



# VULNERABILITIES AND RISKS OF EXPLOITATION ENCOUNTERED BY VIETNAMESE MIGRANT WORKERS

A QUALITATIVE STUDY OF RETURNEES' LABOUR MIGRATION EXPERIENCES



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Publisher: International Organization for Migration  
Ho Chi Minh Sub-office  
1B Pham Ngoc Thach, District 1,  
Ben Nghe Ward  
Ho Chi Minh, Viet Nam  
Tel: (+84.28) 3822 2057  
Fax: (+84.28) 3822 1780  
Email: [hcmc@iom.int](mailto:hcmc@iom.int)

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## ABBREVIATIONS

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ADB	Asian Development Bank
DoLAB	Department of Overseas Labour
DoLISA	Department of Labour, Invalids and Social Affairs
EPS	Employment Permit System (Republic of Korea)
ESC	Employment Service Centre
FCS	Family case study
FGD	Focus group discussion
IDI	In-depth interview
IGT	Intergenerational trio
IOM	International Organization for Migration
ILO	International Labour Organization
JITCO	Japan International Trainee and Skilled Worker Cooperation Organization
KII	Key informant interview
KRW	Korean Won
MoF	Ministry of Finance
MoLISA	Ministry of Labour, Invalids and Social Affairs
MRC	Migrant Resource Centre
NGO	Non-governmental organization
NGWP	New Guest Worker Programme (Japan)
ODI	Overseas Development Institute
OECD	Organisation for Economic Co-operation and Development
PDO	Pre-departure orientation
SDC	Swiss Agency for Development and Cooperation
TITP	Technical Intern Training Programme (Japan)
UNGPs	United Nations Guiding Principles on Business and Human Rights
USD	United States Dollar
VND	Viet Nam Dong



A photograph of three people working in a tea plantation. They are wearing traditional conical hats and blue long-sleeved shirts. They are crouched among dense green tea bushes on a hillside. The background shows more tea plants and a few trees under bright sunlight.

# EXECUTIVE SUMMARY





In 2019, according to the Department of Overseas Labour (DoLAB),<sup>1</sup> Ministry of Labour, Invalids and Social Affairs (MoLISA) of Viet Nam, 152,530 migrant workers from Viet Nam (54,700 females) were deployed overseas, mainly to Japan (82,703), Taiwan Province of the People's Republic of China (54,480) and the Republic of Korea (7,215). According to World Bank estimates, in 2019 remittances to Viet Nam comprised USD 17 billion and represented 6.5 per cent of GDP.<sup>2</sup>

The Government of Viet Nam, in recognizing the link between labour migration and development, continues to promote migration as an employment and poverty-reduction strategy. To this end, it has instituted numerous laws, policies and programmes, including Law No. 72/2006/QH11\* on Vietnamese working abroad under labour contracts. Furthermore, the Government of Viet Nam signed several bilateral labour migration agreements to improve protections of Vietnamese migrant workers. However, gaps in regulatory oversight of recruitment agencies, coupled with limited administrative and criminal law enforcement, allow unethical recruitment practices to continue in Viet Nam, putting migrant workers at risk of forced labour and human trafficking.

To better understand the labour migration journeys of Vietnamese migrant workers, as well as specific vulnerabilities and risks of forced labour and human trafficking, the International Organization for Migration (IOM) commissioned the Overseas Development Institute (ODI) together with the Institute for Family and Gender Studies under the Viet Nam Academy of Social Sciences to undertake a qualitative research. This research aims to support development of strategies by State policymakers and stakeholders to further strengthen protection of Vietnamese women and men migrant workers from exploitative recruitment and employment practices towards positive outcomes of labour migration for migrant workers, their families and communities at large.

<sup>1</sup> DoLAB, MoLISA 2019: [www.dolab.gov.vn/New/View2.aspx?Key=5083](http://www.dolab.gov.vn/New/View2.aspx?Key=5083).

<sup>2</sup> [www.worldbank.org/en/topic/labormarkets/brief/migration-and-remittances](http://www.worldbank.org/en/topic/labormarkets/brief/migration-and-remittances).

\* Law 72/2006/QH11 has been amended and adopted as Law 69/2020/QH14, and will enter in force on 1 January 2022.

Primary qualitative methods consisted of in-depth interviews (eight women, 25 men), five focus group discussions (FGDs), three family case studies and 15 key informant interviews. This study focuses on regular labour migration only. Presented in this report are the experiences of a particular group of returnee migrant workers, contextualized through discussions with key informants and reflecting the wider literature.<sup>3</sup> Given it is a qualitative study, the prevalence of forced labour and whether findings are representative of all Vietnamese migrant workers and returnees were beyond the scope of this study and not explored. Lastly, primary data collection was conducted in October 2019, thus the results of this study do not include any analysis of COVID-19 impacts on labour migration from Viet Nam.<sup>4</sup>

This report consists of nine sections. The first section introduces the study objectives and section two elaborates the research methodology and limitations. Section three presents an overview of policies and programmes on international labour migration from Viet Nam. Section four explores the drivers and alternatives to migration. Subsequent sections five to eight provide an analysis of interviewed returnee migrant worker experiences throughout recruitment and deployment, employment at



### COVID-19 EXACERBATES MIGRANT WORKER VULNERABILITIES

Migrant workers face being hit hardest by the negative impacts of COVID-19 on international supply chains.<sup>5</sup> Migrant workers often live in [crowded hostels](#) or are employed in short-term, often precarious work with limited provision for sick leave. Other migrants, in both regular and irregular status, may have limited access to public health services, or do not access such services over a fear to lose the job or be deported. They may also be excluded from public health information programming or, when informed, lack the financial means to manage periods of self-isolation or quarantine.<sup>6</sup> Furthermore, migrant workers face higher [risk](#) of lay-offs, non-payment of wages, falling into irregular status due to travel restrictions or forced returns. Pre-existing conditions, such as debt incurred through the recruitment process, isolation, lack of understanding the local language and culture, coupled with COVID-19 impacts further exacerbate migrant worker vulnerabilities to exploitation.<sup>7</sup>

<sup>3</sup> The researchers conducted a literature review focused on Vietnamese labour migration, which forms part of and is intended to inform this study. Relevant literature published between 2009 and 2019 was gathered, reviewed and a selection of the most relevant and useful evidence made.

<sup>4</sup> IOM's analysis and response to COVID-19 impacts on migrant workers is available at: [www.iom.int/covid19](http://www.iom.int/covid19).

<sup>5</sup> [crest.iom.int/news/covid-19-places-migrant-workers-highly-vulnerable-situations%C2%A0](https://crest.iom.int/news/covid-19-places-migrant-workers-highly-vulnerable-situations%C2%A0).

<sup>6</sup> [www.iom.int/covid19](http://www.iom.int/covid19).

<sup>7</sup> *Protecting People in Pandemic, Walk Free, 2020.*

destination as well as return and reintegration. Finally, section nine delivers conclusions and recommendations based on the study's findings.

The findings of this study show factors that contribute to Vietnamese migrant workers vulnerabilities and risks to labour exploitation throughout their labour migration journey.

Study respondents reported deceptive recruitment practices before going to destination countries. Labour recruiters do not always follow Vietnamese regulations related to recruitment fees and related costs<sup>8</sup> and sometimes charge prospective migrant workers above legal limits. Similarly, there was a lack of transparency around job descriptions and employment contracts, often not available in Vietnamese language, with prospective migrant workers not given clear explanations of future employment terms and conditions. Some reported extended periods in training centers waiting for the job, leading to incurring more debt. In some cases, the only option to cover migration costs was to borrow from banks or mortgage family assets.

During employment, some had to work in positions they had not signed contracts for, felt pressure to take up jobs they were overqualified for, and had no choices on changing the job because of pressure to pay back debts incurred through recruitment fees before departure. Some accepted recruitment fees and related costs being deducted from salaries at the beginning and became a victim of debt bondage. Some saw wages withheld and deductions made without migrant workers' consent. While some experienced fair treatment as outlined in employment contracts, others reported passport retention, forced and non-paid overtime as well as inadequate accommodation. Women migrant workers also reported feeling unsafe commuting to and from accommodation, often located far from worksites. Respondents reported limited or no possibility to terminate employment contracts early without penalties or fear of denunciation to authorities and deportation. Although having to work under such conditions, respondents perceived they had no option but to continue working to retain their jobs and repay debts incurred in Viet Nam during recruitment process.

While most study respondents returned to Viet Nam upon completion of their employment contracts, some overstayed visas, and undertook work in exploitative conditions out of fear of being arrested and deported, which led to mental distress and isolation. However, for some this was still preferable to returning under the agreed terms of contracts, as the extra income earned through irregular employment outweighed the potential risks, such as forfeiture of their pre-departure deposit.

Upon return, the findings suggest that returnees struggled to re-engage with the domestic job market and commonly encountered positions not paid well, not matching skills acquired overseas or simply not available. Respondents experienced delays in claiming back pre-departure deposits from recruitment agencies. Returnees also faced difficulties in reintegrating back into life at home. Together, the lack of employment and an inability to resettle were key drivers for repeated migration.

There appear to be limited avenues for formal or informal support and recourse for interviewees, who were also reluctant to raise grievances with labour unions for fear of repercussions from employers and being sent home. No forms of grievance mechanisms established by employers or recruitment agencies were apparent from respondent interviews nor were migrant worker linkages to diplomatic missions and labour attaches.

Women migrant workers seem to face additional vulnerabilities and risks of labour exploitation due to being limited to lower-paid sectors that demand longer hours, overtime or taking up additional paid jobs outside of main employment to pay back debts. Sexual harassment and being fearful of working and living environments were also reported. Women returnees also faced the risk of community stigmatization due to absences from family.

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<sup>8</sup> Official term in line with the ILO definition of recruitment fees and related costs. Hereinafter referred to as fees and costs.

Despite clear differences in migrant workers' experiences determined by destination, there were similarities in returnees' accounts of unethical practices throughout their labour migration journeys. Such practices were associated with gaps or insufficient enforcement of regulation of recruitment intermediaries, including unregistered recruitment agencies or agents. Lack of transparent, accurate and timely information as well as the time and costs incurred during recruitment prevented migrant workers from making informed decisions to avoid exploitative conditions. The burden of debt from excessive recruitment fees and costs heightened migrant workers' vulnerabilities and risks of exploitation throughout the migration journey. As highlighted throughout the report, the pressure to pay off debt coupled with passport retention, unlawful salary deductions, forced or unpaid overtime, harassment and intimidation in the workplace, reportedly limited migrant workers' ability to walk away from exploitative situations.

## SUMMARY OF RECOMMENDATIONS

The recommendations set forth in this report provide practical guidance to relevant stakeholders on reducing the risks of exploitation faced by migrant workers throughout their migration journey and achieving greater positive outcomes of labour migration. They are grouped firstly based on stages of migration: recruitment and deployment, employment, return and reintegration, then by key actors: State management, recruitment agencies and employers at destinations.

This report's recommendations are aligned with the Sustainable Development Goals, namely targets 8.7 to eradicate forced labour, end modern slavery and human trafficking and 10.7 to facilitate orderly, safe, and responsible migration and mobility, the Global Compact for Migration, as well as the United Nations Guiding Principles on Business and Human Rights and ILO General Principles and Operational Guidelines for Fair Recruitment.

## RECRUITMENT STAGE

### STATE MANAGEMENT

#### Regulatory management of international recruitment

Governments, within their respective jurisdictions, bear an overarching responsibility to protect the rights of all persons, including migrant workers and ensure that recruitment for employment takes place in a way that respects, protects and fulfills internationally recognized human rights. In addition to protecting migrant workers, governments should seek to regulate employment and recruitment in a manner that is clear, transparent and effectively enforced.<sup>9</sup>

- Strengthen laws and regulations to promote fair and ethical recruitment and harmonize it with international standards. Relevant laws and regulations should encompass all stages of the recruitment process, apply to all actors performing recruitment functions and apply to all workers, including those in an irregular migration situation.
- Develop a roadmap and plan of action towards aligning Viet Nam's legal framework on recruitment fees and related costs with international standards, using the ILO Definition of Recruitment Fees and Related Costs<sup>10</sup> as a guide.
- Conduct ongoing monitoring of registered recruitment agencies in line with legislation, focusing on all stages of labour migration.

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<sup>9</sup> See: The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation, IOM 2020.

<sup>10</sup> See: ILO General Principles and Operational Guidelines for Fair Recruitment, ILO 2019.



### Information provision to jobseekers

Lack of up-to-date, accurate and transparent information was identified as a challenge by survey respondents. This encompassed not only whether recruitment agencies were officially registered and deemed competent, but also adherence to legal limits for recruitment fees and costs for migration to different destinations as well as upholding migrant workers' rights. The following recommendations are designed to remedy this situation:

- Provide official and up-to-date information on all legally permissible recruitment fees and related costs involved in migration to different destinations and sectors. This information could be made available on government websites, through messaging to mobile phones, included in radio and television announcements and community notice boards, such as those at people's committees, schools and health centres.
- Ensure regularly updated lists of registered and licensed recruitment agencies, including contact details, are made available through the channels listed above and are widely disseminated.
- Work closely with Migrant Resource Centres (MRCs) and other community-based organizations to ensure information included in the above two points before and throughout the recruitment stage is easily available and accessible to migrant workers.
- Draw on returnees' first-hand experiences and facilitate their sharing of information, especially with prospective migrant workers, while at the same time ensuring the information provided is accurate.

### Pre-departure orientation

Study respondents noted varying curricula and content in pre-departure orientation. The following recommendations are proposed:

- Standardize pre-departure orientation content for individual destinations and ensure it includes information on migrant workers' rights, including access to grievance mechanisms and remedies at home as well as while abroad.
- Strengthen monitoring of recruitment agencies' training activities. A survey to assess the quality and suitability of training programmes could inform adjustments to pre-departure curricula and materials. This survey should be conducted by independent researchers, with support from DoLAB/DoLISA.

## RECRUITMENT AGENCIES IN VIET NAM

### Information provision to jobseekers

Surveyed respondents lacked clear, transparent and accurate information on important aspects of the recruitment process. Recommendations are as follows:

- Sign service contracts with prospective migrant workers clearly stipulating all services, recruitment fees and costs, rights and obligations of each party.
- All recruitment fees and costs must be clearly broken down, including total amounts prospective migrant workers are expected to pay, when and what services it covers. Printed handouts with these details should be given to migrant workers. Receipts should be issued for each and all costs paid for by prospective migrant workers.
- Recruitment agencies should only sign a service contract with a prospective migrant worker and enroll she/he in pre-departure training if an order has been received from an employer or partner at the destination.
- Return of the pre-departure deposit must be clearly communicated to prospective migrant workers and be included in the service contract in writing.



### Pre-departure orientation

The following recommendations, guided by national training standards and curriculum, will address the significant variations found in the standards and content of pre-departure orientation trainings:

- Ensure minimum required modules are included in trainings covering migrant workers' rights during recruitment and employment as well as work conditions at employment sites, including workplace, dormitories, canteen, destination culture, managing finances, support networks, grievance mechanisms and labour unions available to migrant workers.
- Improve the quality of training through, for instance, nationals from destinations conducting language training, legal experts outlining migrants' rights and returnees sharing experiences.
- Teaching methods should be adapted to ensure prospective migrants of different education levels truly understand key information through participative and interactive approaches, such as use of videos and role playing.
- Given the central role families play in the migration process, engage family members of prospective migrant workers in relevant modules if possible, especially if residing in the same location where training is conducted.

### Post-training and deployment

- Time between pre-departure orientation training and departure for a destination should be minimized to ensure migrant workers do not incur additional costs for accommodation and subsistence in the training centres. Service contracts should clearly stipulate responsibilities of the recruitment agency in case a job offer becomes invalid as well as more time and additional training is needed to secure employment.
- Ensure prospective migrant workers are given employment contracts in Vietnamese and the destination language as well as are explained its content on terms and conditions of employment, covering salary, lawful deductions, possible optional services and charges, leave, work hours and overtime. The employment contract must be signed in duplicate prior to departure and the worker must be given a copy.
- Prior to departure, all migrant workers must be provided with contact information of support services at the destination and in Viet Nam. These include labour unions, Vietnamese embassies, Vietnamese associations, support groups, community-based organizations.

### Grievance mechanisms

- Ensure effective and responsive grievance mechanisms are in place for migrant workers to access at all stages of labour migration. These could include the use of smartphone applications, hotlines in collaboration with partner agencies and community-based organizations at destinations as well as engagement with labour unions.

## EMPLOYMENT

### STATE MANAGEMENT

Government could further enhance protection of migrant workers at destinations by:

- Strengthening existing bilateral labour agreements with key receiving destinations to improve worker protection through State-based grievance mechanisms that are accessible to migrant workers in line with Article 31 of the UNGPs criteria.
- Increasing coordination between government departments, embassies and consulates, community-based organizations, MRCs as well as recruitment agencies to support migrant workers at destinations and ensure opportunities for redress are available.

### RECRUITMENT AGENCIES IN VIET NAM

Recommendations for recruitment agencies include:

- Carry out due diligence on employers at destinations as well as workplaces and accommodation to ensure conditions detailed in migrant worker employment contracts are accurate. This could be achieved through negotiations with employers to ensure service agreements allow agencies to conduct regular checks with employers and migrant workers.
- Coordinate and liaise closely with trade unions and other intermediaries at destinations to ensure working conditions are monitored on a regular basis and reported back to the recruitment agency.

### EMPLOYERS AT DESTINATIONS

To ensure migrant workers' workplace, accommodation and living standards are met as per applicable laws, contract terms, health and safety standards, the following is proposed:

Adopt and/or strengthen policy commitments to ethical recruitment and employment of migrant workers. Ensure all recruitment fees and related costs are clearly stipulated in service agreements with labour recruiters and are paid by the employer and not charged to migrant workers.

- Conduct initial and ongoing due diligence on all business partners involved in the recruitment and employment of migrant workers, to ensure no recruitment fees are charged to workers. Survey newly employed migrant workers on their recruitment and deployment experience and remedy any violations identified, especially through establishing financial compensation schemes to refund any recruitment fees charged to workers.
- Ensure there are effective in-house grievance mechanisms that are known and accessible to migrant workers throughout labour migration process. At least one such mechanism should be anonymous.
- Provide regular updates to recruitment agencies on the status of employed migrant workers, including salary levels, reasons for deductions, salaries received, accommodation and visa overstayers.

## RETURN AND REINTEGRATION

### GOVERNMENT OF VIET NAM

While the majority of these recommendations should be led by the Government of Viet Nam, recruitment agencies should be encouraged to play a role in these activities and programmes:

- Organize programmes and events at local level targeting returnees to link them with jobs based on skills acquired abroad. Provision of certification to ensure skills learned in destinations can then be transferred and recognized in Viet Nam is encouraged.
- Explore the need for financial literacy training for returnee migrant workers to inform decisions on how best to use money saved abroad.
- Support and encourage returnees to form groups or clubs to support each other to reintegrate back into life in Viet Nam and request support, as a group, from local authorities.
- Different forms of psychosocial support for returnees could be developed to assist with reintegration into life in Viet Nam.
- Identify potential contributions by recruitment agencies and encourage their involvement in the above-recommended activities.



A full-page background image of a textile factory. A worker wearing a white shirt, brown trousers, and a white cap is operating a large industrial machine. The machine has large spools of white thread and a large rotating wheel. The floor is covered in white lint or dust. The background shows the industrial structure of the factory with pipes and lights.

