiting their operational activities to the minimum – and therefore not implementing outreach activities or fulfilling their core coordination functions. The DOE must seek to increase funding for MWAC operations. However, increased funding must be accompanied by the implementation of financial reporting systems, as this is critical to aligning workplans, expenditures and assessment of efficiency and efficacy.

More broadly, this assessment concludes that there is an urgent need for MWACs to develop and implement internal strategic documents – including workplans, activity plans and M&E plans – to secure continued funding. In addition, such documents should be submitted as part of an effort to secure a fixed and permanent budget drawn from the Central Government fiscal budget to support activities that benefit and strengthen the overall operation of all MWACs, such as staff capacity building, expanded outreach activities, strengthened cooperation and M&E systems.

As noted above, CSOs are also eligible for applying for funding from the Management of Employment of Migrant Workers Fund. However, the FGDs highlighted that the grant criteria, the application period and the decision-making process are all unknown – and that such information is not shared by the DOE. Communication channels should be strengthened to increase transparency of the application and decision-making process of the Fund. Currently, many relevant CSOs do not consider applying to the Fund, relying instead on funding from external donors to provide assistance to migrant workers, and

the issue of sustainability is a concern. Despite such limitation, many CSOs shared that they are willing to collaborate with the MWACs to ensure that migrant workers are guaranteed better access to complaint mechanisms and that justice is served.

4.4. Impact

The MWACs were established to facilitate migrant workers access to the complaints mechanism and relevant support services. While Thai law guarantees all migrant workers access to these mechanisms, there are ongoing challenges inhibiting migrant access and utilization. As previously highlighted, MWACs have certainly enhanced access to information, services and assistance; they provide approachable and accessible services that can help migrant workers to navigate what can be a confusing process (particularly if there are language or communication difficulties). However, the lack of an effective M&E system and the inconsistent data available regarding migrant workers' access of MWAC services, including on the outcomes of complaints, make it difficult to determine their impact. The central conclusion and recommendation here is that an M&E system needs to be developed and used consistently across all MWACs. Inclusion strategies also need to be developed to make sure that MWACs cater to the specific needs of women migrant workers.

► 4.4.1. Need to develop and implement gender-responsive strategies

Data shows that nearly 40 per cent of MWAC clients are female migrant workers. It is very important that MWACs should develop an overarching gender-responsive strategy to address specific needs of migrant women and men. Gender-responsive policies should be embedded into MWACs' standard operating procedures, staff training curriculums, and M&E systems.

► 4.4.2. Need to strengthen monitoring and evaluation systems

An effective and comprehensive M&E system is vital to assess the overall success of the MWACs. Monitoring and evaluation also present an opportunity to assess the effectiveness of any inclusion strategies, including non-discrimination and gender mainstreaming. More broadly, a rigorous M&E strategy is critical to highlighting impact, and thereby attracting greater budgetary allocations.

Interviews with MWAC staff highlighted the lack of any standardized M&E processes. Consequently, any M&E practices that are being implemented are ad hoc and not necessarily meaningfully contributing to an assessment of whether the activities being implemented by MWACs are leading to successful outcomes.

The lack of M&E processes is likely the result of the overall lack of standardization in MWAC processes, which creates something of a chain reaction. That is, there currently is no standardized case management process, which means that client data, information and outcomes are not necessarily being collected or monitored. This lack of a standardized process for data collection is hampering the ability to trace outcomes and results, which in turn hinders the ability of the MWACs to successfully engage in monitoring and evaluation. The lack of collation and evaluation of data prevents the development of evidence-based policies and practices to improve future performance.

As part of developing a standardized M&E system, the DOE should consult with MWACs to formulate specific indicators and targets to be met for all DOE-funded activities. This must be accompanied by reporting mechanisms that allow for the monitoring of outputs and outcomes. Currently, MWAC staff do not have an appropriate knowledge of M&E practices. Capacity-building activities should be prioritized

for all MWAC staff so they can implement M&E practices in their daily work and recognize how such practices can contribute to policy development. There are some recommended tools to be developed towards taking a more data-driven approach, for instance, beneficiary tracing, legal assistance outcomes, and other qualitative information, such as case studies.