# 1. INTRODUCTION

## 1. INTRODUCTION

In 2019, according to the Department of Overseas Labour (DoLAB),<sup>11</sup> Ministry of Labour, Invalids and Social Affairs (MoLISA) of Viet Nam, 152,530 migrant workers from Viet Nam (54,700 females) were deployed overseas, mainly to Japan (82,703), Taiwan Province of the People's Republic of China (54,480) and the Republic of Korea (7,215). The majority of Vietnamese migrant workers originated from five provinces, mostly northern ones. Nghe An province posted the highest number (62,839) of migrant workers departing between 2012 and 2016, followed by Thanh Hoa (47,372), Ha Tinh (34,464), Hai Duong (27,786), and Bac Giang (25,265) (Table 1). Together, the top 15 provinces made up 74 per cent of all migrant workers overseas during this timeframe.<sup>12</sup>

**Table 1: Main provinces of origin: Vietnamese migrant contract workers**

No.	Province/City	2012	2013	2014	2015	2016	Total
1	Nghe An	11,000	11,671	10,900	12,811	16,457	62,839
2	Thanh Hoa	11,000	8,092	10,596	9,525	8,119	47,372
3	Ha Tinh	6,000	5,361	5,759	6,150	11,194	34,464
4	Hai Duong	0	3,205	3,476	6,716	14,389	27,786
5	Bac Giang	5,000	4,068	4,860	4,374	6,963	25,265

Source: IOM, 2017.

Between 2012 and 2016, the number of Vietnamese workers who migrated abroad under contract increased steadily year-on-year. In 2016, some 126,296 migrant workers left the country, compared to 80,320 in 2012 (rising to 88,155 in 2013, 106,840 in 2014, and 119,530 in 2015) (IOM, 2017).

The most common group to migrate from Viet Nam for work was men aged 20–40 years (IOM, 2017). The proportion of women migrating for work was relatively low and stable from 2012 to 2016, ranging from 33 per cent in 2012 to 37.5 per cent in 2016.

To further understand the journeys, vulnerabilities and risks of forced labour and human trafficking faced by Vietnamese migrant workers, the International Organization for Migration (IOM) commissioned the Overseas Development Institute (ODI) together with the Institute for Family and Gender Studies (under the Viet Nam Academy of Social Sciences) to undertake this qualitative study. This research aims to support development of strategies by State policymakers and stakeholders to strengthen protection of Vietnamese women and men migrant workers from exploitative recruitment and employment practices. This study focuses on regular labour migration only.

<sup>11</sup> DoLAB, MoLISA (2019): [www.dolab.gov.vn/New/View2.aspx?Key=5083](http://www.dolab.gov.vn/New/View2.aspx?Key=5083).

<sup>12</sup> Viet Nam Migration Profile 2016, IOM.



## 1. INTRODUCTION

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The overall objective of this study was to explore the vulnerabilities faced by migrant workers during pre-departure, employment at destination and upon return to Viet Nam. It addresses the following research questions:

- What are the processes, specific vulnerabilities and risks to forced labour and human trafficking faced by migrant workers from Viet Nam in all phases of the labour migration cycle: recruitment, deployment, employment, and return or onward migration? How are these processes experienced differently by women and men migrant workers? Are there patterns determinable by sector or destination?
- How and to what extent do recruitment costs and fees impact on vulnerabilities and risks of exploitation and forced labour of Vietnamese migrant workers?
- How do recruitment process vulnerabilities and risks impact on employment, return or onward migration experiences?
- Lessons learned from returnees and which factors do migrant workers identify as increasing or decreasing exploitation risks?
- How can employers, labour recruiters and the Government of Viet Nam strengthen protection of Vietnamese migrant workers from recruitment-related abuses?

The study identified migrant workers' vulnerabilities to violence, exploitation and abuse with reference to three measures:

- International Labour Organization (ILO) Operational Indicators of Trafficking of Adults for Labour Exploitation. These indicators are categorized into six dimensions. The first three relate to migrant workers' recruitment: deceptive recruitment, coercive recruitment, and recruitment by abuse of vulnerability. The last three relate to migrant workers' experiences at destination: exploitative conditions of work, coercion at destination and abuse of vulnerability at destination (ILO, 2009).
- ILO Indicators of Forced Labour, categorized into three dimensions: deceptive or coercive recruitment, employment under menace of penalty as well as debt and wage entrapment and termination prevention (Sedex, 2017).
- The IOM's Framework on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse, which provides a methodology for understanding risk factors that contribute to migrants' vulnerability and protective factors that enhance migrants' resilience. It does so by categorizing these factors into individual, family and household, community and structural levels, as well as exploring interactions between these factors (IOM, 2019).



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## 1. INTRODUCTION

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This report features key sections that firstly describe the study sites and methodology (Section 2), followed by the policy landscape in Viet Nam and two popular countries of destination for Vietnamese migrant workers – Japan and the Republic of Korea – which regulate international recruitment of migrant workers (Section 3). The drivers of migration as well as alternatives are explored (Section 4), before migrant workers' experiences and particularly risks and vulnerabilities are captured at each stage of the migration process: recruitment, travel and arrival, employment, return and reintegration (Sections 5, 6, 7 and 8). This report concludes with policy recommendations for recruitment agencies, the Government of Viet Nam and potential employers (Section 9).

While workers' experiences are presented according to migration stages, the report features migrant workers' personal stories of recruitment and vulnerabilities that may have shaped experiences at destinations. Throughout the report, patterns and differences are identified according to destinations as well as respondents' gender. It is important to note that while the findings, particularly on risks of exploitation, often relate to these forced labour indicators, the forced or exploitative nature of the experience is not necessarily perceived as such by migrant worker study respondents. Nevertheless, this does not imply that exploitation did not occur. In some cases, if respondents were more aware of rights abuses they may have been more likely to perceive their experiences as akin to exploitation or forced labour.





## 2. STUDY IN FOCUS

## 2. STUDY IN FOCUS

### 2.1. Study sites

Based on available State data and taking into consideration the qualitative nature of research, north-central Nghe An province was selected for primary data collection as the largest sender of migrant workers abroad during 2012–2016 (IOM, 2017) and home to numerous returnees from the most common destinations. In addition, provincial authorities, including the Department of Labour, Invalids and Social Affairs (DoLISA), granted the necessary permissions to not only allow the study, but also provide the necessary administrative support to facilitate research. Discussions with DoLAB and IOM also supported the choice of primary data collection site.

Following consultations with DoLAB in Ha Noi and DoLISA in Nghe An, as well as analysis of available data, primary data collection was conducted at one urban site (Vinh city) and one rural site (Yen Thanh district). This mix of sites allowed the research team to explore differences in migrant workers' recruitment experiences prior to travel and reintegration into home communities. The two sites were also selected due to the large numbers of returnees from key destinations and DoLISA's ability to identify respondents. While this may result in potential bias (Section 2.3), it is offset by triangulation of findings from different sources.

Vinh city is the economic and social centre of Nghe An, with a population of 321,799, of whom 265,000 are of working age.<sup>13</sup> Yen Thanh district has a population of nearly 280,000, with more than half (57%) of working age (DoLISA, 2019). In 2018, a significant percentage (66%) of Yen Thanh's workforce operated in the agricultural sector, followed by the services-commercial (20%) and industrial-handicrafts sectors (12.7%). By the end of 2018, Yen Thanh had approximately 15,200 people working overseas in Germany, Japan, Malaysia, Taiwan Province of the People's Republic of China, the Republic of Korea, and the United Kingdom (ibid.) (Nghe An province profile, Annex 1).

### 2.2. Methodology

Primary qualitative methods consisted of in-depth interviews, focus group discussions (FGDs), intergenerational trios (different generations of one family are interviewed), family case studies and key informant interviews (KIIs).

Primary data collection tools were developed in a participatory manner, drawing on findings from the earlier literature review. Tools were shared with IOM and piloted by the research team. Purposive sampling was used to enroll participants into the study, with a focus on migrant workers returned from common destinations, particularly Japan and the Republic of Korea, given the growing numbers of migrant workers to these destinations (Annex 2, sample type and size).<sup>14</sup> Data collection was carried out in October 2019 by a team comprised of an ODI lead (with an interpreter) and two in-country researchers.

The team interviewed 55 returnees and their families, as well as 14 key informants. Of the 55 returnees, 16 were women and 39 men. Of this number, 15 were aged 29 or younger, 20 (aged 30–39), 13 (aged 40–49) and seven were aged 50 or over. The majority (39) were married. Around three-fifths had secondary level education and the remainder tertiary education. Seventeen had returned from the Republic of Korea, 16 from Japan, 13 from Malaysia, and seven from Taiwan Province of the People's Republic of China. For most, this was the first time they had migrated. However, a quarter had departed previously, half to the same respective destination (Annex 2).

With consent, all interviews were recorded, translated and transcribed. The study team jointly developed a coding structure, and all interviews were coded and entered into MAXQDA. Data from coded segments were summarized according to agreed themes and the analysis explored differences emerging from different variables, including gender and destination. Findings were presented in the agreed report outline. A validation workshop for discussion of emerging findings was held in Ha Noi in mid-December 2019 to feed into the analysis.

<sup>13</sup> DoLISA of Vinh city.

<sup>14</sup> It should be noted that due to IOM's One China Policy, which does not encourage any activities related to Taiwan Province of the People's Republic of China, the research sampling aimed to cover more migrant workers returning from Japan and the Republic of Korea.

### 2.3. Study limitations

The research team faced challenges in identifying returnee migrant workers from destinations of interest. While DoLISA and the Employment Service Centre (ESC) in Nghe An had lists of returnees, these individuals were challenging to locate (migrated elsewhere, unable or unwilling to take time out of work). In response, the team requested introductions to migrant workers who had returned one to three weeks prior to the planned data collection period. This may have affected the findings, as those identified via DoLISA and ESC may have felt compelled to only share positive migration stories (social desirability bias).

Other limitations include accuracy of recall by some individuals and the inability to determine whether some identified recruitment agencies were licensed. The legal status of recruitment agencies was beyond the scope of the study. This limited analysis of different levels of risk experienced by migrant workers through official and unofficial recruitment channels.

Securing interviews with women respondents was also challenging, with this reluctance narrowing the sample size. Nevertheless, the findings from women during individual interviews and in mixed FGDs provided valuable insights. With fewer women migrating than men, as noted by key informants, the number of women respondents was representative of the composition of migrant workers from Nghe An province.

The team faced challenges in grouping people together to conduct FGDs, intergenerational trios and family case studies largely due to potential respondents' work and other commitments. Thus, it was decided a minimum of three people would be sufficient to hold a FGD. When family case studies were not possible due to limited attendance, in-depth interviews were held. Finally, findings are based on a relatively small number of interviews and discussions across two main study sites, and as such are not generalizable. However, the findings are situated within the wider literature<sup>15</sup> and given this is a qualitative study, the main aim was to show the realities of a particular group of people in specific locations rather than to generalize.



A stack of three books with worn, reddish-brown leather covers. The books are stacked on a dark surface. The top book is slightly offset to the right, showing its pages and a small gold-colored bookmark. The middle book is also slightly offset, showing its pages and a gold-colored bookmark. The bottom book is the largest and shows significant wear on its spine and edges. A blue rectangular box is overlaid on the middle book, containing white text.

### 3. MIGRATION-RELATED LAWS AND POLICIES

### 3. MIGRATION-RELATED LAWS AND POLICIES

In this section we explore Viet Nam's policies on labour migration and international recruitment, with background on labour migration policies in key destinations Japan and the Republic of Korea included in Annex 4.

Numerous policies and laws on labour migration impact Vietnamese migrants. Here, we briefly explore key legal documents relating to recruitment fees and related costs for overseas employment, as well as pre-departure orientation and management of migrant workers identified by study respondents as the most challenging. Table 9 (Annex 3) provides a synopsis of some key laws.

#### 3.1. Recruitment fees and related costs

Viet Nam has various laws regulating recruitment fees and related costs charged to jobseekers for overseas employment, including Law No. 72/2006/QH11 on Vietnamese working abroad under labour contracts.<sup>16</sup> It is also important to note that ILO's Private Employment Agencies Convention (C181), which Viet Nam has not ratified, stipulates that recruitment fees and costs are not charged to jobseekers. In 2019, ILO approved the Definition of Recruitment Fees and Related Costs as part of the General Principles and Operational Guidelines for Fair Recruitment.<sup>17</sup>

Different fees and costs Vietnamese migrant workers can be legally required to pay for overseas employment are described in Table 2, developed based on the desk review and inputs from study respondents (Annex 3).



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<sup>15</sup> The researchers conducted a literature review focused on Vietnamese labour migration, which forms part of and is intended to inform this study. Relevant literature published between 2009 and 2019 was gathered, reviewed and a selection of the most relevant and useful evidence made.

<sup>16</sup> This law was under revision at the time this report was written.

<sup>17</sup> [www.ilo.org/global/topics/labour-migration/news-statements/WCMS\\_682734/lang-en/index.htm](https://www.ilo.org/global/topics/labour-migration/news-statements/WCMS_682734/lang-en/index.htm).



### 3. MIGRATION-RELATED LAWS AND POLICIES

Table 2: Recruitment fees and related costs legally permitted for overseas employment

No.	Type of fee/cost	Description
Recruitment fees		
1	Brokerage fee (recruitment agency at destination)	Paid by the recruitment agency to the broker at a destination point to sign and perform a labour supply contract. Migrant workers shall refund part or all the brokerage fee under MoLISA's regulations to the recruitment agency. In fact, this brokerage fee can be understood as a service charge collected by the recruitment agency (from migrant worker) for the broker. The fee must be recorded in the migrant worker's contract according to Law No. 72/2006/QH11.
2	Service fee (recruitment agency in country of origin)	An amount payable by a migrant worker to a recruitment agency for performance of a guest worker contract. The fee must be recorded in the guest worker's contract according to Law No. 72/2006/QH11.
Related costs		
3	Deposit (if any)	The migrant worker and recruitment agency shall reach agreement on a deposit based on sector, type of job and country of destination to ensure contract performance. Workers' deposits must be recorded in the guest worker contract according to Law No. 72/2006/QH11.
4	Passport costs and medical examination fees	The migrant worker may pay these costs upon recruitment by the agency (following government-set fees at the point of passport application and medical examination).
5	Training costs	When attending training courses, migrant workers may pay for language, job skills and essential knowledge training before departure (government sets certain ceilings for vocations or languages, and one standard cap for essential knowledge/orientation training).
6	Visa costs	Cost for arranging a visa to destination (following the destination's embassy or representative).
7	Contribution to Overseas Employment Support Fund	The fund was established by the government in 2007 to develop and expand foreign labour markets, raise workforce quality and support workers and enterprises in special circumstances such as deaths, diseases or health crises. Managed by MoLISA (approximately USD 4.30/person/contract, including extended time).

Source: Data compiled by the research team based on a desk review of Law No. 72/2006/QH11.

Of the fees and costs detailed in Table 2, the most burdensome as identified by migrant workers were recruitment fees (brokerage and service fees) and deposits.

Deposits are guided by Law No. 72/2006/QH11, with articles providing detailed regulations on recruitment agencies' and workers' deposits. It specifies MoLISA assumes prime responsibility and coordinates with the State Bank of Viet Nam in specifying management and use of migrant workers' deposits. According to Article 23, the principal and interest of migrant workers' deposits shall be refunded upon liquidation of guest worker contracts. If workers breach such contracts, their deposits are used by the recruitment agency to compensate for damage caused. If the deposit is deemed insufficient, prospective migrant workers shall make an additional payment. If the deposit amount is not used up, it shall be returned to the migrant worker.



### 3. MIGRATION-RELATED LAWS AND POLICIES

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MoLISA's Circular 21 regulates ceiling rates and labour markets in which recruitment agencies may reach agreement with migrant workers on payment of deposits (Table 10, Annex 3).

In terms of brokerage fees, according to government regulations (joint Circular No.16/2007/TTLT-BTC-BLDTBXH between MoLISA and Ministry of Finance (MoF)), the maximum fee must not exceed one month's migrant worker salary for each contract year. Should a higher brokerage fee than the ceiling rate be required, the recruitment agency shall inform MoLISA to determine a suitable rate after consultation with the MoF. According to Decision No.61 (12 August 2008), the maximum brokerage fee for all contracts for migrant workers going to Japan is USD 1,500. Meanwhile, for the Republic of Korea the ceiling for contracts of apprentices on fishing ships (inshore) is USD 500 (no specific regulation for other jobs) (Table 10 in Annex 3). Generally, it appears migrant workers in practice must pay much higher brokerage and service fees than government-regulated ceiling rates. However, respondents often reported paying different fee and cost amounts per journey without specifying a breakdown.

Regarding service fees, according to a joint circular from MoLISA and MoF (No. 16/2007/TTLT-BTC-BLDTBXH), the ceiling rate of service fees paid by a migrant worker to a recruitment agency shall not exceed one month's salary (or intern allowance) as stated in the contract for one working year, and not exceed six weeks' salary for officers and crew working on vessels.

#### 3.2. Pre-departure orientation for migrant workers

According to Viet Nam's regulations for pre-departure orientation, aside from language and vocational training, recruitment agencies and service providers are required to provide prospective migrant workers with relevant essential knowledge of labour, criminal, civil and administrative laws of Viet Nam and destinations, covering insurance (social, health and accident) and compensation for migrant workers (Decision 18, issued on 18 July 2007, Part II on general contents). According to regulations, 12 sessions are allocated for provision of such information (out of 58 sessions of theoretical training) (Table 12, Annex 3). However, migrant worker study respondents mostly received language training, with some reports of learning customs and traditions at destinations. As noted by others (Tran, 2018), some recruitment agencies do not comply with orientation training regulations and issue certificates for inadequate or no training at all.

#### 3.3. Management of Vietnamese migrant workers

Law No. 72/2006/QH11 and secondary legislation outline responsibilities of relevant stakeholders in management and protection of rights and interests of Vietnamese migrant workers. Key stakeholders are MoLISA, Vietnamese diplomatic missions and consulates as well as recruitment agencies sending Vietnamese migrant workers abroad. In the event workers' rights and interests are violated or an accident occurs, each relevant party must perform its responsibilities per law and work collaboratively to resolve any disputes or risks faced by workers. However, cases of unaddressed grievances and labour disputes shared by study respondents and reported elsewhere (Tran, 2015) highlight gaps between the law and actual enforcement as well as between government agencies and recruitment agencies which leads to delays in addressing labour and civil disputes faced by workers abroad. Importantly, the inter-jurisdictional nature of labour migration can also present challenges. Box 1 (Annex 3) provides a summary of different stakeholders protecting the rights and interests of Vietnamese migrant workers, as specified in Law No. 72/2006/QH11.

At provincial, district and commune levels, people's committees perform State administration of labour within respective localities. Committees at provincial level manage deployment of respective workers overseas, including disseminating information on overseas labour policies, guiding potential migrant workers and their families on process as well as conducting inspections and referring prospective migrant workers to recruitment agencies.

A woman wearing a traditional Vietnamese conical hat and a plaid shirt is pushing a bicycle cart. The cart is loaded with a large basket of bright pink dragon fruit. She is also carrying a white bag and a plastic bag of oranges. The background shows a street with trees and other people, slightly out of focus.

## 4. DRIVERS OF AND ALTERNATIVES TO MIGRATION



## 4. DRIVERS OF AND ALTERNATIVES TO MIGRATION

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Most study respondents had either recently returned from their first trip abroad for work or migrated once before. Destinations in Asia were most common due to the relatively low cost of migrating, with accounts of migration outside Asia included to Angola, Libya and Romania.

The vast majority of migrant workers reported the key factor influencing migration decisions was the lack of employment opportunities in Viet Nam and particularly Nghe An province, where poverty was also cited as a driver of labour migration. Similarly, respondents viewed migration as the only means to improve their quality of life and that of their respective family's. This was true of recent college and tertiary graduates unable to find employment and older community members who struggled to make ends meet.

There was a widespread perception of abundant employment opportunities abroad, with government policies in Viet Nam and at potential destinations as well as companies in these countries highlighting labour shortages, especially in Japan. Numerous respondents referred to low salaries on offer in Viet Nam as a driver of migration. Others cited the need to maximize their earning potential while of working age.