To ensure the M&E process is relevant and useful, a centralized system of data monitoring must allow for the collection of data that are disaggregated (based on for example job sectors, and types of migration, i.e. MOU, border employment or national verification). Disaggregated data are critical to the development of regionally tailored activities that address the unique needs of communities and also, more broadly, to support targeted activities that address the needs and experiences of particularly vulnerable groups, such as women or those employed under border employment. Disaggregated data is also useful in the development of strategies and overarching policy frameworks. Centrally available data collected by MWACs would be invaluable to Central Government agencies developing migration and labour policies.

4.5. Sustainability

While the MWACs have only been operational for a relatively short time, and noting that there is a lack of M&E data, this assessment concludes that MWACs have the potential to play a vital role in ensuring migrant workers' access to information, advice and services, including access to legal redress through the complaint mechanism. If the Thai Government would like MWACs to play a more meaningful role in sustainable service provision and policy development, they need to consider some changes to their institutional/administrative and financial arrangements.

► 4.5.1. Institutional sustainability

The establishment of MWAC is a commendable demonstration of Thailand's greater efforts to improve migrants' access to complaint mechanisms, redress and justice. It is, however, important to ensure that Thailand's commitment and political will are transformed into action. As the MWACs were established under a Cabinet Resolution, they are not recognized as institutionalized government bodies.⁵ Therefore, the assessment recommends a legislative reform to institutionalize the MWACs and give them the mandate to directly oversee the migrant worker complaint mechanism in all labour-related issues. Such legal recognition should also involve increased commitment of government resources, including personnel, to support all MWAC activities and operations.

► 4.5.2. Financial sustainability

The MWACs are not recognized as permanent, stand-alone government bodies. Consequently, they are not directly considered by the Central Government during its annual budgetary allocation process. This impacts MWACs ability to advocate for the staffing and resources they deem necessary to meet their objectives. Instead, MWACs are reliant on DOE securing funding for them. Not participating in the central budgetary process also means the operational requirements and impact of MWACs are not directly considered by the Government. This hampers the ability of officials to promote how MWACs could play a significant role in the design, development and implementation of long-term migration policy. While the Royal Ordinance concerning the Management of Employment of Foreign Workers does provide opportunities for additional ad hoc project funding to be secured, this cannot be considered a consistent or reliable source of funding. MWACs cannot be reliant on ad hoc payments to fund ongoing operational requirements.

⁵ See the structure of the Central Employment Registration and Workers Protection Division at: https://www.doe.go.th/prd/ipd/general/param/site/155/cat/28/sub/0/pull/singleview/view/detail/object_id/618



5. Conclusions and recommendations

5.1. Conclusions

It is clear that the MWACs have a high potential to better ensure migrant workers' access to justice. The Government of Thailand is to be commended for setting up the Migrant Workers Assistance Centers (MWACs) infrastructure.

The assessment found that MWACs are **relevant** because their operations aim to ensure that all migrants can gain access to all forms of government assistance concerning working and employment conditions. The objectives of the MWACs are aligned with the national labour protection framework, which guarantees migrant workers' right to access complaint mechanisms to address all exploitative practices while being employed in Thailand. However, there are some areas for improvement in MWAC operations.

Particularly, MWACs should be seen as institutionalized assistance centres rather than as an ad hoc solution. It is essential to ensure all infrastructure needed for MWAC operations, this includes not just adequate resourcing but also a revised legal framework that regulates the statutory responsibilities, powers, and functions of MWACs in relation to other relevant government agencies. Based on the assessment, MWACs are currently tasked with support services that extend beyond the remit of the Ministry of Labour (MOL), most notably the provision of emergency shelter. The Government should review such aspects of MWAC operations, and where appropriate, ensure that such services are placed entirely under the directly mandated agency, for instance the Ministry of Social Development and Human Security (MSDHS) with regard to emergency shelter.

There is also a strong need to develop gender-sensitive procedures to address the differing needs of men and women migrant workers. To ensure equality of treatment, there is a need to develop legal provision to guarantee migrants' right to temporary stay and to work during case prosecution/litigation. At present this right is offered only to migrant victims of labour trafficking and forced labour. It should be extended to all migrant workers who have been subject to employment violations that result in legal action. Undocumented workers fall under the protection umbrella of the Centres, but may be inhibited to seek services.