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Migrant workers also perceived key differences between destinations based on costs of migration (Section 5.2) and average salaries, which influenced their selection of destinations. Taiwan Province of the People's Republic of China was perceived as the most accessible destination in terms of cost and complexity of the process (Section 5.4). However, its salaries were generally seen as markedly lower than in Japan and the Republic of Korea, top destinations nationally.<sup>18</sup>

A variety of further factors underpinned destination choices. Japan was viewed not only as a place to learn and build skills, it offered migrant workers an opportunity to adopt a way of living from a country perceived as more socioeconomically advanced than Viet Nam.

Age and related restrictions also affected decisions to migrate, choice of destination and work sector. Some destinations and sectors were viewed as preferring younger migrant workers, while others such as Taiwan Province of the People's Republic of China had a lower bar for older workers.

Social networks and peer pressure were also mentioned by respondents as driving desires to migrate. Some respondents wanted to follow the migration paths of family or friends. Others were motivated by easing financial burdens on their families, commonly felt by men migrants. Gender norms and roles in Viet Nam, whereby men earn family incomes while women take on family duties, appear to be a contributing factor.

Linked to peer pressure is the notion that migration is expected, even a rite of passage, with children even preparing for departure when in school (learning a language common in a potential destination). Respondents said it was a rite of passage in

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<sup>18</sup> In 2014, Vietnamese migrant workers' average monthly income was USD 1,400 per month in Japan and USD 1,000 in the Republic of Korea across all sectors (IOM, 2017). In contrast, ILO estimates average monthly wages in Viet Nam for full-time employees were VND 4,716,000 (USD 204) in 2015 (ILO, 2016). Another study found that foreign workers in the Republic of Korea on average earned USD 1,500 a month in 2011 including overtime (Ah Oh et al., 2013). The Republic of Korea has a minimum wage of 6,470 won (USD 5.70) per hour. In 2017, the minimum wage increased by 7.3 per cent compared to the previous year (Cho et al., 2018).

#### 4. DRIVERS OF AND ALTERNATIVES TO MIGRATION

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Nghe An province to such an extent, that local labour market limitations may no longer be the primary driver to migrate for work.

When study respondents were asked about alternatives to migration, some had considered finding employment within Viet Nam or start a business in their home town. However, for most, migration was still preferable as the expected income could support a family and open a business.

“ *Now [people] no longer depend on agriculture. They can now work in industry, go to Bac Ninh or the south if they can't find a job at home. But if they migrate abroad, the income is higher. (FGD, men, migrated to the Republic of Korea, now live in Yen Thanh district)*

In the vast majority of cases, migrant workers' families were supportive of migration. Only a small minority expressed concern about perceived risks of being deceived or too old to migrate (as was the case for one female respondent who had migrated to Taiwan Province of the People's Republic of China). Generally, migration was seen as a family decision as it would be mutually beneficial. Similarly, parents encouraged migration in light of its economic benefits and often raised funds, through accessing savings or borrowing from banks or relatives, to initiate the migration process.

“ *If they [children] continue to university it will be difficult to find jobs in the future. Instead of paying for children's education, parents would rather spend money to send their children to Taiwan [Province of the People's Republic of China] or Japan. (FGD, mixed-gender group, aged 22–37, migrated to Japan, now live in Vinh city)*

A close-up photograph of a welder's arm and hand, wearing a black protective glove, holding a welding torch. The torch is emitting a bright orange flame and a shower of sparks. The background is dark and industrial, with some blurred lights and structures.

## 5. RECRUITMENT STAGE: VULNERABILITIES AND RISKS

### 5.1. Access to information for potential migrant workers



#### Summary: Key risks and vulnerabilities in relation to accessing information

- Limited accurate information and access to counselling about employment opportunities overseas. Most information initially comes from personal contacts, who may not be fully informed. The Employment Service Centre (ESC) and Migrant Resource Centre (MRC) offer information, but is rarely requested.
- Limited information on reputable recruitment agencies available to prospective migrant workers.
- Unregistered recruitment agencies in Nghe An province increase migrant workers' risks of exploitation due to lack of government oversight.
- Lack of transparent information on employment terms and conditions available for migrant workers (nature of work, location, employer, work conditions) by recruitment agencies.

Access to accurate and timely information on a range of labour migration aspects, including migration destinations and employment, could reduce migrant workers' vulnerabilities. Limited access to reliable information and provision of misinformation not only increases risks facing prospective migrant workers, it also heightens their vulnerability.

ESC, under DoLISA, plays a key role in providing information to prospective migrant workers, returnees and those seeking domestic employment in Nghe An province. According to a key informant, such centres existed in each province and provided counselling (free of charge) for jobseekers (domestically and internationally), language training (at a cost) and links to employment opportunities, including recruitment agencies. These connections are made through the internet, job fairs and "employment transaction platforms" held twice a month, bringing together employers and jobseekers. While domestic labour-focused, they sometimes featured jobs abroad.

In addition to ESC, several government programmes target recruitment of ethnic minorities in remote areas and provide information on employment abroad. The MRC, housed inside the ESC in Vinh city, is also a source of information for potential migrant workers, providing counselling and information face-to-face, and handing out booklets at job fairs and training sessions at the ESC. It is one of seven such centres in Viet Nam supported by IOM and ILO set up in 2016. However, uptake of the MRC service in Vinh city is relatively low, with approximately two people per day collecting information since April 2018.

Recruitment agencies are key to providing information for potential migrant workers. There were more than 400 registered recruitment agencies in Viet Nam as of February 2020 (DoLAB, 2020), however numerous non-registered ones permeate the market (IOM and SDC, 2019). A key informant revealed there were only three official recruitment agencies and numerous unofficial ones operating in Nghe An province, while another informant estimated there were at least 50 informal ones in the province.<sup>19</sup> To access potential migrants, registered recruitment agencies link with prospective migrants through "collaborators" such as DoLISA, people's committees, small and unregistered recruitment agencies and individual agents.

Turning to this study, most returnee respondents first heard about migration opportunities from a family member, friend or neighbour who had migrated or was currently overseas, with no costs for such "informal" referrals. No respondent reported obtaining information from the ESC or MRC. As such, the choice of destination was influenced by personal contacts who may

<sup>19</sup> After a follow-up call to Nghe An DoLISA to extract further information, it sent through lists which noted more than 40 recruitment agencies operating throughout the province, of which 15 are unregistered. Within Vinh city, it noted there was at least five registered and 11 unregistered recruitment agencies (source: List of recruitment agencies sending workers abroad from Nghe An province, Department of Labour and Employment, DoLISA Nghe An, March 2020). Data from Yen Thanh district shows there are 13 recruitment agencies operating, all registered (source: List of recruitment agencies sending workers abroad from Yen Thanh district, DoLISA Yen Thanh, March 2020). It was unable to provide data on numbers of migrant workers from different registered and unregistered agencies.



## 5. RECRUITMENT STAGE: VULNERABILITIES AND RISKS

not have complete and up-to-date information. In terms of choosing a recruitment agency, this was often suggested by family or friends who had migrated. A few respondents received information from government-approved loudspeaker broadcasts, flyers or television adverts. Usually, such community outreach focused on migration to a destination for specific work sectors.

A small number of respondents vetted recruitment agencies through online searches and examination of contract terms, while company trustworthiness for some was signalled by the services it offered and whether it did not accept bribes. However, most migrant workers admitted they took recruitment agencies at their word. This finding underlines the limited access to information and associated increased risks faced by prospective migrant workers.

The primary sources of information for prospective migrant workers are family, friends, neighbours or online (DoLAB and recruitment agency websites and web searches). These sources of information were mentioned by all interviewed returnee migrant workers. At provincial level, MRC provides information on safe migration and job opportunities. High schools are another important source of information, at all administrative levels – particularly provincial, as are leaflets distributed by DoLAB, DoLISA, non-governmental organizations (NGOs) and private recruitment agencies (registered and unregistered). However, returnees did not reference these sources, aside from NGOs.

### 5.2. Recruitment fees and related costs



#### Summary: Key risks and vulnerabilities in relation to recruitment fees and related costs for migration

- There is a lack of transparency around fees and other costs charged by recruitment agencies, as well as a lack of receipts and clarifications.
- Involvement of intermediaries in the recruitment process is apparent, with evidence of non-optional “introduction” fees paid by prospective migrant workers to intermediaries. This lack of transparency has increased migrant workers’ vulnerabilities and costs incurred during the recruitment stage.
- Migrant workers reported paying significant fees and costs during the recruitment process and appeared to pay in excess of legal limits. The highest were for employment in Japan, where recruitment fees and costs were equivalent to more than 12 months’ salary for a migrant worker. Such fees and costs forced some to borrow (Section 5.3) and increased risks of workers not able to leave employment until debts were off paid.
- Some migrant workers had to pay costs for additional training if not recruited after completion of the initial training course, contributing to debt burdens and an inability to opt out of the recruitment process.

In Viet Nam, the limits on recruitment fees and related costs are set by Law No. 72/2006/QH11. For example, costs to work in Japan should not exceed USD 1,500, for any type of employment. The following section outlines respondents’ experiences and understanding of recruitment fees and costs, with ILO definitions of each for reference here.<sup>20</sup>

Study respondents reported encountering numerous recruitment-related costs, in addition to those paid to recruitment agencies, covering passports from issuing authorities, transportation to training centres and pre-medical exams paid directly to service providers. Respondents also reported paying recruiters cash payments upfront to start the migration process and cover examination fees and training courses, including visa and pre-medical exam costs. Others directly paid examination fees themselves. Importantly, some respondents reported paying an “introduction fee” charged by an intermediary to engage a recruitment company.

<sup>20</sup> [www.ilo.org/global/topics/labour-migration/publications/WCMS\\_536755/lang--en/index.htm](http://www.ilo.org/global/topics/labour-migration/publications/WCMS_536755/lang--en/index.htm).

*“They told me to pay VND 5 million to the centre. I found it ridiculous, as they charged me simply for introducing me to a labour export company.” (IDI, man, aged 30, migrated to Japan, construction worker)*

According to respondents, total recruitment fees and related costs per migrant worker ranged from VND 10.7 million (to Malaysia in 2012) to VND 350 million (to Japan, before 2016). Such costs typically covered flight tickets (departure and sometimes return), pre-departure trainings and recruitment agency service and brokerage fees. In terms of cost by destination, Japan was the most expensive, followed by the Republic of Korea, Taiwan Province of the People's Republic of China, and Malaysia. According to study respondents, amounts varied over time and by recruitment agency, sector of work, and contract, visa type and duration.<sup>21, 22</sup>

Importantly, some respondents claimed recruitment costs appeared to have decreased over time dependent on the destination, with Japan seeing the largest decrease over the past decade. However, in the past five years, deposits have been introduced and increased the upfront costs of migration, despite being returned upon the migrant worker's arrival in Viet Nam provided contract terms were met. The highest deposits are payable for migration to the Republic of Korea and Japan at VND 100 million.<sup>23</sup>

Several respondents indicated that service and brokerage fees to recruitment agencies were the biggest component of migration costs – at least half and often considerably more – and sometimes appeared to exceed legal limits. This cost may further rise with additional intermediary parties, including migrant workers acting as referees in the brokerage value chain. It was also noted in responses that recruitment fees varied by sector, with manufacturing and construction eclipsing that of agriculture.

*“There were recruitment requests for factory, agricultural and construction jobs, each had a different fee. Mine was a construction and mechanics request. The fee was USD 7,500–8,000. At the time of my migration, they charged a high cost and the company charged a high fee, plus the broker fee. A lot of money was spent. (IDI, man, aged 30, migrated to Japan, construction worker, from Vinh city)*

There was also a perception that jobs with more paid overtime opportunities would mean higher fees and costs for migrant workers during recruitment, which often translated to higher debt. Some respondents shed light on the type of contract or visa programme used for migration. For example, Japan offered internship schemes and seasonal contracts with different contract durations and terms, which may impact recruitment fees and costs. It was also noted that if a migrant worker was asked by its employer to extend a contract after the initial expiry date, the cost of follow-on migration back to the same destination would be substantially lower – with either the employer covering expenses or the migrant worker bypassing certain processes, such as language training.

Table 3 highlights the patterns and costs by destination. While most study respondents were men (see methodology/limitations) who dominated the sample of migrant workers to Japan and the Republic of Korea, migrant workers to Malaysia and Taiwan Province of the People's Republic of China were more equally balanced gender wise.

<sup>21</sup> Some respondents included some or all pre-departure expenses when discussing the total cost of migration, while others did not.

<sup>22</sup> Whether men or women pay excessive amounts requires further analysis. Data gathered during the study did not permit a fuller explanation.

<sup>23</sup> Not all respondents who discussed migration costs disclosed the deposit amount, nor did all respondents discuss this consistently.

Table 3: Patterns and costs of migration by destination

Japan	Republic of Korea	Malaysia	Taiwan Province of the People's Republic of China***
<ul style="list-style-type: none"> <li>• Migration took place between 2014–2017, with 2016 being the most represented year;</li> <li>• Total recruitment fees and costs* ranged from VND 50–350 million (before 2016), maximum cost cited was USD 12,000;**</li> <li>• Average recruitment fees and costs are around VND 200–250 million;</li> <li>• Highest costs are commanded by manufacturing/factory or construction jobs, lowest costs are in farming and agriculture;</li> <li>• Highest cost: VND 320 million (respondent migrated in 2016 and worked in construction);</li> <li>• Lowest cost: VND 50–60 M (respondent migrated in 2017 and worked in agriculture for a seasonal contract under</li> </ul>	<ul style="list-style-type: none"> <li>• Migration took place between 2005–2016, with 2011–2014 the most represented period;</li> <li>• Total recruitment fees and costs ranged from VND 30 million (2008) to USD 10,000 (2005);</li> <li>• Average recruitment fees and costs were VND 130–150 million;**</li> <li>• Some respondents did not use a broker which reduced migration costs;</li> <li>• Those working in manufacturing tended to pay higher recruitment costs;</li> <li>• Highest cost: USD 10,000 (respondent migrated in 2005 and worked in manufacturing. Paid USD 3,000 deposit claimed upon return);</li> <li>• Lowest cost: VND 30 million (respondent migrated in 2008 and worked in construction, VND 20 million for flight and VND 10 million for pre-departure training and</li> </ul>	<ul style="list-style-type: none"> <li>• Migration took place between 2002–2017;</li> <li>• Total recruitment fees and costs ranged from around VND 11 million (2012) to 120 million (2006);</li> <li>• Average recruitment fees and costs are VND 30 million;**</li> <li>• No clear pattern on cost variance by sector of work;</li> <li>• Instances where migrant worker's costs are not fully paid prior to departure, but rather (part of) the debt is paid as deductions from monthly salary.</li> </ul>	<ul style="list-style-type: none"> <li>• Migration took place between 2000–2013;</li> <li>• Total recruitment fees and costs ranged from around USD 500 (2000) to USD 6,400 (2011);</li> <li>• Recruitment fees and costs appear to increase over time, with two most recently cited costs at USD 6,400 for migration in 2011 and USD 6,200 in 2011;</li> <li>• One respondent (2006) paid recruitment fees and costs of USD 2,000 through 18 monthly salary deductions at destination, where she worked as a nurse.</li> </ul>

Source: Data compiled by the research team based on interview responses.

\* Which includes pre-application costs every time as respondents were only able to mention a lump sum.

\*\* Respondents reported costs in VND and USD. Therefore, exchange rates at the time need to be taken into account.

\*\*\* Few recruitment cost observations for Taiwan Province of the People's Republic of China, therefore it was challenging to identify patterns.

Some respondents reported receiving receipts for all payments, while others were not able to report a breakdown of payments made. Usually, receipts were provided for the deposit. Costs incurred by prospective migrant workers during pre-departure training varied. Sometimes living costs were not included as part of the enrolment fee, with participants paying separately for accommodation, food and textbooks. In other cases, accommodation was included but applicants paid for meals. Additional costs appeared to be incurred most often by migrant workers intending to travel to Japan.

A major reported challenge was applicants repeating training courses and repaying fees upon failure to be recruited after completing training courses, which can take up to six months. Those who changed recruitment company were most vulnerable. Although respondents did not specify the amounts involved, they are likely to be significant – particularly if destined for Japan. Some applicants had to wait two or three years before successfully completing the recruitment process. This amount of time is an additional pressure in terms of loss of income for respondents and families. Some respondents worked during the trainings to pay back interest on loans for enrollment fees. Families also experienced additional pressure to fund their children's living expenses during this period.



## 5. RECRUITMENT STAGE: VULNERABILITIES AND RISKS

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*“I saw many trainees had passed the interview and studied at the centre for 10 months, but were not recruited by a company. Then the recruitment order was cancelled, the applicants had to train again. Some had trained for two years, but were not brought to Japan. It was a waste of their time and money for meals and housing. (IDI, man, aged 27, migrated to Japan, manufacturing worker)”*

According to study respondents, while the recruitment agency usually prepared paperwork for applicants and provided flights, those departing for the Republic of Korea and Malaysia had to apply and pay for visas themselves. Additionally, participants underwent a number of medical exams not always included in the package (the Republic of Korea and Taiwan Province of the People's Republic of China). Sometimes, especially for Japan, prospective migrant workers had to undertake up to three rounds of health checks. The types of medical exams required varied by destination and sector of work.

According to respondents, the deposit paid to recruitment agencies fluctuated and was often covered by mortgaging assets (land use certificates) or a bank loan. The deposit can be paid directly to the recruitment agency, training school or held by a bank. While, according to Law No. 72/2006/QH11, the deposit can accumulate interest and be fully refunded to all migrant workers upon completion of contracts, respondents reported neither commonly occurred in practice. Provided the migrant worker returned and abided by the contract terms, the deposit was returned.

There was also a sense that the deposit was an ineffective measure to deter migrant workers from absconding upon contract expiration. This was a relatively common perception among respondents, though the extent to which it actually occurs cannot be ascertained from this study. When migrant workers weigh-up the benefits of receiving the deposit versus staying on beyond their visa expiration date and earning significant more than at home, forfeiting the deposit was sometimes perceived as preferable. One possible interpretation according to study respondents, was if migrant workers broke a contract, it tended to be near the end when they had already paid off other debts. As such, losing a deposit was not necessarily seen as threatening had debts not been paid off. In either case, having to pay a deposit increases migrant workers' vulnerabilities due to debt burden, making the option of opting out of exploitative work less desirable.

*“The deposit wouldn't be enough to prevent a worker from running away. VND 100 million may be much in Viet Nam, but working for two or three months in Japan, you can earn enough. It is not enough to deter Vietnamese people. (IDI, man, aged 27, migrated to Japan, manufacturing worker)”*

There was also an apparent lack of understanding of what payments covered or unexplained items added by recruitment agencies.

*“Sometimes the company made them pay additional fees. It's like the company invented some fees and made us pay a few more million VND. (IDI, woman, aged 26, migrated to Japan, food processing worker)”*

*“We have warned many times that migrants should only pay after being provided with all the required receipts. And the content [purpose of payment] must be specified. DoLAB has received complaint letters about different types of deposits, VND 10 million to VND 20 million, without any purpose and deductions for training and travel costs without mutual agreement. (KII, DoLAB representative, MoLISA, Ha Noi)”*

### 5.3. Raising funds to migrate – debt and repayment



#### Summary: Key risks and vulnerabilities in relation to raising funds to migrate

- Taking out bank loans or borrowing from family or friends, and often mortgaging the family home placed repayment stress on the family and migrant worker.
- Migrant workers have additional repayment pressures when borrowing larger amounts, particularly to work in Japan or the Republic of Korea, which means less money to meet costs at the destination and remit home.
- Married migrant workers face greater financial demands to repay debts, send remittances and save money to support families at home than non-married migrants.
- Some prospective migrant workers lost the desire to migrate (for instance, because of family circumstances or losing confidence in recruitment agencies), but continued with the process due to incurred debts.

Prospective migrant workers were found to take a range of approaches to raise funds for migration. Some respondents used savings – often from previous deployments overseas, others borrowed from friends and family or from banks using a house or land as collateral. Borrowing from relatives or friends was the preferred option as loans are interest free. Younger respondents not or recently married relied heavily on parents, who in turn tapped savings, borrowed from friends, relatives or banks. No gender differences were observed in approaches to raise funds for migration or in preferred destination.

*“It was hard to find work at the time, so I asked for help from my father who had a pension book. He mortgaged it to borrow another VND 10 million, so we had VND 20 million [from loans]. My wife and I could only manage to gather VND 4 million. I was determined to borrow money, and work hard to pay back the debts. (FGD, married men, aged 41–60 who had migrated to Malaysia or Taiwan Province of the People’s Republic of China)*

Most respondents, including those who migrated to Japan, the Republic of Korea and Malaysia, repaid migration debts within a year, while some took two to five years. Repayment was dependent on take-home salaries and amounts of remittances contributed to family costs at home. If respondents received less take-home salary when working overseas than expected prior to departure, it lengthened the amount of time required to pay back migration debts and left migrants with less money upon return to Viet Nam. In general, married migrant workers with children covered larger ongoing home expenses while abroad.

*“Every month I sent money back home and paid [back the loan] in regular instalments. It took five years to repay the debts. (IDI, woman, aged 45, three children, migrated to Taiwan Province of the People’s Republic of China, nurse)*

The ability to source funds for migration varied greatly. Some respondents had sufficient personal or family financial resources to draw on, while others came from impoverished backgrounds with the resulting inability to raise funds delaying trips and limiting jobs available to lower-skilled ones due to lower costs of migration. Most respondents who reported difficulties in raising funds had migrated to Malaysia. Those who found it easier to raise funds migrated to a greater range of destinations, including Japan and the Republic of Korea, and tended to come from better-off families, either by borrowing money or depositing land use certificates.

Overall, for most respondents, migration was largely financed through loans with high levels of debt adding stress to migrants.

*“I was also worried whether I could make enough money when I was abroad to pay back others. It gave me stress and headaches. And at that time, I was struggling because I was quite old already. (IDI, man, aged 43, migrated to the Republic of Korea, construction worker)*

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In some cases respondents lost their desire to migrate, but continued due to debts incurred. Sometimes, families of migrant workers encourage them to continue. Respondents generally followed through with migration despite any doubts. In some instances, respondents changed their recruitment agency when encountering challenges, such as a perceived inability to realize recruitment of candidates.

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*I had already borrowed VND 150 million. If I hadn't gone, I wouldn't have money to pay back. If I'd stayed in Viet Nam, I would have only earned VND 3 million a month – how could I have paid off the debts? Therefore, I had to go. (IDI, man, aged 34, migrated to the Republic of Korea, agriculture worker)*

### 5.4. Pre-departure orientation



#### Summary: Key risks and vulnerabilities in relation to pre-departure orientation

- Study respondents viewed the content of some trainings as unsuitable to prepare them to work and live at destinations.
- Accommodation during trainings was sometimes unhygienic and caused illness.
- Reports of restricted movements during trainings and harsh punishments if rules were broken.
- In most cases, migrant workers enrolled in pre-departure trainings without being matched with jobs. This placed them at greater risk of exploitation due to costs incurred for trainings, and made it more difficult for them to make an informed choice as to whether to continue with the recruitment or not.
- After completing trainings, migrant workers were not always allocated employment, forcing them to wait and sometimes continue paying costs for trainings. This pressured migrant workers to take jobs not matched with their choices or skills.

As per Vietnamese law (Law on Vietnamese Guest Workers, Articles 42, 43), pre-departure worker requirements include achieving training certificates on language, workmanship and “necessary knowledge.” This latter training is comprised of 74 hours (16 hours practical work) on legal issues, culture, behaviour, working regulations and living conditions in foreign countries. Most respondents undertook some form of pre-departure training often organized by the recruitment agency. According to respondents, training typically took place before allocation of a specific work order. Training locations included the ESC, schools, agency-owned centres or hired rooms at district or commune levels. Language training was the most common reported, with relatively few respondents given training on other aspects of life at the intended destination.

The length, quality and type of training varied considerably and depended on the respective recruitment agency, destination requirements and sector of work. According to study respondents, training had recently become more formalized and longer (up to six months) as opposed to a few weeks previously. This was also linked to destination requirements, with Japan seen as particularly strict in contrast to Taiwan Province of the People's Republic of China's lighter approach. Japan not only required up to five months' training, it was also more difficult to secure a job.

“*As for Japan, it's a matter of luck. After taking and passing exams, and attending training for five months when the departure day came, they said the job was cancelled. I felt discouraged. Many people applied for four or five jobs, but still couldn't go. I applied for four jobs. I only passed the fifth time. (FGD, mixed-gender group, aged 22–37, migrated to Japan)*

The length of training could be shortened, noted by migrant workers to Japan, if a recruitment request was urgent. In other cases, when the prospective migrant worker did not land a job offer after completing training – one respondent reported that



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only 10–15 per cent of participants received contracts after training—the recruitment agency could keep the migrant on standby to quickly mobilize should a firm job offer arrive. This left migrants vulnerable to being assigned jobs and destinations not matching their preferences and skills.

Many respondents did not find training to be valuable preparation for work and life at their destination. Some noted being taught languages not appropriate for the destination and teachers were not well prepared. Some respondents received vocational training, however, it was not aligned with the sector of work and on-the-job training was relied upon instead.

*“I paid for six months’ language training, but they only offered me English instead of Korean. After training, I was told to go home and wait for further notice. (FGD, men, aged 29–39, migrated to the Republic of Korea)”*

While migrant workers who returned to the same destination can usually bypass the training process, if they use a different recruitment agency, they must repeat the training. According to respondents, other training challenges related to accommodation with dormitories organized by recruitment agencies or training schools sometimes in poor or unhygienic condition with strict rules governing movement and activities. Failure to abide by these rules sometimes resulted in physical punishment or intimidation. Usually training was offered in another province, such as the capital Ha Noi, with prospective migrant workers covering additional expenses related to transport, accommodation and living expenses. Sometimes training took place nearer the respondent’s home, with the recruitment agency renting the venue.

### 5.5. Job assignments and selection



#### Summary: Key risks and vulnerabilities in relation to job assignments/selection

- Discrimination was evident in assignments from recruitment agencies: women do lighter work, “people with tattoos are assigned heavy work.”
- Respondents sometimes accepted assignments which did not match their skills to pay off recruitment debts.
- Delays were encountered during job assignments and sometimes assignments were cancelled without reason.
- Respondents reported finding the assignment and selection processes stressful and uncertain, and having no option but to continue because they had incurred costs and were in debt.
- Some women respondents were placed in vulnerable situations during selection, such as undressing in front of male doctors while undergoing medical tests.

After completing training, the next stage is being assigned employment, followed by a job description and contract. Among study respondents, women migrant workers tended to work in food processing, manufacturing, nursing, textiles and garment industries. Male respondents, on the other hand, worked in agriculture, construction, fisheries, food processing and manufacturing.

Some indications of discrimination were reported during the selection process. Certain characteristics, including age and gender, were required for some sectors of work. Women were recruited for what was perceived as “lighter” work, including roles in agriculture, home care, nursing and manufacturing. Women also faced challenges when undergoing medical checks.

*“When we had health checks at the hospital, girls were afraid as male doctors checked for any tattoos or birth defects. The girls were required to completely undress for the checks. It was an unforgettable experience. (IDI, man, aged 27, migrated to Japan, manufacturing worker)”*

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People with tattoos were also discriminated against and accepted physically harder jobs, such as in construction. Generally, if a prospective migrant worker did not meet certain criteria, they had little choice but to accept less desirable work to cover costs incurred during recruitment.

*“Construction jobs were hard. But many people accepted them because they had tattoos, were short-sighted, colour blind or not within the age range. If they didn’t work in construction, they wouldn’t be able to migrate. It was their decision, nobody forced them. (IDI, man, aged 28, migrated to Japan, food production worker)*

Jobseekers, in general, often felt they had little control over their situation. Aside from mismatches in skills and preferred destinations, as highlighted earlier in the report, some respondents felt recruitment agencies pressured candidates to take up positions to make commissions. While waiting times between training and deployment shall be agreed upon between labour recruiter and migrant worker(s),<sup>24</sup> agencies would exert pressure by suggesting no further relevant jobs would become available and candidates would incur additional costs waiting for new opportunities.

*“My cousin died in an accident. I no longer wanted to go. But I had to as I had paid all the money. The broker didn’t allow me to delay. I had no other option. (IDI, man, aged 26, migrated to Taiwan Province of the People’s Republic of China, manufacturing worker)*

Similarly, study respondents perceived that recruitment agencies were mostly concerned with recruiting low-skilled or unskilled labour to work abroad for a specified time period, while applicants applying for higher-skilled visa categories to offer a path to resettling abroad were not well-supported.

Generally, during the selection process, prospective migrant workers faced considerable uncertainty, with no guarantees on the length of the application process nor would they be recruited by an employer. Moreover, even when recruitment took place, uncertainty remained as to whether the job order would follow through. This uncertainty placed stress on prospective migrant workers who sometimes continued to borrow money to fund the process or pay back interest incurred on loans. However, due to the considerable amounts already invested in the process and going into debt, withdrawing from the process is usually not an option.

*“I didn’t encounter any problem. But my neighbour passed the exam, yet the recruitment order was cancelled. The recruitment company gave no reason. (IDI, woman, aged 29, migrated to Japan, sewing machinist)*

### 5.6. Job descriptions and employment contracts



#### Summary: Key risks and vulnerabilities in relation to job descriptions and employment contracts

- Migrant workers often do not receive job descriptions and contracts in Vietnamese language and limited guidance is provided by recruitment agencies, leaving prospective migrant workers ill-informed about the nature of work.
- Even if the contract is in Vietnamese or explained by the recruitment agency, the prospective migrant worker may not be given sufficient time to understand important contract terms.
- Some respondents reported that contracts were general with no details on overtime pay and working hours.
- Some reported contracts signed in Viet Nam were not valid at the destination necessitating the need to sign another contract.

<sup>24</sup> Circular No.21/2007/TT-BLDTBXH.

## 5. RECRUITMENT STAGE: VULNERABILITIES AND RISKS

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Recruitment agencies are responsible for providing and explaining job descriptions and employment contracts for migrant workers. While some respondents reported receiving detailed information on job descriptions (salaries, expenses), many did not grasp the exact nature of work due to no prior experience in the particular sector nor specific job-related training prior to departure. With job descriptions and contracts often not in Vietnamese and little guidance provided by recruitment agencies, respondents were often left in the dark about job specifics.

*“The only thing I knew is I would be working in packaging. I didn’t know what it meant exactly. (IDI, man, aged 30, migrated to the Republic of Korea)”*

Nearly all respondents received contracts approximately one to two weeks prior to departure. According to respondents, contract content generally included the length of contract, hours of work, basic salary and a description of the sector. In some cases, particularly for migration to the Republic of Korea, it included information on overtime hours and pay, leave entitlement and public holidays, work and medical insurance, further details on job responsibilities, accommodation and the workplace address. Approximately half of respondents said that the recruitment agency provided contracts in Vietnamese as well as the language of destination. The Republic of Korea destination contracts were most often translated into Vietnamese, followed by Japan and, to a slightly lesser extent, Taiwan Province of the People’s Republic of China. A recruitment agency representative would sometimes go through the contract, particularly when migrating to Japan. Those without support were left to rely on their own interpretations which could lead to misunderstandings.

*“They would only translate the main points, for example the salary. (IDI, woman, aged 26, migrated to Japan, food processing worker)”*

Many respondents reported being rushed through contracts to understand key parts, such as salary, while skipping over other important clauses. Some respondents were disinterested in reviewing contracts in detail as they had been in the recruitment process for some time and were eager to receive an employment offer. In some cases, the contract was general and listed the basic salary based on labour regulations at destination, while the actual salary and other terms were set upon the worker’s arrival at the workplace.

*“The salary was not mentioned. It only mentioned the sector, raising animals or growing crops, but didn’t specify what crop I would grow. The salary was negotiable. (IDI, man, aged 29, migrated to the Republic of Korea, agriculture worker)”*

The majority respondents reported receiving a copy of the contract. Some reported signing another contract directly with the employer upon arrival at the destination. This contract generally included similar terms, but was more specific or in the context of Japan, issued because the recruitment agency’s contract for work in Japan was invalid, according to one respondent.

*“According to the contract I signed in Viet Nam, my salary would be 14,500 yen, equivalent to more than VND 30 million. But when arriving in Japan, after the training provided by the trade union, I met the director [and] the contract I signed in Viet Nam turned out to be invalid. I had to sign another one. (IDI, man, aged 31, migrated to Japan, manufacturing worker)<sup>25</sup>”*

Additionally, in some cases particularly those going to the Republic of Korea, the migrant worker is given the contract to bring during the journey, and it is only signed upon arrival.

*“I held the contract which the employer sent me, but hadn’t signed it. I brought the contract to the Republic of Korea. When the employer came to meet me, I showed him the contract to see if it was the right person or not. I only signed it in the office of the employer. (IDI, man, aged 29, migrated to the Republic of Korea agriculture worker)”*

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<sup>25</sup> No further details were provided in interviews on differences between the two contracts and why this had occurred. However, this may be due to legal jurisdiction for enforcement – that is, the employer wants a contract governed by Japanese law. But this was never stated explicitly by any interviewee.





## 6. TRAVEL TO DESTINATION





### Summary: Key risks and vulnerabilities during the journey and on arrival

- Some migrant workers reported having no information how to proceed upon arrival at their destination.
- Some reported being detained by airport authorities upon arrival.

#### 6.1. The journey

The majority of migrant workers travelled to destinations by plane. Often the recruitment agency accompanied them at each step: to the airport and collection on arrival at the destination. Migrant workers either travelled alone, in small or large groups organized by the recruitment agency to the same destination and or company. Most migrant workers did not report paying for anything additional during the journey.

#### 6.2. Arrival at destination

Upon arrival, all respondents were either met by the recruiting company or a labour union representative and taken to a centre for orientation training. However, some reported having little or no information on how to proceed upon arrival. Some who travelled to Japan were detained at the airport by authorities.

*“We were worried. When we arrived, [airport authorities] took all of our luggage, passports, and took us into a room. They were afraid we would run away. They detained us for five hours. We tried asking for permission to go to the toilet and use the internet to call home, to call the company and tell them and come to pick us up. (FGD, mixed-gender group, aged 22–37, migrated to Japan)”*



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A male worker in a blue jacket, grey cap, and white gloves is working on a white car body in a factory. He is holding a grey flexible hose. The car body is white with a red cable running along its edge. The background shows a factory setting with yellow overhead cranes and other workers in white uniforms.

## 7. EXPERIENCES DURING EMPLOYMENT

## 7. EXPERIENCES DURING EMPLOYMENT

In this section we explore migrant workers' experiences at destination during employment and at the workplace, including risks and vulnerabilities faced. While the focus is on work and workplace experiences, it is important to note that study respondents also mentioned a number of other challenges faced at destinations, including language barriers, local currency, different cuisines<sup>26</sup> as well as the strictness of Japanese culture. Many respondents reported feeling homesick first, often alleviated by use of social media.

It is important to note, as mentioned in the methodology section, that while we explore several facets that could be identified as exploitative or forced labour, many migrant workers did not self-identify as survivors of such conditions. They were accepted as many migrant workers were focused on earning money to send home, but also because they appeared to be largely unaware of their labour rights – an aspect which is picked up again in the recommendations section.

### 7.1. Sectors, lengths of employment and freedom of movement



#### Summary: Key risks and vulnerabilities in terms of types of work and switching jobs

- Most migrant workers could not leave their jobs due to contract terms and incurred debts that need to be repaid.
- Passports and visas were retained by employers (Malaysia and Taiwan Province of the People's Republic of China) in some cases, which limited migrant workers' freedom of movement and potentially prevented them from leaving employment.

Length of stay at destinations, among the sample, ranged from less than one year to 14 years. A common contract length is three years. However, there were also labour contracts under a year and up to five years. Typical contract lengths for Japan were three or five years, the Republic of Korea (three years) and Taiwan Province of the People's Republic of China (two or three years). Migrant workers to all destinations, particularly Japan and Taiwan Province of the People's Republic of China, had contracts extended or renewed. Some respondents, particularly who migrated to the Republic of Korea or Japan, overstayed visas.

Generally, study respondents were employed in the agriculture sector which they viewed as offering the most labour-intensive work with the lowest pay, while manufacturing and factory jobs were viewed as the most attractive. Construction jobs were considered arduous, but could pay well. In the sample, manufacturing jobs were the most frequently represented, followed by construction and agriculture.

Most of the sample had migrated to Japan and the Republic of Korea, followed by Malaysia and Taiwan Province of the People's Republic of China. Of respondents who migrated to the first two, similar numbers worked in manufacturing and construction. Of respondents to the latter couple, manufacturing was most common. The few respondents in agriculture were based in Japan, the Republic of Korea and Taiwan Province of the People's Republic of China often in family-run businesses with low pay. The few respondents in food processing worked in Japan.

Some migrant workers encountered different jobs and even sectors upon arrival to those outlined in contracts. This was reported most often by migrant workers to the Republic of Korea, but also by returnees from Japan and Taiwan Province of the People's Republic of China.

<sup>26</sup> In the Republic of Korea, the spiciness of the food was highlighted, while in Malaysia the prevalence of curry-based dishes and not allowing consumption of pork was noted. Japanese food was considered easier to tolerate as it was seen as more similar to Vietnamese food. Some respondents spoke about carrying dry food and/or tins from Viet Nam to help cope with this.



## 7. EXPERIENCES DURING EMPLOYMENT

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“*[In the contract it stated] I would do a kitchen job. But when I arrived, my actual job was producing kitchenware and restaurant and hotel utensils. (FGD, mixed-gender group, aged 22–37, migrated to Japan)*

Many respondents remained at the same company throughout their contract(s). This was most common in Japan where they experienced fair treatment and good salaries or had contracts renewed with the same employer.

“*I worked there for four years and six months [with] two contracts. The original contract was valid for three years and was renewed for one year and then six months. (IDI, man, aged 31, migrated to Japan, manufacturing worker)*

In other cases, respondents felt they could not leave jobs due to debt or contract terms. There were also indications that some contract terms forbidding leaving jobs unless the employer went bankrupt. These conditions may have been in contracts given to migrant workers before departure, yet were not fully understood.

“*In Japan, they clearly said I was allowed to work for one company. If I applied to work for another company, I would be deported right away. (IDI, man, aged 27, migrated to Japan, manufacturing worker)*

There was some evidence, especially in Malaysia and Taiwan Province of the People's Republic of China, that employers held migrant workers' passport and visa, only providing a residence permit for in-country usage. This limited migrant workers' freedom of movement, as well as potentially prevented them from leaving the employment. In the Republic of Korea, respondents reported being able to hold onto their passports, noting that employers may take them at the beginning just to help them apply for the resident's permit. One worker who migrated to Japan commented on possession of her documents – these were held by the company for the first year and a half.

“*At first, the company kept my passport for one and a half years. (IDI, woman, aged 26, migrated to Japan, food processing worker)*

Generally, it was uncommon for study respondents to switch jobs. Among those who did, mostly migrated to the Republic of Korea and nearly all were men. This country allows migrant workers to change their jobs relatively easily and is managed centrally by the Ministry of Labour. Migrant workers or employers can reach out to the ministry directly to request a job change, then the Job Search Centre matches jobs with the worker. In comparison, respondents faced more difficulty changing jobs in Japan or Malaysia, largely because of contractual issues and regulations.

Those who changed jobs usually did so because the employer went bankrupt, poor work conditions or lack of earning potential, especially limited or no paid overtime. Most job changes reportedly took place within the same sector. Respondents also reported simply quitting when the situation was unbearable and becoming an irregular worker as there was no perceived legal recourse available to change jobs.