MWACs are effective, as they have largely achieved their first objective – to provide counselling, advice and assistance to migrant workers who have encountered issues concerning working and employment conditions. However, the MWACs have faced challenges in handling non-Department of Employment (DOE) related issues, including referrals, and shelter⁶.

Referrals are hampered by a lack of standard operational procedures within the MWACs and a lack of official coordination channels between the MWACs and other government agencies, including other departments within the MOL. This issue is exacerbated by inadequate knowledge among government and non-government stakeholders of the existence of MWACs and the services they provide. Standard operating and strategic guidance documents should be developed to outline the role of MWACs and promote their role among relevant MOL officials. It is also recommended that MWACs add outreach activities into their action plan and programme each year, and that adequate funding be provided to enable this outreach. Good practice in this area can already be found in the Mae Sot MWAC, which has established good relationship with local CSOs to conduct outreach activities together.

⁶ Though as noted above, this assessment recommends that the provision of emergency shelter be removed from the duties of the MWACs, and instead be entirely handled by the directly mandated agency: the Ministry of Social Development and Human Security.

Since the primary beneficiaries are migrant workers, it is crucial that MWACs provide effective and sufficient translation services. The assessment found that the current number of interpreters is insufficient, and increasing their number should be a priority. The allocation of interpretation services should be based on the number of migrant workers residing in an MWAC's service area and the languages commonly spoken by migrant workers in that area. The assessment also found that most migrant workers currently prefer to use interpreters provided by local CSOs rather than those at the MWACs, which suggests trust may be an issue. Building trust is essential to effective service delivery, and will require the aforementioned community outreach efforts as well as legal, ethics and cultural-sensitivity training for interpreters to ensure they can provide optimal service to migrant clients.

Regarding **resource efficiency**, it is clear from the assessment that the budget allocated for the operation of MWACs is insufficient. However, it is not possible to fully assess the resource efficiency of the MWACs because of the ad hoc funding and budget allocation processes. The DOE does not require the MWACs to establish a results-based monitoring and evaluation (M&E) mechanism. It is recommended that the DOE seek to increase funding for MWAC operations. However, increased funding must be accompanied by the development and implementation of internal strategic documents – including detailed budgets, workplans, activity plans, and M&E plans.

In addition, one MWAC objective is to strengthen coordination between CSOs and the MWACs, and to support the CSOs' work. The assessment found that no budget is earmarked for this objective. It is recommended the Government be attentive to this issue and ensure that there is a channel/mechanism available for CSOs to apply for funding directly to the DOE via MWAC, in line with the Royal Ordinance concerning the Management of Employment of Foreign Workers. The conditions and criteria for granting such funding must be clear and relevant to MWAC operations.

With respect to **impact**, the assessment found that MWACs have been complementing the MOL's mission. There is strong evidence the MWACs have demonstrated impact on migrants' access to complaint mechanisms and justice. The total number of migrant workers assisted by the MWACs since they began operations in 2016 is 124,515 – of whom 40 per cent are woman migrant workers.

Regarding **sustainability**, MWACs have been successful in supporting migrants' access to complaint mechanism and labour justice. However, the MWACs could face operational challenges due budget allocation issues stemming in part from their lack of status as permanent, standalone government bodies. Legislative reform to institutionalize the MWACs and give them the mandate to directly oversee the migrant worker complaint mechanism in all labour-related issues is needed. Such legal recognition will open the centres up to consideration in the central budgetary process, hopefully bringing with it an increased commitment of government resources, including personnel, to support MWAC activities and operations. In addition, as MWACs were intended in part to expand cooperation with CSOs, the MOL should explore the possibility of financially supporting the activities and migrant worker services of CSOs.

Regarding the **monitoring** mechanism, MWACs need to improve their approach to data collection. The lack of M&E strategy and plans, including reporting tools, has made it difficult to measure and assess MWAC outcomes. In addition, it was clear from the assessment that MWAC staff need M&E training. There is a clear need for information management systems to be put in place to inform stakeholders at the decision-making and policy level.