“*When arriving I found a difference between what the broker said and reality. Secondly, when I came the company was in crisis, there was little work to do. In the first six months I wanted to quit. But with the pressure of a debt of VND 250 million, I had to struggle. (IDI, man, aged 31, migrated to Japan, manufacturing worker)*



## 7. EXPERIENCES DURING EMPLOYMENT

### 7.2. Post-arrival training and work conditions

#### 7.2.1. Training

While most migrant workers spoke about learning on the job, many also received training or orientation upon arrival at the destination. The Republic of Korea appears to have a standardized process for receiving migrant workers, whereby arrivals all participate in the same programme. Arrival training often includes three days of orientation on Korean culture and rules, along with a basic language refresher, all taught at a dedicated centre (“Colab centre”) by Korean teachers. Respondents reported some health checks were conducted. After orientation, migrant workers are selected and collected by respective employers, where they often learn on-the-job specific skills.

*“I went to Colab where all workers gathered. We learnt customs and traditions for three days, then the employer picked me up. Before departure, I got notice about the company, factory and city. (IDI, man, aged 42, migrated to the Republic of Korea, manufacturing worker)”*

For those travelling to Japan, the extent of any orientation or training at destination prior to starting work also varied greatly. Often, training was conducted by a labour union from two weeks to one month. During this period, migrant workers are housed by the labour union and may receive an allowance for expenses. Training includes orientation on culture, language, greetings, workplace safety and basic job-relevant training.

*“When we arrived at the airport, someone from the labour union took us for training. Everyone who followed that labour union had to attend the training for two weeks. [With] other labour unions, it was one month. They taught us faster. (FCS, woman, aged 22, migrated to Japan, manufacturing worker)”*

Some respondents who migrated to Malaysia and Taiwan Province of the People’s Republic of China reported not receiving training prior to starting work, but essentially learned on the job with varying degrees of guidance and self-research. In Malaysia, respondents reported employers organized language and job-relevant skills training. However, language training was not offered for manual labourers as it was not seen as necessary.

#### 7.2.2. Salaries



#### Summary: Key risks and vulnerabilities in work conditions – salaries

- Migrant workers incurred salary deductions in terms and conditions not explained by the recruitment agency or not understood.
- Reports of companies withholding wages for various reasons.
- Cases of debt bondage, particularly in Taiwan Province of the People’s Republic of China, where up to 80 per cent of some migrant workers’ salaries were deducted to pay off debts incurred as a result of recruitment fees and costs.

Turning to work conditions, there was a general perception among returnee migrant workers that larger companies offered better work conditions and more opportunities for paid overtime in contrast to smaller companies, including small-scale household businesses. This pattern appears to be common across migrant workers’ experiences in Japan, Malaysia, the Republic of Korea, and Taiwan Province of the People’s Republic of China.

## 7. EXPERIENCES DURING EMPLOYMENT

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*“The smaller the company, the higher [the] pressure on workers. (IDI, man, aged 27, migrated to Japan, manufacturing worker)*

Salary amounts varied considerably by destination. In Japan, salaries ranged from VND 18 million to VND 60 million per month. Salaries also appeared to vary depending on location of work (rural versus urban), sector and company size – all of which are interrelated. Women were found to often work in sectors with lower pay than men. Women garment industry workers commanded the lowest monthly salaries (VND 18 million to VND 20 million), which included overtime (basic monthly salary of VND 16 million). Meanwhile, manufacturing (VND 30 million to VND 60 million) and construction (VND 40 million) workers earned more than those in agriculture (VND 20 million to VND 40 million per month). Similarly, workers urban-based or in larger companies enjoyed higher salaries than those in rural and smaller firms. Finally, manufacturing offered the most potential for salary increases over time. According to respondents, exploitative employers could also make pay deductions of around 5 to 10 per cent.

*“In Tokyo, the pay is 1,000 yen per hour, while in rural areas such as Iwabaki it's 830 yen per hour. That's the province's hourly wage, it's not that big companies pay more and small companies pay less. The pay is according to the region. (FGD, mixed-gender group, aged 22–37, migrated to Japan)*

Those returning or renewing contracts commanded higher salaries, with work experience a determining factor. Such respondents also directly negotiated with employers.

In the Republic of Korea, the basic salary appeared uniform nationwide according to study respondents, regulated by the Ministry of Labour with annual adjustments. Total monthly earnings ranged from VND 20 million to VND 80 million, including overtime, bonuses and prior to deductions. There were no obvious variations by sector, though manufacturing may provide the most opportunity for advancement of roles and thereby advancement in salary over time. In addition to annual increases awarded by the Ministry of Labour, salaries rose based on good performance and seniority.

*“It [the basic salary] was raised once a year. When I moved to the second factory, first I received KRW 800,000, one year later, it increased to KRW 900,000 and in the following year to KRW 1.1 million. (IDI, man, aged 42, migrated to the Republic of Korea, manufacturing worker)*

Salaries tended to be lower in Malaysia than other destinations according to study respondents, though they also noted it was cheaper to migrate there than other countries. Respondents reported earning from VND 4 million to VND 10 million per month depending on overtime hours. Evidence of increasing wages in Taiwan Province of the People's Republic of China emerged, though it could also be related to sectoral trends and exchange rates. One woman migrant worker reported her monthly farming wage jumped from VND 4.5 million to VND 7 million during a second migration trip when she took up domestic work.

Many respondents reported receiving overtime pay, particularly in factory jobs. Rates ranged from 110 to 150 per cent of basic salaries, with the lowest in Japan. In jobs with opportunities for paid overtime, respondents reported it made up half or more of total incomes with a bonus for night shifts in some cases.

*“The overtime salary could be twice or three times as much, depending on how much you worked. (IDI, man, aged 37, migrated to the Republic of Korea, manufacturing worker)*

Overtime pay was not always mentioned in contracts received before travelling from Viet Nam, while basic salaries were usually aligned with contracts. Overtime pay was agreed with employers verbally or in supplementary written agreements.

*“At home, the contract said the basic salary was VND 30 million. But when there if I work more, I would receive more. (IDI, man, aged 20, migrated to Japan, agriculture worker)*

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Respondents also reported seeking additional work to generate supplementary income to repay migration-related debts. These arrangements, commonly reported by female respondents who migrated to Malaysia and Taiwan Province of the People's Republic of China and worked for companies not offering paid overtime, were generally informal and most likely not in line with laws in destination countries.

Salaries were typically paid monthly across all destinations. Some companies withheld the first month's salary, but provided a living allowance and accommodation. In Japan, the justification was employees were trained for the first month. For all destinations, salaries were paid by direct deposit into the respondent's bank account at the destination. In Malaysia, some received a cash advance, with the rest paid directly to their family's account in Viet Nam.

Respondents reported being surprised by various deductions from salaries. In some cases, outgoings listed in contracts as covered by employers (food and accommodation) were deducted. This infers migrant workers did not fully understand contents of their contracts or were willing to accept such clauses to gain employment.

*“Before leaving for Japan, the recruitment agency told me the salary would be VND 30 million a month, but when I arrived there, I had to pay for many things: tax, rent, utility bills and meals. (IDI, man, aged 27, migrated to Japan, manufacturing worker)”*

In some cases, respondents reported deductions consumed up to two-thirds of salaries and included health and accident insurance, taxes (destination and Viet Nam), pension scheme contributions, rent, board and brokerage fees that could be authorized by recruitment agencies in Viet Nam. In the absence of cost breakdowns, migrant workers were vulnerable to salary irregularities.

*“My salary according to the contract was VND 35 million, but VND 11 million was deducted for insurance, taxes, rent, Wi-Fi and water. These deductions were written in my payslip. But, I paid for food and Wi-Fi myself. (FGD, mixed gender group, aged 22–37, migrated to Japan)”*

Cases of debt bondage were reported, particularly in Taiwan Province of the People's Republic of China, where up to 80 per cent of some migrant workers' salaries were deducted to pay off debts incurred as a result of recruitment fees and costs.

There were also cases of employers in Japan and the Republic of Korea withholding the final contract month's wages due to company financial hardships.

Regarding remittances, respondents reported repatriating as much as 60–95 per cent of their post-deduction salaries: firstly to first pay off migration debts and secondly to build houses and cover general family expenses, including children's education. Typically, migration debts would be paid off within a year (for those who migrated to Japan, the Republic of Korea and Malaysia), although some claimed it took two to five years to repay in full.

*“I earned VND 40 million per month. I sent home VND 30 million for my family to pay the [migration] debt and the family also helped me keep the money [in a savings account]. (IDI, man, aged 28, migrated to Japan, construction worker)”*

Money was usually sent back home through an official bank transfer. According to a key informant from Agriculture and Rural Development Bank (Agribank) in Nghe An province, it was the most common bank to receive remittances in Viet Nam. With branches across Viet Nam, it has partnership agreements with numerous migrant destinations, especially banks in Japan, the Republic of Korea and Taiwan Province of the People's Republic of China. However, an agreement with Malaysian banks was revoked as too few migrant workers utilized the service.

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“ We sent [money] in many ways. One way was through unofficial services. The second way was going to the bank and withdrawing money and putting it onto our card, then transferring it to a bank [in Viet Nam], where our family would go and get it. Many people are illegal [irregular migrant workers]. They can't have a bank card, so they have to use the unofficial services [which] are a bit expensive, but they take the money to your door. After the money is sent, our family will get the money. (IDI, man, aged 47, migrated to the Republic of Korea, construction worker)

### 7.2.3. Work hours and conditions



#### Summary: Key risks and vulnerabilities in work conditions – hours, overtime, health and safety, holiday and sick leave

- Some workers were pressured to work paid overtime and public holidays, with threats of dismissal for non-compliance, especially to off-set salary deductions and re-pay debts.
- There were also some reports of being constantly monitored or watched by the supervisor, under threat of punishment if they did not perform according to the supervisor's expectations.
- Many workers reported health and safety challenges at all destinations, such as working with dangerous equipment, exposure to hazardous chemicals, inadequate protective wear and physically demanding workloads.
- Accounts of sick leave not being covered by employers, workers incurring salary deductions when sick and job security threatened if sick leave was taken.
- Language barriers when accessing health services left migrant workers at risk of receiving inadequate treatment.
- Threats of employer repercussions if workers sought external support from a labour union, for example.

While most respondents reported good working environments, others revealed a number of factors that undermined the quality of employment and potentially their labour rights leaving them at risk of exploitation.

Regarding workloads, some migrant workers felt pressured to work long hours and accept overtime during peak times such as harvests and meeting production deadlines. Some respondents said high salary deductions compelled them to accept paid overtime to cover debts incurred during recruitment.

“ It [overtime] was more like compulsory, because I was in charge of [a key] machine. (IDI, man, aged 37, migrated to the Republic of Korea, manufacturing worker)

Workers also reported heavy workloads and being constantly monitored or watched by supervisors.

“ We had to work very hard and under pressure. Because the supervisor was always next to us, hurrying us to work fast. (IDI, man, aged 43, migrated to the Republic of Korea, construction worker)

A range of health and safety issues emerged, especially for those working in factories and construction sites, across all destinations. Dangers included working with dangerous equipment as well as exposure to toxic fumes and chemicals. While some migrant workers were trained in proper use of equipment and had protective clothing, it was often insufficient to off-set these dangers.

“ We worked in a room, had to close all the windows so the dust would not get out. There was a dust collector, but it didn't work well. The room was sealed. When it was hot, we had to wear protective clothes, sometimes we had to change four or five suits a day because they were all wet [with sweat]. After three years working there, I felt much weaker. (FGD, mixed gender group, aged 22–37, migrated to Japan)



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In terms of leave, holidays and weekends, respondents mostly reported working six days a week, with Saturday or Sunday off, with public holidays off and paid. Even when permitted a day off, many migrant workers chose to work on days off to earn holiday pay.

*“Public holidays [were days off], but we worked every day. On Sundays, if we worked, we got paid double. On public holidays, we got paid triple. (IDI, man, aged 44, migrated to Malaysia, construction worker)*

However, some respondents also reported being pressured by supervisors to work during days off and public holidays with the threat of job security and contrary to contract stipulations. This was especially the case for seasonal and agricultural workers who did not have as many days off nor a standardized schedule.

*“Working in the agricultural sector, I didn’t have any holidays. The holidays were marked red on the calendar, but not applied to the agricultural sector. (IDI, man, aged 29, migrated to the Republic of Korea, agriculture worker)*

Some respondents reported receiving paid leave between eight and 14 days per year, with leave entitlement sometimes increasing with the length of stay at a destination, particularly the Republic of Korea, Malaysia and Taiwan Province of the People’s Republic of China. Seasonal and agricultural workers tended to have less leave than workers in other sectors.

*“I had eight days of paid leave during the first year, 12 during the second year and 14 in the third year. (IDI, woman, aged 39, migrated to Malaysia, manufacturing worker)*

There were accounts of sick leave not being covered or workers encouraged not to take it as it would threaten their job security. On other occasions, respondents who requested sick leave were told it was only permitted in the case of an accident. Some also faced pay deductions, up to 25 per cent, if reporting sick. This resulted in many working while ill and potentially threatening health and safety in the workplace.

*“In case of minor illnesses, we had to work. If you caught a cold, you had to work. Your request for sick leave wouldn’t be accepted. (IDI, man, aged 42, migrated to the Republic of Korea, manufacturing worker)*

In terms of where people accessed health services if sick, most respondents across all destinations had access to hospitals, health centres or clinics. Not all workers, however, received translation and transport support. The resulting language barriers could compromise the diagnosis and quality of health care.

*“They didn’t let me get a health check. I asked them to take me to hospital. The boss said “no problem, it’s because you work a lot. I said no, I see the lump is growing. He didn’t believe me. When he took me there [to hospital], the doctor immediately scolded him, and I was hospitalized right away. The doctor said this tumor would multiply, so I had to be operated on as soon as possible. (IDI, man, aged 34, migrated to the Republic of Korea, agriculture worker)*

As most respondents reported that health insurance was deducted from salaries, certain health service costs were covered. However, additional charges meant respondents faced out-of-pocket costs or employers would be requested to step in. If the clinic was part of the company, health services were free of charge.

*“I went for a health check-up. Medical costs were covered unless they exceeded a certain limit. Then I had to pay the difference. (IDI, man, aged 43, migrated to Malaysia, refinery plant worker)*

Fears of employer repercussions and job losses remained a barrier to migrant workers reporting problems to labour unions. Some who migrated to Japan reported labour unions were unhelpful. The respective ministries of Labour in Malaysia and the Republic of Korea were highlighted by migrants as providing important assistance when engaged.

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“The trade union only came to reconcile and talk. Things remained the same, nothing improved. Workers were beaten again. In many cases, the trade unions came many times. Workers end up quitting their jobs and returning home or live illegally. (IDI, man, aged 31, migrated to Japan, manufacturing worker)

### 7.2.4. Discrimination and harassment



#### Summary: Key risks and vulnerabilities in work conditions – discrimination and harassment

- Perceptions of discrimination against migrant workers in the workplace, with local workers reported as earning higher salaries, receiving bonuses and given less demanding work.
- Perceptions of discrimination against women migrant workers in the workplace.
- Beatings, intimidation and harassment by employers, including psychological abuse.

Discrimination against Vietnamese migrant workers in the workplace was reported by many respondents. According to those who had migrated to Japan, local workers had higher salaries by up to 50 per cent, worked shorter hours, received bonuses and given lighter work.

“Japanese workers get higher [salaries], by 20–30 per cent, sometimes 50 per cent. The difference is because we have fees and expenses deducted. (IDI, man, aged 28, migrated to Japan, food production worker)

Some respondents reported discrimination by employers and supervisors in the Republic of Korea, including violence and harassment, lack of breaks, being closely monitored and not receiving bonuses. Discrimination in the workplace was also found in Taiwan Province of the People's Republic of China, with Vietnamese facing high workloads and excessive numbers of night shifts.

Across the destinations, most respondents reported jobs were differentiated by gender, with women favoured for “light jobs” or those that required high levels of “dexterity”. A range of responses were given around the extent to which women were discriminated against compared to men. On one hand, there was a view that women were not treated differently as gender-specific jobs were the norm, such as physically demanding construction jobs being more suitable for men. Others reported women commonly faced low-paying jobs, with some taking on additional work to supplement income.

“Women work for the company for eight hours and go home, [they] don't have jobs with overtime for extra income. Women often buy and sell vegetables for extra income and wash dishes. (FGD, women and men, aged 31–54, who migrated to Malaysia or Taiwan Province of the People's Republic of China)

Respondents reported experiencing violence, intimidation and harassment at the workplace and by fellow Vietnamese, who physically assaulted and stole from workers. Moreover, migrant workers were also intimidated and harassed by employers physically and psychologically.

“The person who beat them was the director's son. I even have a video of him beating people. He hit people for no reason. He worked upstairs while we worked downstairs, he dropped hammers. If we couldn't dodge them, they would hit our head. It was very stressful at work. (FGD, mixed-gender group, aged 22–37, migrated to Japan)

## 7. EXPERIENCES DURING EMPLOYMENT

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*“Sometimes when I cleaned the house, she stroked the cupboard with her finger. If she saw dust, she deducted 5,000 Taiwanese dollars from my pay. (IDI, woman, aged 64, migrated to Taiwan Province of the People’s Republic of China, domestic worker)”*

Language barriers were encountered by many respondents at all destinations and could lead to exclusion and an inability to report abuse. In some cases, Vietnamese migrant workers with more in-country experience would help with translation when necessary. In other cases, people felt frustrated at not being able to express themselves.

*“When I couldn’t speak the language, I didn’t dare to talk, it was a disadvantage. I just did what I was told. (IDI, woman, aged 45, migrated to Malaysia, manufacturing worker)”*

Intimidation, harassment, poor work conditions, constantly being monitored, and limited knowledge of the language created pressures and stresses on migrant workers, affecting their physical and mental and psychosocial well-being.

*“[I was] worried about not being able to do the job as they would fire me and I would lose the money. I was so worried that I even lost weight. (IDI, man, aged 49, migrated to the Republic of Korea, manufacturing worker)”*

One respondent claimed Malaysian police exploited migrant workers and could not to be relied on for protection.

*“If the police saw us, they would take [our money]. If a policeman saw a Vietnamese, he would ask for papers, passport. We would have to give him money. If we resisted, he would force us into his car, drive a bit and then search us for money before dropping us. (FGD, married men aged 41–60 who migrated to Malaysia or Taiwan Province of the People’s Republic of China)”*

### 7.3. Accommodation and subsistence



#### Summary: Key risks and vulnerabilities in relation to accommodation and subsistence

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- Little or no choice on accommodation options.
- Overcrowding in shared rooms and accommodation, particularly with certain sectors such as agriculture and construction.
- Long commutes from residences to work sites, not compensated nor outlined in contracts.
- Reports of women fearing travelling to work due to poor infrastructure (poor street lighting) or remote locations.
- Insufficient meals provided by employers included in salary deductions.

Dormitory and shared houses or apartments were the most common forms of accommodation mentioned by respondents. Other types of accommodation included hotels and temporary residences, such as container homes. Migrant workers had little or no choice about where they would live and were assigned a residence. The lowest average number of people sharing a room was seen in Japan (commonly up to three people), with the highest numbers in Taiwan Province of the People’s Republic of China (up to 12).

## 7. EXPERIENCES DURING EMPLOYMENT

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Accommodation typically had one or more shared bathrooms and a shared kitchen. In some cases, the bathrooms were located outside or a small distance away from the dormitory. Most respondents reported satisfactory or good living conditions compared to Viet Nam. Often, the cleaning of living spaces was for the residents to organize among themselves, which could become a point of interpersonal conflict at times. This was emphasized by a respondent who has worked in Taiwan Province of the People's Republic of China, in particular. Those in the agriculture and construction sectors experienced some of the poorest living conditions. This was often due to living in relatively remote and undeveloped areas, in temporary housing, or housing without heating and hot water, which was problematic in colder climates such as in the Republic of Korea.

*“ We lived in half of the container, divided into two rooms. There were three people in my room and three people in the next room. We slept on mattresses on the floor of the container. (IDI, man, aged 27, migrated to the Republic of Korea, manufacturing worker)*

Although most respondents reportedly felt safe in their respective accommodation, there were also some reports of thefts of belongings.

Distance and mode of transport between accommodation and employment site varied widely. For manufacturing and factory jobs, particularly in the Republic of Korea and Japan, dormitories were co-located on worksites. In other cases, walking, bicycles or company-organized transport were common. In the construction sector, respondents faced longer commutes, up to seven hours daily in some cases, not compensated nor written in contracts. Additionally, if they arrived late to work, salary was deducted.

*“ Our working time was seven hours, and they only paid us for exactly seven hours. We didn't get paid for the time travelled. The furthest construction site was more than 200 kilometres away. It took more than six hours both ways. I had no idea [of the commute before arrival in Japan]. (FGD, mixed-gender group, aged 22–37, migrated to Japan)*

In some cases the commute to work included badly lit or remote places which reportedly made some women migrant workers feel vulnerable.

*“ It was 20 minutes away from my workplace by bicycle. The way was very dangerous. Both sides only trees and jungles. Because our place was a rural area, there was no electricity [and street lamps], everyone else travelled by cars. (FCS, woman, aged 22, migrated to Japan, manufacturing worker)*

Often rent and utilities (electricity, water) were covered by employers (particularly in the Republic of Korea and Malaysia), with respondents also noting that salary deductions were made to cover these costs. Occasionally, migrant workers were requested to cover high utility costs. While the costs of meals, particularly lunch and dinner, were often covered by employers, some respondents reported the food provided was insufficient or poor quality, forcing workers to cook meals in dormitories.



A man with dark, curly hair and a light-colored, vertically striped button-down shirt stands in a field of tall, golden-brown rice. He is holding a large, dense bundle of harvested rice stalks in his right arm. In his left hand, he holds a curved sickle. The background shows a vast field of rice under a blue sky with scattered white clouds. In the distance, other people can be seen working in the field, including one person wearing a green hat. A dark blue rectangular box with white text is overlaid on the lower right portion of the image.

## 8. RETURN AND REINTEGRATION



## 8. RETURN AND REINTEGRATION

### 8.1. Drivers to return from destination

The majority of study respondents had returned to Viet Nam within three years prior to the interviews, with those who returned in 2019 arriving 10 months to just one week before data collection.

Most migrant workers returned to Viet Nam by air, usually alone, with journeys paid by employers upon completion of contracts. However, some migrant workers had to cover their own journeys home, from Japan and Taiwan Province of the People's Republic of China, due to no longer being under contract or pre-termination, such as to return for a sick family member, personal health or pregnancy.

The principal driver for migrant workers to return to their country of origin was expiration of contracts. However, some stayed beyond the validity of contracts and lived and worked without a valid visa (Section 8.2). There were conflicting reports among KILs, however. While some respondents claimed the vast majority of migrant workers returned per contract and visa conditions, others stated many stayed and worked illegally with the support of employers to avoid the time-consuming process of formally returning.

*“Very few people return home. Take Vietnamese migrant workers in the Republic of Korea, for example. From 2015 until now, most workers from Yen Thanh [who went] to the Republic of Korea stayed there to live and work illegally. Very few returned home because of income and that employers provide favourable conditions for them to stay. If they strictly complied with regulations and reported irregular workers to authorities, those workers certainly have to return home. But perhaps, they harbour and create favourable conditions for them to work illegally. The state fines them [workers] VND 80 to VND 100 million according to Decrees 88 and 95. If comparing the fine to their monthly income, they may decide to stay there as the fine costs only one month's salary. After paying the fine, they can continue to work and earn for many months, one or two years. Then if arrested, they can return home as usual. That's why they stay there. If the destination arrested irregular workers, certainly they will deport them. (KIL, Deputy Manager, DoLISA, Yen Thanh)*

### 8.2. Breaking contracts and visa impacts



#### Summary: Key risks and vulnerabilities in relation to terminating or breaking contracts

- Respondents reported an inability to terminate contracts early without risk of arrest, deportation or other penalties.
- Overstaying visas led to precarious work with poor conditions (salary delayed, no insurance or other benefits, poor treatment by employers).
- Overstaying visas also limited flexibility, mobility and isolation, with fear of being arrested and deported.
- Debts meant some migrant workers were unable to terminate contracts early, while others overstayed visas and worked with an irregular status to repay debts.

#### 8.2.1. Terminating contracts

While some respondents reported termination of contracts could be achieved without penalties, especially due to poor health, others who worked in the Republic of Korea, Malaysia and Taiwan Province of the People's Republic of China were told contracts could not be broken due to their legal status and would risk arrest and deportation or pay a large fine. There was also evidence migrant workers felt they were unable to terminate contracts due to the need to repay debts.

*“I need to follow the contract, if terminated before the end there will be a penalty, VND 20 million or something according to the law. (IDI, man, aged 43, migrated to Malaysia, refinery plant worker)*

## 8. RETURN AND REINTEGRATION

### 8.2.2. Overstaying visas

A minority of respondents (13 out of 55) revealed they broke contracts to return home early due to dissatisfaction with the job or for job reassignment to remain at the destination beyond their permitted length of stay. The majority of contracts were broken to return home from Taiwan Province of the People's Republic of China and Japan due to poor working conditions and breaches of contract terms by employers.

Migrants also broke contracts to seek better paid jobs in non-exploitative conditions at the respective country of destination.

*“I quit [my contract] in December. In November, I had met some friends who told me about the wages of working outside [the contract] and told me to try it. The [illegal] wages would double the [previous] company's rate. (IDI, man, aged 33, migrated to Taiwan Province of the People's Republic of China, construction worker)”*

Respondents who reported overstaying visas did so for two months to five years, with two years a common length of time. Overstaying visas appears to be more frequent among people who had migrated to the Republic of Korea and less common in Japan. Many overstayers knew others in the country working illegally and learned of conditions and processes from them. Common drivers were high incomes to pay off migration debts and the challenge of finding employment in Viet Nam.

*“I (over)stayed because I wanted to stay for one more year and make more money to pay off the debts from building a house. (IDI, man, aged 34, migrated to the Republic of Korea, agriculture worker)”*

*“When my contract ended, my age was near the working-age limit. So I decided to stay for a few more years to earn more money. (IDI, man, aged 43, migrated to the Republic of Korea, construction worker)”*

While many irregular workers remained with the same employer or found new jobs through friends, others encountered difficulties, including delayed salary payments, worse treatment than from previous employers and no insurance nor benefits, especially to cover medical costs. People also reported limited mobility, isolation and psychological distress resulting from the constant vigilance needed to avoid detection and arrest.

*“Working outside [my contract], there were no benefits or insurance. It was difficult. But in return, the salary was higher. (IDI, man, aged 30, migrated to Japan, construction worker)”*

There were also cases of migrants reporting co-workers to authorities for overstaying to settle personal scores, while immigration officials sometimes conducted random checks at workplaces. Some workers wanted to be caught out of desperation to return home and escape exploitative work conditions.



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### 8.3. Return and reintegration



#### Summary: Key risks and vulnerabilities in relation to return and reintegration

- A number of returnees reported an inability to claim back recruitment deposits, others mentioned delays in repayment.
- Finding work upon return to Viet Nam was a challenge, with a reported lack of jobs, low earnings and non-utilization of skills gained overseas.
- Women returnees were often stigmatized as having abandoned their families.
- No formal programmes to provide reintegration support for returned migrant workers combined with above-mentioned factors, leading to re-migration for work.

#### 8.3.1. Paying back deposits

A number of respondents reported being unable to reclaim deposits paid to recruitment agencies before departure as security against absconding. This placed some in significant financial difficulties, particularly those returning from Japan and the Republic of Korea where higher bonds are required.

*“Before departure, this payment acts as a guarantee [the migrant worker] will not run away [between] the [recruitment] enterprise, migrant and the bank. In case the migrant runs away, the enterprise has the right to withdraw this deposit to cover costs incurred. Although the money is deposited in the bank, after completing their contract and returning home, the migrant will get it back - the original amount and interest. The migrant has the right to withdraw it he/she drops out of that contract. But currently, Japan does now allow collection of such deposits. (KII, DoLISA representative, MoLISA, Ha Noi)*

#### 8.3.2. Finding work upon return

Many returning migrant workers struggled to find employment in general as well as work in a similar sector to which they worked abroad, with the non-transferability of skills to local positions. With skilled positions found in urban centres, many returnees from rural areas are reluctant to leave their families.

*“The first two to three years after I returned, I didn’t do anything because of the differences. I couldn’t reintegrate. Anyone who returned was like that. A lot of my friends are now broke. They invested a lot of money in their business, but they didn’t reach their goals.” (IDI, man, aged 34, migrated to the Republic of Korea, agriculture worker)*



## 8. RETURN AND REINTEGRATION

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### 8.3.3. Reintegration

Migrant workers had mixed feelings about returning home and most suffered some form of culture shock upon return, around customs and social norms. Some migrant workers also reported a perceived better quality of life available abroad and lamented the lack of opportunities available at home, particularly the higher salaries. Equally, however, some returnees were excited about the future with the earnings from abroad to realize long-held ambitions, such as building a house or starting a business.

*“As soon as I landed in Viet Nam, I felt disappointed. I was used to life in Japan, the air was fresh, it was quiet. In Viet Nam, it was chaotic. Honestly, Vietnamese people’s awareness is [...] (IDI, woman, aged 26, migrated to Japan, food processing worker)*

Reintegration was facilitated by the positive reception migrant workers received from their families upon return. In the vast majority of cases, remittances had been put to good use, such as building a new house, buying land, building family savings accounts or generally boosting the family budget. Migrant workers also received a positive reception from the wider community and were generally perceived as wealthy, successful and knowledgeable about the migration process. Returnees were frequently asked for information about recruitment and life abroad and were viewed as important figures in the community. As such, they often referred potential migrant workers to recruitment centres and other migration resources.

*“My friends and relatives asked me about training, how to go there. I told them to spend time studying. (IDI, man, aged 29, migrated to the Republic of Korea, agriculture worker)*

However, women migrant workers faced different challenges from males, with respondents noting that some women were viewed as having abandoned their families.

A dearth of formal reintegration support from the government or other stakeholders, with no correspondence from DoLISA or State departments offering support, was reported by returnees. These views were also supported by interviews with key informants with no programmes targeting returnees. While the ESC can include returnees in job transaction platforms and other activities linking jobs and people (Section 5), they do not specifically target returnees nor does MRC. Moreover, there are limited follow-ups from recruitment agencies unless there is a specific request from a company seeking workers.

*“There’s a Japan migration programme for workers with specialized skills, for those who come back after contracts and want to return to Japan and [some support to] Taiwan [Province of the People’s Republic of China]. For example, this year, [name of organization] sent 300 workers to Taiwan [Province of the People’s Republic of China]. Some factories overseas want to recruit the same migrant workers who used to work for them. Many. They will ask our company to organize the return of workers. (KII, recruitment agency, Vinh city)*

Looking to the future, while some respondents intended to migrate internally in search of work, particularly to Ha Noi or Ho Chi Minh City, the majority of returnees wanted to re-migrate abroad due to the lack of employment opportunities. While most wanted to return to Japan or the Republic of Korea, a large number wanted to go to the United Kingdom or elsewhere in Europe due to the perceived higher salaries and quality of life. However, they were hesitant due to the higher cost of migrating there. Returnees claimed they could not provide for their families on low incomes and had no option but to re-migrate.

*“When returning home, I was determined to build my career in Viet Nam. But it was difficult. My income is not enough to provide for my wife and children, so I plan to work abroad [even though] in the beginning I was determined not to. (FGD, men aged 29–39, migrated to the Republic of Korea)*



## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

### 9.1. Conclusions

Findings from this qualitative study show that Vietnamese migrant workers encountered vulnerabilities and risks of labour exploitation throughout the migration journey associated with unethical practices of labour recruiters and employers, as well as gaps or insufficient enforcement of regulations in Viet Nam. Given it is a qualitative study, their prevalence and whether these findings are representative of all Vietnamese migrant workers and returnees were not explored and present an opportunity for further research. What is presented here are the realities of interviewed returnee migrant workers, contextualized through discussions with key informants and reflecting the wider literature.

While there are differences in migrant workers' experiences according to destination, especially in the amount prospective migrant workers are required to pay in fees and costs during recruitment, there are many similarities with returnees' accounts of exploitation throughout the labour migration process. An important observation is returnee migrant workers did not view their experiences through the lens of labour exploitation nor similarly saw themselves as survivors. When faced with poor working conditions, many accepted such hurdles as part of the migration process to overcome with such risks outweighed by the rewards of income and a better future for themselves and family, as well as by the burden of debt repayment.

Exploitation, as defined by the ILO Indicators of Forced Labour, was evident during the recruitment and employment stages of the migration journey of workers participating in this study. During the recruitment stage, there was evidence of recruitment agencies not following Vietnamese legal requirements related to recruitment fees and related costs when dealing with prospective migrant workers, compounded by the absence of a breakdown in fees and costs that often exceeded legal limits. Similarly, there was a lack of transparency and clarity around job descriptions and employment contracts, often only in the language of destination, with prospective migrant workers not clearly explained employment terms and conditions before signing. On the one hand, there were accounts of migrant workers being pressured into taking jobs they were overqualified for, while others went through pre-departure trainings without being allocated a specific job forcing them to repeat trainings and incur further costs. Due to mounting debts incurred to cover costs and fees during the recruitment process, migrant workers often had little option but to continue the process to repay their debt. In some cases, the only option to cover migration costs was to borrow from banks or mortgage family assets, while others saw recruitment fees and costs deducted from salaries during employment. Thus, not only did a pattern of indebtedness and debt bondage emerge, so did one of deceptive recruitment.

This deception continued upon arrival at the destination, with accounts of migrant workers ending up in sectors and jobs they had not signed an employment contract for and for which they were not prepared. Similarly, there were reports of wages being withheld and deductions made without migrant workers' prior consent. While some workers experienced fair treatment as outlined in employment contracts, exploitative working conditions in destinations were prevalent: excessive work hours, forced overtime and work during holidays, sick leave being discouraged, constant monitoring and intimidation by employers, hazardous working conditions with lack of appropriate personal protective equipment and passports retained by employers. Migrant workers reported no possibility to terminate employment contracts early without penalties or fear of denunciation to authorities and deportation. Despite such conditions, migrant workers perceived they had no option but to continue working to retain their jobs and repay debts incurred in Viet Nam as part of the recruitment process. The majority of earnings were sent home as remittances and used to service debts, which left migrant workers in a perilous situation at the destination with little savings to fall back on if, for instance, they fell sick. All of this put high levels of pressure on migrant workers, and respondents reported facing high levels of anxiety and depression, among other symptoms, which sometimes continued upon return to Viet Nam.

Beyond limited informal support from fellow migrant workers, there appear to be limited avenues for formal or informal support and recourse for Vietnamese migrant workers, who were also reluctant to raise grievances with labour unions for fear of repercussions from employers and ultimately being sent home. No forms of grievance mechanisms established by employers or recruitment agencies were apparent from respondent interviews nor were migrant worker linkages to diplomatic missions and labour attaches.

## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

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While most study respondents returned to Viet Nam upon contract expiration dates, some overstayed their visas and undertook precarious work in highly exploitative conditions alongside the constant fear of being arrested and deported, which led to mental distress and isolation. However, for some this was still preferable to returning under the agreed terms of contracts, as the extra income earned while an irregular worker outweighed the forfeiture of their deposit and potential arrest.

For returnee migrant workers, one of the biggest challenges was finding work back home: the absence of jobs, those poorly paid or not matching the skills acquired overseas. Not only where the financial pressures to find work compounded by delays in claiming back pre-departure deposits from recruitment agencies, returnees also faced difficulties in reintegrating back into life at home. There was a notable lack of support for returnees – from government or other stakeholders – including to gain employment upon return and address psychological issues brought home from abroad. Coupled with the lack of employment, this was a key driver of re-migration that led to a new recruitment process characterized by unethical practices and heightened migrant worker vulnerabilities.

Throughout the report there was an attempt to analyze any factors which can lead to specific vulnerabilities and risks of exploitation of women migrant workers. Notwithstanding the study limitations, key areas where women face increased risks of labour exploitation include being limited to lower-paid sectors and jobs that demand longer hours, excessive overtime or taking up more than one paid job to pay back debts. Sexual harassment and being fearful of working and living environments were also reported. Women returnees also faced the risk of community stigmatization due to absences from family.

While exploitation during the migration journey can be prevented throughout the recruitment process through more robust regulatory frameworks and their enforcement, this was not the case for returnee migrant workers interviewed in this study. The lack of transparent, accurate and timely information, and the time and costs incurred during the recruitment process prevented migrant workers from making informed decisions or avoiding exploitative situations. Various government-related programmes, institutions and structures (ESC, communes, DoLAB/DoLISA) are in place at different levels to assist with the recruitment process through, for instance, referring prospective migrant workers to recruitment agencies, carrying out language training, job fairs and communicating relevant information to the community. However, these assets were found to be infrequently utilized by individuals participating in this study.

### 9.2. Policy recommendations

In this section we divide recommendations by stage of the migration process (recruitment, employment and return) and by key stakeholder: Government of Viet Nam, labour recruiters in Viet Nam and employers at destination. The resulting overlaps underline the necessity and opportunity for closer collaboration between these lead stakeholders.

#### 9.2.1. Recruitment stage

##### GOVERNMENT OF VIET NAM

###### Regulatory management of international recruitment

Governments, within their respective jurisdictions, bear an overarching responsibility to protect the rights of all persons, including migrant workers and ensure that recruitment for employment takes place in a way that respects, protects and fulfills internationally recognized human rights. In addition to protecting migrant workers, governments should seek to regulate employment and recruitment in a manner that is clear, transparent and effectively enforced.<sup>27</sup>

- Strengthen laws and regulations to promote fair and ethical recruitment and harmonize it with international standards. Relevant laws and regulations should encompass all stages of the recruitment process, apply to all actors performing recruitment functions and apply to all workers, including those in an irregular migration situation.
- Develop a roadmap and plan of action towards aligning Viet Nam's legal framework on recruitment fees and related costs with international standards, using the ILO Definition of Recruitment Fees and Related Costs<sup>28</sup> as a guide.

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<sup>27</sup> See: *The Montreal Recommendations on Recruitment: A Road Map towards Better Regulation*, IOM 2020.

<sup>28</sup> See: *ILO General Principles and Operational Guidelines for Fair Recruitment*, ILO 2019.



## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

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- Strengthen efforts to identify and regulate unregistered recruitment agencies and ensure they comply with laws through continued monitoring and tracking.
- Strengthen legislation to better regulate the recruitment of migrant workers. This includes ensuring that:
  - Recruitment agencies do not “stockpile” migrant workers without a job order;
  - A time limit is placed on time elapsed between pre-departure trainings and actual departure for destination to prevent migrant workers from incurring additional costs for repeated training, accommodation and subsistence;
  - Provision of training courses should be recognized by different recruitment agencies to avoid candidates re-training;
  - Stricter sanctions are enforced against agencies that charge higher service charges and commissions than regulated by Vietnamese law.
- Conduct ongoing monitoring of registered recruitment agencies in line with legislation, focusing on all stages of labour migration, in particular guaranteeing that:
  - All fees and costs for prospective migrant workers are clearly outlined in agency handouts and explained;
  - Receipts are provided for all costs and fees paid by migrant workers;
  - Recruitment agencies match skills with jobs, with prospective migrant workers able to decline job offers without duress;
  - Job descriptions and contracts are in Vietnamese language and sufficient time is spent explaining contracts to prospective migrant workers to ensure terms and conditions are fully understood;
  - Training provided by recruitment agencies is appropriate, good quality and covers standardized content;
  - Accommodation provided during training meets adequate health and safety standards in line with relevant Vietnamese laws;
  - If fees are charged for accommodation, not only are they clearly outlined to prospective migrant workers, the rate is within market rates;
  - Specific gender issues are considered at all stages in the recruitment process and prospective women migrant workers are not discriminated against. Medical services and check-ups should be provided by women doctors where possible.
- Strengthen the system of managing, collecting and collating regular updates of prospective migrant workers processed through recruitment agencies covering workers’ age, gender, destination, job and start date details.