With respect to **gender equality**, although Thai law upholds the principle of non-discrimination and includes specific provisions to protect all female workers, including women migrant workers, the MWACs do not have a clear strategy on gender equality and non-discrimination. Operations need to be strengthened to reach out to female migrants in highly gendered sectors of work, such as domestic work. Due to the lack of data collection on the occupation of migrant complainants, it is difficult to measure how effectively the MWACs provide support for migrant domestic workers. In addition, relevant government officials and MWAC staff need capacity building on gender equality and gender sensitivity to be able to address the particular problems and abuses faced by women migrant workers and to facilitate access to justice in a gender-sensitive manner.

5.2. Recommendations

The assessment provides some recommendations as outlined below to address the aforementioned issues. These recommendations have been shared with key stakeholders to enable the preliminary findings to be considered by all relevant parties. Comments and observations from participants in a workshop to discuss the findings of the assessment have been reflected in this final report.

Based on the assessment, the following recommendations are made:

1. Ensure that MWACs are sustainable, by regulating them under the law and providing sufficient financial and human resources for their operation. Once the MWAC model is sustainable and optimized, it should be expanded nationwide.
2. Develop tools and guidelines for MWACs, including standard operating procedures, to enhance collaboration and cooperation and to strengthen the various aspects of MWAC operations.
3. Provide sufficient services to facilitate women and men migrant workers access to the legal complaint mechanism to seek legal redress through the MWACs. Ensure that services are trustworthy, and that the staff handling cases, including language interpreters, are trained and skillful and adhere to migrant and victim-friendly principles. Staff and services need to respond effectively to the specific needs of women migrant workers.
4. Strengthen the cooperation and collaboration between the MWACs and all relevant stakeholders, including government agencies and importantly CSOs, in all aspects of the MWAC mandate, including referrals, outreach activities and awareness-raising activities.
5. Explore possibility of providing financial support to CSOs to improve the collaboration between MWACs and CSOs, and ensure that legal cases are effectively referred to competent legal entities.
6. Design and implement a robust, gender-sensitive monitoring, evaluation and reporting system, and ensure that staff have the capacity to collect M&E qualitative and quantitative data. Ensure that data generated by the M&E system is linked with data/information of other MOL units and used to inform policy and practices.
7. Adopt legal provisions guaranteeing equal treatment for migrant workers to seek redress and protection and to stay in Thailand during case adjudication or prosecution.



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Appendix. Research questions used during in-depth interview and focus group discussions

Relevance

- What is the Government's Policy on providing service to irregular migrant workers?
- What efforts have been made to provide gender-responsive services?
- What services are provided or available at the MWACs and what services are most commonly assessed by migrant workers at the MWACs?
- Is the current MWAC model appropriately designed to meet the various needs of migrant workers?

Effectiveness

- To what extent does the MWAC (as a whole) achieve the objectives?
- How do the MWACs conduct outreach to the migrant community?
- Are interpretation services available?
- How effective is the coordination among the concerned agencies to the MWAC operation both at central and provincial level - where the MWAC is located?
- How effective is the collaboration and coordination of social partners as well as CSOs partners at both national and provincial levels - where the MWAC is located?

Efficiency

- Are the budget allocated by the Government sufficient for the operation of the MWACs?
- Are the use of resources optimal for achieving the objectives and intended results?
- Has there been the budget allocation to funding the CSOs to assist with the delivery of the MWACs?
- Which services are considered the greatest value for the budget that is allocated to protecting migrant workers?

Impact

- What change does the MWAC contribute to the protection of migrant workers in Thailand?

Sustainability

- Are there strategic plans developed or implemented to ensure the sustainability of the MWAC's results?

Ensuring migrant workers access to justice: An assessment of Thailand's Migrant Workers Assistance Centers

To increase migrant workers' access to justice in Thailand, in 2016 the Ministry of Labour established Migrant Workers Assistance Centers in ten provinces throughout the country. By April 2019, the ten centres had delivered services to nearly 125,000 migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar.

This report is the result of an assessment of the Migrant Workers Assistance Centers made by the ILO upon a request from the Ministry of Labour. The assessment aimed to holistically review the Migrant Workers Assistance Center model and provide recommendations on how to enhance the centres' effectiveness in delivering services to migrant workers.

This report outlines the structure and mandates of the centres, reviews their achievements to date, and provides a set of recommendations on how the centres can be further strengthened to ensure that a larger number of migrant workers will be able to access quality services and seek redress for their complaints.

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