### Information provision to jobseekers

Lack of up-to-date, accurate and transparent information on the recruitment process was identified as a key challenge by survey respondents. This encompassed not only whether recruitment agencies were officially registered and deemed competent, but also adherence to legal limits for recruitment fees and costs for migration to different destinations as well as upholding migrant workers’ rights. The following recommendations are designed to remedy this situation:

- Provide official and up-to-date information on all legally permissible recruitment fees and related costs involved in migration to different destinations and sectors. This information could be made available on government websites, through messaging to mobile phones, included in radio and television announcements and community notice boards, such as those at people’s committees, schools and health centres.
- Ensure regularly updated lists of registered and licensed recruitment agencies, including contact details, are made available through the channels listed above and are widely disseminated.
- Strengthen the system to monitor and support prospect, current migrant workers and returnees. This may include establishing and maintaining an online monitoring system managed by a separate government unit to capture disaggregated migration-related data at all levels (village commune, district and province). Data might include the number of prospective migrant workers, current migrant workers and their destinations and sectors of work, returnees and number of recruitment agencies.
- Work closely with MRCs and other community-based organizations to ensure information included in the above two points before and throughout the recruitment stage is easily available and accessible to prospective migrant workers. In the case of Nghe An province, consider more awareness raising about available MRCs services to ensure their uptake.
- Draw on returnees’ first-hand experiences and facilitate their sharing of information, especially with prospective migrant workers, while at the same time ensuring the information provided is accurate.

## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

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### Pre-departure orientation

Study respondents noted varying curricula and content in pre-departure orientation. The following recommendations are proposed:

- Standardize pre-departure orientation content for individual destinations and ensure it includes information on migrant workers' rights, including access to grievance mechanisms and remedies at home as well as while abroad.
- Strengthen monitoring of recruitment agencies' training activities. A survey to assess the quality and suitability of training programmes could inform adjustments to pre-departure curricula and materials. This survey should be carried out by independent researchers, with support from DoLAB/DoLISA.

### RECRUITMENT AGENCIES IN VIET NAM

#### Information provision to jobseekers

Surveyed respondents lacked clear, transparent and accurate information on important aspects of the recruitment process. Recommendations are:

- Sign service contracts with prospective migrant workers clearly stipulating all services, recruitment fees and costs, rights and obligations of each party.
- All recruitment fees and costs must be clearly broken down, including total amounts prospective migrant workers are expected to pay, when and what services it covers. Printed handouts with these details should be given to migrant workers. Receipts should be issued for each and all costs paid for by prospective migrant workers.
- Recruitment agencies should only sign a service contract with a prospective migrant worker and enroll she/he in pre-departure training if an order has been received from an employer or partner at the destination.
- Return of the pre-departure deposit must be clearly communicated to prospective migrant workers and be included in the service contract in writing.

#### Pre-departure orientation

The following recommendations, guided by national training standards and curriculum, will address the significant variations found in the standards and content of trainings:

- Ensure minimum required modules are included in trainings covering migrant workers' rights during recruitment and employment as well as work conditions at employment sites, including workplace, dormitories, canteen, destination culture, managing finances, support networks, grievance mechanisms and labour unions available to migrant workers.
- Improve the quality of training through, for instance, nationals from destinations conducting language training, legal experts outlining migrants' rights and returnees sharing experiences.
- Teaching methods need to be adapted to ensure prospective migrants of different education levels can grasp key information through participative and interactive approaches, such as use of videos and role playing.
- Given the central role families play in the migration process, engage family members of prospective migrant workers in relevant modules if possible, especially if residing in the same location where training is conducted.

#### Post-training and deployment

- Time between pre-departure orientation training and departure for a destination should be minimized to ensure migrant workers do not incur additional costs for accommodation and subsistence in the training centres. Service contracts should clearly stipulate responsibilities of the recruiter in case a job offer becomes invalid as well as more time and additional training is needed to secure employment.
- Ensure prospective migrant workers are given employment contracts in Vietnamese and the destination language as well as are explained its content on terms and conditions of employment, covering salary, lawful deductions, possible optional services and charges, leave, work hours and overtime. The employment contract must be signed in duplicate prior to departure and the worker must be given a copy.
- Prior to departure, all migrant workers must be provided with contact information of support services at the destination and in Viet Nam. These include labour unions, Vietnamese embassies, Vietnamese associations, support groups, community-based organizations.

## 9. CONCLUSIONS AND POLICY RECOMMENDATIONS

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### Grievance mechanisms

- Ensure effective and responsive grievance mechanisms are in place for migrant workers to access at all stages of labour migration. These could include the use of smartphone applications, hotlines in collaboration with partner agencies and community-based organizations at destinations as well as engagement with labour unions.

### 9.2.2. Employment

#### GOVERNMENT OF VIET NAM

Government could further enhance protection of migrant workers at destinations by:

- Strengthening existing bilateral labour agreements with key receiving destinations to improve worker protection through State-based grievance mechanisms that are accessible to migrant workers in line with the UNGPs criteria of Article 31.
- Increasing coordination between government departments, embassies and consulates, community-based organizations, MRCs as well as recruitment agencies to support migrant workers at destinations and ensure opportunities for redress are available.

#### RECRUITMENT AGENCIES

Recommendations for recruitment agencies include:

- Carry out due diligence on employers at destinations as well as workplaces and accommodation to ensure conditions detailed in migrant worker employment contracts are accurate. This could be achieved through negotiations with employers to ensure service agreements allow agencies to conduct regular checks of employers and migrant workers.
- Coordinate and liaise closely with trade unions and other intermediaries at destinations to ensure migrants' work conditions are monitored on a regular basis and reported back to the recruitment agency.
- Negotiate with employers so service agreements signed between recruitment agencies and employers include the following terms:
  - Recruitment agencies can conduct regular checks with destination employers and migrant workers to ensure conditions of employment identified pre-departure and upon signing of contracts are realized;
  - Recruitment agencies can coordinate closely with unions and other intermediaries in destinations to ensure working conditions are regularly monitored and reported back to agencies;
  - Recruitment agencies can conduct regular reviews of destination employers in terms of environment, accommodation, equipment and protective wear.
- Ensure matching of prospective migrant workers with jobs based on respective skills and requirements as set out in the job order.
- Coordinate and liaise closely with trade unions and other intermediaries at destinations to ensure migrants' work conditions are monitored on a regular basis and reported back to the recruitment agency.

#### EMPLOYERS AT DESTINATIONS

To ensure migrant workers' workplace, accommodation and living standards are met as per applicable laws, contract terms and health and safety standards, the following is proposed:

- Adopt and/or strengthen policy commitments to ethical recruitment and employment of migrant workers. Ensure all recruitment fees and related costs are clearly stipulated in service agreements with labour recruiters and are paid by the employer and not charged to migrant workers.
- Conduct initial and ongoing due diligence on all business partners involved in the recruitment and employment of migrant workers, to ensure no recruitment fees are charged to workers. Survey newly employed migrant workers on their recruitment and deployment experience and remedy any violations identified, especially through establishing financial compensation schemes to refund any recruitment fees charged to workers.
- Ensure there are effective in-house grievance mechanisms that are known and accessible to migrant workers throughout labour migration process. At least one such mechanism should be anonymous.
- Provide regular updates to recruitment agencies on the status of employed migrant workers, including salary levels, reasons for deductions, salaries received, accommodation and visa overstayers.

### 9.2.3. Return and reintegration

#### GOVERNMENT OF VIET NAM

While the majority of these recommendations should be led by the Government of Viet Nam, recruitment agencies should be encouraged to play a role in these activities and programmes:

- Organize programmes and events at city, district and commune levels targeting returnees to link them with job recruitment nationally and internationally, drawing on skills migrant workers acquired abroad.
- More effort is needed to link returnees with jobs based on the skills acquired abroad. Provision of certification to ensure skills learned in destinations can then be transferred and recognized in Viet Nam is encouraged.
- Explore the need for financial literacy training for returnee migrant workers to inform decisions on how best to use money saved abroad.
- Support and encourage returnees to form groups or clubs, also by destination, to support each other to reintegrate back into life in Viet Nam and request support, as a group, from local authorities.
- Building on skills, knowledge and experiences of returnee migrants, they could be invited by recruitment agencies and government departments to teach prospective migrant workers languages and other skills, and share knowledge needed in destinations.
- Different forms of psychosocial support for returnees could be developed to assist with reintegration into life in Viet Nam.
- Identify potential contributions by recruitment agencies and encourage their involvement in the above-recommended activities.



Abuse	An improper act by a person in a position of relative power, causing harm to a person of lesser power (including physical abuse, sexual abuse, abuse of a position of vulnerability, psychological abuse) (IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse).
Country of origin	A country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly (IOM Glossary on Migration, 2019).
Country of destination	A country or territory that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly.
Exploitation	The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit (IOM Glossary on Migration, 2019).
Migrant workers under contract	Migrant workers working abroad in accordance with article 6, Law on Vietnamese Guest Workers Under Contract passed by the National Assembly on 29 November 2006 (Law No. 72/2006/QH11). Such migrants usually work under fixed-term contracts arranged by recruitment agencies licensed under Vietnamese labour migration laws with employers of destination countries.
Irregular migration	Movement of persons that takes place outside the laws, regulations, or international agreements governing the entry into or exit from the State of origin, transit or destination (IOM Glossary on Migration, 2019).
Labour migration	Movement of persons from one State to another, or within their own country of residence, for the purpose of employment (IOM Glossary on Migration, 2019).
Labour recruiter	Refers to public employment services and private employment agencies as well as all other intermediaries or sub-agents that offer labour recruitment and placement services. Labour recruiters can take many forms, whether for profit or non-profit, or operating within or outside legal and regulatory frameworks (General Principles and Operational Guidelines for Fair Recruitment, ILO, 2019).
Migrant worker	A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990).
Migration	The movement of persons away from their place of usual residence, either across an international border or within a State (IOM Glossary on Migration, 2019).
Pre-departure orientation	A programme that includes training courses designed to help prospective migrant workers acquire the knowledge, skills and attitudes needed to facilitate their integration into the country of destination. They also address expectations and provide a safe and nonthreatening environment in which to answer migrant workers' questions and address concerns (adapted from IOM Glossary on Migration, 2019).
Protective factor	Factors at the individual, household/family, community or structural level that decrease migrants' likelihood of experiencing violence, exploitation or abuse before, during or after migrating (IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse).

Regular migration	Migration that occurs in compliance with the laws of the country of origin, transit and destination (IOM Glossary on Migration, 2019).
Reintegration	A process which enables individuals to re-establish the economic, social and psychosocial relationships needed to maintain life, livelihood and dignity and inclusion in civic life (IOM Glossary on Migration, 2019).
Remittances	Personal monetary transfers, cross border or within the same country, made by migrants to individuals or communities with whom the migrant has links (IOM Glossary on Migration, 2019).
Violence	The intentional use of physical force or power, threatened or actual, that either results in, or has a high likelihood of resulting in, injury, death or psychological harm (IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse).
Vulnerability	Within a migration context, vulnerability is the limited capacity to avoid, resist, cope with, or recover from harm. This limited capacity is the result of the unique interaction of individual, household, community, and structural characteristics and conditions (IOM Glossary on Migration, 2019).
Vulnerable migrants	Migrants exposed to or with experience of violence, exploitation or abuse within a migration context and with limited capability to avoid, resist, cope or recover, as a result of the unique interaction of individual, household/family, community and structural characteristics and conditions (IOM Handbook on Protection and Assistance for Migrants Vulnerable to Violence, Exploitation and Abuse).



Nghe An province is located in the middle of the North Central coast region of Viet Nam. It has a total area of nearly 16,500 square kilometres (sq km), of which more than 12,383 sq km is agricultural land. It is Viet Nam's largest province by area, with diverse terrains including coastal, plain, midland and mountainous areas. The province is bordered by Thanh Hoa province to the north, Ha Tinh province to the south, Lao People's Democratic Republic to the west (sharing 419 km of land border), and to the east lies an 82 km coastline). With a population of 3,327,791 (according to the preliminary results of the 2019 Population and Housing Census of Viet Nam), Nghe An is the fourth most populous province in the country (after Ha Noi, Ho Chi Minh City and Thanh Hoa province).<sup>29</sup>

Nghe An is subdivided into 21 administrative sub-divisions, including: 1 provincial city (Vinh city), 3 district-level towns and 17 districts. Nghe An is situated on the east–west economic corridor connecting Myanmar, Thailand, Lao People's Democratic Republic and Viet Nam along National Route 7 to the port of Cua Lo. It is also a tourist destination along national and international travel routes (Viet Nam north–south route, Vinh city – Plain of Jars – Luang Prabang – Vientiane – Bangkok and return via National Routes 7 and 8).

As stated by Nghe An DoLISA in 2019, 2015–2018 saw positive economic growth in the province. Gross Regional Domestic Product (GRDP) per capita reached VND 28.52 million in 2015 and 37.83 million in 2018, which was 1.57 times higher than for 2011–2014. In terms of economic structure, the share of industrial/construction sectors increased from 25.79 per cent in 2015 to 30.42 per cent in 2018, while that of agro-forestry/fishery dropped to 20.66 per cent in 2018; the services sector's share remained stable, at 44.11 per cent in 2015 and 43.70 per cent in 2018. At present, the total number of employees in sectors of the national economy stands at 1,879,000, of which 170,950 are in the public sector, 1,672,829 are in the domestic private sector, and 35,221 are in foreign direct investment (FDI) enterprises. The share of the workforce by industry is as follows: 969,564 workers in agro-forestry/fishery sectors (51.6%); 441,565 in industrial/construction sectors (23.5%); and 467,871 in services and commercial sectors (24.9%).

<sup>29</sup> Natural conditions and socioeconomic characteristics of Nghe An province. Government of Viet Nam, 16 July 2019, [nghean.gov.vn/wps/portal/mainportal](http://nghean.gov.vn/wps/portal/mainportal) (in Vietnamese).

Through the past five years, Nghe An has always been the top province in terms of origin of migrant workers. There are more than 50 certified recruitment agencies recruiting workers for fixed-term labour contracts abroad. Within a four-year period (2015–2018), the province had sent 53,094 workers abroad under fixed-term contracts, an increase of 3.86 per cent on the 2011–2014 period and comprising 35.3 per cent of the total employed workforce of the province. The most popular destinations include Taiwan Province of the People's Republic of China, Japan, Malaysia, and the Republic of Korea. Currently, more than 60,000 workers from Nghe An are working abroad under fixed-term contracts (DoLISA, Nghe An province, 2019). From 2015 to 2018, migrant workers sent home more than USD 255 million in remittances per year on average to Nghe An. Thanks to these financial resources, many families have invested in production and commercial activities and have created thousands of jobs for themselves and others. Similarly, many households have escaped poverty and become better off thanks to migration opportunities (ibid.).

Despite the job placements and recruitment-related activities, according to DoLISA (ibid.), there are still 12,435 workers from Nghe An working in border areas (often Hmong areas) without contracts (though contracts are required by the Law on Vietnamese workers working abroad). Additionally, in recent years, people from Nghe An have been migrating overseas through their own means or through brokerage services, to Japan and the Republic of Korea, but also much further afield, to destinations including Angola, Australia and Eastern European countries. At these destinations, they often work without contracts and stay irregularly, entering initially as tourists, through visiting relatives and/or fake marriages (DoLISA, Nghe An, data consolidated from other reports). Another shortcoming, according to DoLISA, is the high rate (40%) of workers from Nghe An quitting their contracts prematurely. This not only affects migrant workers directly – for example, the worker will be deported prematurely and will have to compensate for the contract fees – but also leads to loss of trust in workers from Nghe An among companies overseas. One example is from the Republic of Korea, which previously offered favourable benefits to migrant workers from Viet Nam but has now suspended the recruitment of migrant workers from 11 districts, city and district-towns and communes of Nghe An under the Employment Permit System (EPS) programme (ibid.). These and other issues will all be explored further through the primary data collection.



Table 4: Sample type and sample size per site

	IDs	FCSs*	FGDs**	KIs	Total
Yen Thanh	17	2	2	6	27
Vinh city	16	1	3	9	29
Total	33	3	5	15	56

\* For each FCS only one person in addition to the IDI was spoken to (see also 'Challenges' section).

\*\* Number of participants in FGDs ranged from three to five.

Table 5: Gender breakdown of IDI and FGD

	Women	Men	Mixed	Total
Yen Thanh				
IDI	4	13		17
FGD		1	1 (3 F, 1 M)	2
Vinh city				
IDI	4	12		16
FGD		2	1 (2 F, 2 M)	3
Total	8	28	2	38

## ANNEX 2. DETAILS OF STUDY RESPONDENTS

Table 6: Breakdown of interviews by destination

	Japan	Republic of Korea	Malaysia	Taiwan Province of the People's Republic of China	Mixed	Total
Yen Thanh						
IDI	6	5	4	2		17
FCS	1		1			2
FGD	1				1 (Malaysia/ Taiwan Province of the People's Republic of China)	2
Vinh city						
IDI	6	6	2	2		16
FCS		1				1
FGD	1	1			1 (Malaysia/ Taiwan Province of the People's Republic of China)	3
Total	15	13	7	4	2	41

Table 7: List of KIs by site and type

Yen Thanh	Vinh city
<ol style="list-style-type: none"> <li>1. Recruitment agency</li> <li>2. Village leader</li> <li>3. People's Committee vice chairman</li> <li>4. Chairman of Women's Union</li> <li>5. Standing member of Youth Union</li> <li>6. Deputy head of DoLISA</li> </ol>	<ol style="list-style-type: none"> <li>1. Vice Director of Employment Service Centre (ESC)</li> <li>2. Representative from Vinh City DoLISA</li> <li>3. Head of Department of Employment, Nghe An DoLISA</li> <li>4. Director of the Migrant Resource Centre (MRC)</li> <li>5. Director of a recruitment agency in Nghe An</li> <li>6. Head of Department Student Affairs, Viet Nam Germany College</li> <li>7. Village leader / person knowledgeable about migration</li> <li>8. Representative from Agribank</li> <li>9. Head of credit department, Social Policy Bank</li> </ol>

## ANNEX 2. DETAILS OF STUDY RESPONDENTS

Table 8: Respondents' sociodemographic characteristics

		YEN THANH				VINH CITY				TOTAL FOR BOTH SITES			
		IDIs	FGDs	IGTs/FCS	Total	IDIs	FGDs	IGTs/FCS	Total	IDIs	FGDs	IGTs/FCS	Total
Gender	Women	4	3	2	9	4	2	1	7	8	5	3	16
	Men	13	4	0	17	12	10	0	22	25	14	0	39
Age	20–24	3	0	0	3	0	1	0	1	3	1	0	4
	25–29	2	0	0	2	7	2	0	9	9	2	0	11
	30–34	4	2	0	6	2	3	0	5	6	5	0	11
	35–39	3	4	0	7	1	1	0	2	4	5	0	9
	40–44	1	0	1	2	3	2	0	5	4	2	1	7
	45–49	4	0	0	4	1	1	0	2	5	1	0	6
	50–54	0	1	0	1	1	1	0	2	1	2	0	3
	55–59	0	0	1	1	0	0	1	1	0	0	2	2
	60–64	0	0	0	0	1	1	0	2	1	1	0	2
Marital status	Single	4	0	0	4	7	4	0	11	11	4	0	15
	Married	13	6	2	21	9	8	1	18	22	14	3	39
	Widowed	0	1	0	1	0	0	0	0	0	1	0	1
Education level	Secondary	10	3	2	15	6	9	1	16	16	12	3	31
	College	6	4	0	10	9	3	0	12	15	7	0	22
	University	0	0	0	0	1	0	0	1	1	0	0	1
	Unknown	1	0	0	1	0	0	0	0	1	0	0	1
Household size	1	2	N/A	N/A	2	1	N/A	N/A	1	3	N/A	N/A	3
	2	1			1	1			1	2			2
	3	4			4	2			2	6			6
	4	3			3	4			4	7			7
	5	5			5	3			3	8			8
	6	0			0	3			3	3			3
	7	1			1	2			2	3			3
	8	1			1	0			0	1			1
Migration destination	Thailand	0	0	N/A	0	0	1	N/A	1	0	1	N/A	1
	Lao People's Democratic Republic	0	0		0	0	1		1	0	1		1
	Malaysia	4	3		7	2	4		6	6	7		13
	China	1	0		1	0	0		0	1	0		1
	Taiwan Province of the People's Republic of China	2	2		4	2	1		3	4	3		7
	Republic of Korea	5	3		8	6	3		9	11	6		17
	Japan	6	0		6	6	4		10	12	4		16
	Russian Federation	1	0		1	0	1		1	1	1		2
	Israel	0	0		0	1	0		1	1	0		1
No. of times migrated	Angola	2	0	N/A	2	0	1	N/A	1	2	1	N/A	3
	Once	10	6		16	15	9		24	25	15		40
	More than once - to the same destination	5	1		6	0	0		0	5	1		6
	More than once - to different destinations	2	0		2	1	3		4	3	3		6
Sector of occupation at destination	Farming / food processing	5	0	N/A	5	5	1	N/A	6	10	1	N/A	11
	Construction	3	0		3	2	7		9	5	7		12
	Electronics	3	2		5	1	1		2	4	3		7
	Factory-based mechanics and metal work, inc. car/ plane manufacturing	4	4		8	4	4		8	8	8		16
	Textiles	0	1		1	2	1		3	2	2		4
	Other manufacturing	5	2		7	2	2		4	7	4		11
	Machinery installation and maintenance	0	0		0	2	0		2	2	0		2
	Domestic work	0	0		0	1	0		1	1	0		1
	Caregiving	1	0		1	0	0		0	1	0		1
	Translation	0	0		0	1	0		1	1	0		1
No. of sectors worked in	1	13	5	N/A	18	12	8	N/A	20	25	13	N/A	38
	2	4	2		6	4	4		8	8	6		14

Table 9: Key legal documents and programmes on Vietnamese workers abroad

Year	Laws, legal documents and policies/programmes
General documents	
2006	<p>Law No. 72/2006/QH11 on 29/11/2006 on Vietnamese Working Abroad under Labour Contracts. The 11<sup>th</sup> National Assembly passed the Law on Vietnamese Working Abroad under Labour Contracts at its 10<sup>th</sup> session, which came into effect on 1 July 2007. The law regulates the sending of Vietnamese workers abroad under labour contracts, specifying the rights and responsibilities of Vietnamese migrant workers, sending agencies and other related organizations and individuals. In 2020, Law No. 72/2006/QH11 has been amended and adopted as Law No. 69/2020/QH14, and will enter in force on 1 January 2022.</p> <p>MoLISA has played a leading role and collaborated with relevant agencies in developing, submitting and promulgating 25 legal documents under its authority to guide the implementation of this Law, including 7 Government Decrees, 2 Prime Minister Decisions, 12 Circulars and Joint Circulars, and 4 MoLISA Minister Decisions.</p>
2007	Decree 126/2007/ND-CP of 1 August 2007 details and guides the implementation of a number of articles of Law No. 72/2006/QH11 on Vietnamese Working Abroad under Labour Contracts.
2007	Circular 21/2007/TT-BLĐTBXH of 8 October 2007 by MoLISA details and guides the implementation of a number of articles of Law No. 72/2006/QH11 on Vietnamese Working Abroad under Labour Contracts.
2014	Government Decree No. 119/2014/ND-CP of 17 December 2014 details a number of articles of the Labour Code, the Law on Vocational Education, and the Law on Vietnamese Working Abroad under Labour Contracts related to complaints and accusations.
2017	Circular 35/2017/TT-BLĐTBXH of 29 December 2017 by MoLISA regulates the management, operation and utilization of the database of Vietnamese Working Abroad under Labour Contracts, including: receipt of applications for issuance or new licenses, replacement and renewal of licenses to send Vietnamese workers abroad under labour contracts, registration of labour supply contracts, updating of sending agencies' information, and operation of reporting system on Vietnamese working abroad under contracts.
Organizational system, training and contracts	
2007	Decision 19/2007/BLĐTBXH on the organizational system for sending Vietnamese workers abroad (18 July 2007) provides for the organizational system for sending Vietnamese workers abroad and the specialized system for the provision of essential knowledge for workers prior to overseas employment in sending enterprises.
2007	Decision No. 144/2007/QĐ-TTg of 31 August 2007 by the Prime Minister on the establishment, management and use of the Fund for Overseas Employment Support.
2007	Decision 18/2007/QĐ-BLĐTBXH on essential knowledge provision programme for workers prior to overseas employment (18 July 2007). This aims to equip Vietnamese workers with essential knowledge about Vietnamese laws and laws, traditions, customs, lifestyle and working style at possible destinations, to help workers adapt quickly to the living and working conditions abroad.
2007	Joint Circular 08/2007/TTLT-BLĐTBXH-BTP on the content and liquidation of guarantee contracts for Vietnamese workers employed overseas (dated 11 July 2007). This MoLISA–Ministry of Justice circular provides detailed guidance for a number of issues related to the content of guarantee contracts between contract-based Vietnamese workers employed abroad and the sending agencies, and the liquidation of such contracts.
2007	Decision 20/2007/QĐ-BLĐTBXH (dated 2 August 2007) provides the essential knowledge certification form issued to workers who have completed the course prior to overseas employment.
2013	Circular 22/2013/TT-BLĐTBXH (dated 15 October 2013) prescribes the form and content of the Labour Supply Contract and Vietnamese guest worker contract.



Year	Laws, legal documents and policies/programmes
Recruitment fees and related costs	
2007	Joint Circular 16/2007/TTLT-BTC-BLDTBXH on Brokerage and Service Fees in the sending of Vietnamese workers abroad (dated 4 September 2007). The MoLISA-MoF joint circular provides regulations on the brokerage and service fees for sending Vietnamese workers to work abroad under contract.
2007	Decision 144/2007/QĐ-TTg on the establishment, management and use of the Fund for Overseas Employment Support (dated 31 August 2007). The Fund was set up on the basis of reorganizing the Labour Export Support Fund (which was set up under the Prime Minister's Decision No. 163/2004/QĐ-TTg of 8 September 2004) and aims to develop and expand foreign labour markets, raise the quality of the workforce, and support workers and enterprises in handling risks. The Fund for Overseas Employment Support Fund is managed by MoLISA, operates for non-profit purposes, is tax-exempt and independent in cost-accounting, has the legal person status and state treasury accounts. Any outstanding balance from one year may be carried forward to subsequent years.
2007	Joint Circular 17 /2007/TTLT- BLDTBXH-NHNNVN. This Joint Circular of MoLISA and the State Bank of Viet Nam regulates the management and use of deposits of enterprises and Vietnamese workers going abroad under labour contracts.
2008	Joint Circular 11/2008/TTLT-BLDTBXH-BTC on the management and use of the Fund for Overseas Employment Support, from MoLISA and MoF.
2008	Decision 61/2008/QĐ-BLDTBXH (dated 12 August 2008) on the brokerage fees paid by Vietnamese workers to sending enterprises for some destinations.
2009	Decision 630/QĐ-LDTBXH on the cost of the worker training programme in poor districts following Decision 71/2009/QĐ-TTG.
2010	Joint Circular 01/2010/TTLT-TATC-BLĐ-VKSTC on resolution of disputes related to Guarantee Contract in labour sending activities (dated 18 May 2010). This Joint Circular of the Supreme People's Court, MoLISA and the Supreme People's Procuracy guides the application of a number of the Law's regulations in resolving disputes related to Guarantee Contract for Vietnamese workers going abroad under contract at the Supreme People's Court.
2013	Circular 21/2013/TT-BLĐTBXH on 10 October 2013. Regulates the cap of escrow deposits and labour markets that a service enterprise can negotiate with Vietnamese workers for some markets.
2013	Decision 1465/QĐ-TTg on 21 August 2013 on piloting deposits with Vietnamese workers going to the Republic of Korea under the Republic of Korea's employment programme for foreign workers.
2018	Decree 24/2018/NĐ-CP on handling complaints and accusations of labour and related issues (dated 27/2/2018). This decree provides regulations on complaints and handling of complaints about decisions and behaviours related to labour, vocational education, the sending of Vietnamese workers abroad under labour contract, employment, work safety and hygiene. It also provides regulations on accusations and handling of accusations of decisions and behaviours related to labour, vocational education, the sending of Vietnamese workers abroad under labour contract, employment, work safety and hygiene.
Penalties	
2013	Decree 95/2013/NĐ-CP on 22 August 2013 on penalties for administrative violations against regulations on labour, social insurance and overseas manpower supply.
2013	Joint Circular No. 32/2013/TTLT-BLĐTBXH-BNG on 6 December 2013. The Joint Circular of MoLISA and the Ministry of Foreign Affairs guides the penalty procedures of administrative violations specified at points a, b and c, Item 2, Article 35 of Decree No. 95/2013-NĐ-CP.

Year	Laws, legal documents and policies/programmes
Japan	
2016	Official Letter 1123/LĐTBXH-QLLĐNN on realigning and improving the activities of sending Vietnamese nationals to Japan under internship programme, dated 6 April 2016. This official letter was sent to enterprises providing services of sending Vietnamese workers abroad under labour contracts, aiming to enhance the responsibilities of sending enterprises and regulate the management responsibilities of relevant stakeholders.
Republic of Korea	
2013	Joint Circular 31/2013/TTLT-BLĐTBXH-BTC on 12 November 2013. The Joint Circular of MoLISA and MoF guides the implementation of the Prime Minister's Decision 1465/QĐ-TTg on 21 August 2013 on piloting deposits with Vietnamese workers going to the Republic of Korea under the Republic of Korea's employment programme for foreign workers.
Programmes and policies	
2009	The Prime Minister's Decision No. 71/2009/QĐ-TTg on 29 April 2009 approving the project of support for poor districts on enhancement of labour export, contributing to sustainable poverty reduction in the period 2009–2020.
2012	The Prime Minister's Decision No. 1201/QĐ-TTg on 31 August 2012 approving the National Target Programme on Employment and Vocational Training for the period 2012–2015.
International Conventions, Treaties	
2019	ILO Abolition of Forced Labour Convention (No. 105).
1966	International Covenant on Civil and Political Rights, ratified in 1982.
1966	International Covenant on Economic, Social and Cultural Rights, ratified in 1982.

Table 10: Ceiling rates of deposits in study countries

No.	Market	Occupation	Deposit Ceiling Rate (USD)
1	Taiwan Province of the People's Republic of China	Factory worker, construction worker	1,000
		Domestic helper, Care taker	800
		Crew on offshore fishing ships	900
		Other jobs	1,000
2	Malaysia	All jobs	300
3	Japan	Intern	3,000
		Crew on offshore, inshore and transport ships	1,500
4	Republic of Korea	Crew on fishing ships (inshore)	3,000
		Crew on fishing ships (offshore)	1,500
		Worker with yellow card, Visa E-7	3,000

Source: Excerpts from Annex 01, Circular No. 21/2013/TT-BLĐTBXH, 10 October 2013.

Table 11: Maximum brokerage commissions to enterprises from Vietnamese guest workers

No.	Market/Type of Job	Maximum Brokerage Commission/ Person/Contract (USD)
	Taiwan Province of the People's Republic of China	
1	Factory workers, construction workers	1,500
2	Domestic helpers, care takers	800
3	Crew on offshore fishing ships	None
	Malaysia	
4	Men workers	300
5	Women workers	250
6	Outsourcing company workers	200
7	Domestic workers	None
	Japan	
8	All jobs	1,500
	Republic of Korea	
9	Apprentices on fishing ships (inshore)	500

Source: Annex on brokerage commission amounts, Decision No. 61/2008/QĐ-LĐTBXH on 12 August 2008 by MoLISA Minister.

Table 12: Essential Knowledge Provision Programme for workers prior to overseas employment

No.	Content	Theory	Practice	Total number of sessions
1	Vietnamese traditions and culture	4		4
2	Basic knowledge related to labour, criminal, civil and administrative laws of Viet Nam and labour-receiving destination	12		12
3	Contents of the contract signed between the service enterprise/provider/organization/individual and the worker	8		8
4	Workplace regulations, safety and hygiene	8	8	16
5	Traditions, customs and culture of receiving destination	4	4	8
6	Code of conduct at work and in life	8		8
7	Use of means of transport; purchase and use of goods for daily living	4	4	8
8	Precautions while living and working overseas	6		6
9	Review and final exam	4		4
	<b>Total</b>	<b>58</b>	<b>16</b>	<b>74</b>

Source: Decision 18/2007/QĐ-BLĐTBXH on knowledge provision programme for guest workers.



### Box 1: Regulations for stakeholders in management and protection of overseas Vietnamese workers' rights

Summary of a number of Viet Nam's regulations (Law No. 72/2006/QH11, Decree 126/2007 and Circular 21/2007) for key stakeholders in the management and protection of lawful rights and interests of overseas Vietnamese workers.

#### Responsibilities of enterprise providing services of sending workers abroad

- To organize the management of workers it sends abroad and protect their lawful rights and interests (Article 27, item d).
- To coordinate with foreign parties in dealing with matters arising when workers die, meet with labour accidents or risks, are infected with occupational diseases, or have their life, health, honour or dignity or property infringed upon, and to settle disputes related to workers (Article 27, item e).
- To report to and coordinate with foreign-based Vietnamese diplomatic missions or consulates in managing and protecting the lawful rights and interests of workers working overseas (Article 27, item g).
- Service enterprises shall appoint their personnel to manage guest workers in destinations to which they send large numbers of workers or in particular labour markets according to regulations of the Department of Overseas Labour (Circular 21/2007/TT-BLĐTBXH).
- Service enterprises shall monitor and supervise the performance of labour contracts between workers and employers, promptly settle problems arising beyond workers' solving capacity or upon workers' request.

#### Responsibilities of foreign-based Vietnamese diplomatic missions and consulates

- To guide and inspect activities of foreign-based representatives of Vietnamese enterprises and non-business organizations in the management of guest workers and the settlement of problems related to them (Law No. 72/2006/QH11).
- Together with the MoLISA, related ministries and sectors, to research and provide suggestions to the government on guidelines and policies for overseas Vietnamese workers; to direct, and guide Vietnamese foreign-based diplomatic missions and consulates to carry out the following tasks: providing consular protection, protection of legitimate rights and interests of Vietnamese labourers working in foreign countries in compliance with the laws of Viet Nam, laws of the destination and international agreements to which Viet Nam and the destinations have committed, to coordinate with local authorities to handle matters arising in relation to the Vietnamese workers working at destinations, to research and provide information for the market development of sending workers to work at destinations, to coordinate with MoLISA and the concerned agencies to organize activities to promote overseas labour markets (Article 9, Decree 126).

#### Responsibilities of MoLISA

- MoLISA shall take responsibility before the government for performing the state management of guest workers (Article 70, Item 2. Law No. 72/2006/QH11).
- To settle complaints and accusations related to the operation of sending workers abroad according to the Law's regulations; to inspect, examine and handle violations for the organizations and individuals committing administrative violations in the sending of workers abroad; to organize and implement specialized inspection for the sending of workers abroad; to coordinate with the Ministry of Foreign Affairs to organize and direct the management and handling of matters related to the Vietnamese workers abroad; to coordinate with the Ministry of Foreign Affairs, Ministry of Home Affairs to organize the Guest worker management committees under foreign-based Vietnamese diplomatic missions and consulates at destinations with large numbers of Vietnamese workers (Article 8, Decree 126/2007).

## ANNEX 4. LEGAL AND POLICY FRAMEWORK FOR LABOUR MIGRATION TO JAPAN AND THE REPUBLIC OF KOREA

### JAPANESE LABOUR IMMIGRATION POLICY

Japan has historically had extremely restrictive immigration policies, priding itself on being an ethnically and linguistically homogenous society. In 2014, Japan's foreign population of about 2 million registered foreign residents made up less than 2 per cent of the total population (Akashi, 2014). However, owing to its ageing population and resulting labour shortages, Japan has adopted a more lenient approach to immigration in recent years.

#### Visas

There are now four major categories for work visas and permits in Japan: the high-skilled professional visa, the general working visa, the working holiday visa, and a new specified skills work visa – the New Guest Worker Programme:

- The high-skilled visa is designed for highly educated foreign talent and operates on a points system. The calculation of these points takes into account educational qualification, experience, Japanese language skills, annual salary, age, and other achievements. In order to qualify, visa applicants must receive 70 points or more. The high-skilled professional visa is regarded as the most beneficial to the migrant worker as they are permitted to sponsor their spouse, children, parents and any domestic help. The visa allows migrant workers to stay in Japan for an initial five years; however, this can be extended indefinitely (Admin, 2019).
- The general working visa covers skilled labour within various sectors such as professors, artists, religious activists, journalists, business managers, medical services, legal/accounting services, instructors, researchers, engineers, intra-company transfers, and entertainers. This visa is also the type provided under the TITP. Depending on the sector, different criteria apply for this type of visa.
- Two new types of working visa became available under the 2019 New Guest Worker Programme, a new government-sponsored programme for labour migrant workers to Japan that responds to labour shortages emerging as the result of Japan's ageing population. The Category 1 visa status is aimed at lower-skilled work sectors, and is issued to those who pass new technical and Japanese language tests or complete a three-year job training. Category 2 is aimed at semi-skilled work sectors, and will be granted to highly and specified skilled workers who pass a more challenging test and can lead to permanent residence (Toshihiro, 2019).
- Under the working holiday visa, migrant workers can stay and work in Japan for up to one year. The visa can also be converted into other forms of working visas. However, Viet Nam is not included in the list of the 22 countries covered by this agreement.

#### Governance

Japan operates a state-prioritized admission system, which identifies the occupational categories that foreign workers must belong to if they are to be admitted. These categories are decided on by the Japanese Diet, which enacts legislation following advice from the Council on Economic and Fiscal Policy, an advisory committee for the Prime Minister. The Council consults with ministries for various economic sectors, a process coordinated by the Cabinet Office. The Revised Immigration Control and Refugee Recognition Law stipulates the categories and conditions for admission. In addition, more than 10 ministries are involved in the process of setting guidelines and conditions for admission including Labour and Social Welfare, Industry, Health, Education, Construction, and Agriculture. At present, employers may only apply for workers falling under one of 27 skilled worker categories.<sup>30</sup> The immigration and refugee law does not allow admission of foreign manual workers including agricultural workers, but does allow for the admission of “technical trainees” who are not considered workers (ADB, ILO and OECD, 2016).

Several ministries are involved in the implementation of immigration law, but the Ministry of Justice bears the principal responsibility. The Immigration Bureau is the specific office under the ministry that has responsibility for the “entry” and “control of residence” of all foreign nationals, including labour migrants. The Bureau receives the applications from employers wanting to hire skilled foreign workers and decides on the basis of conditions and guidelines previously agreed with other concerned ministries. After reviewing the worker's qualifications and suitability for the job, the Bureau issues a certificate of eligibility.

<sup>30</sup> The 27 categories include diplomats, officials, professors, artists, entertainers, journalists, engineers, investors/business managers, legal and accounting services, medical services, specialists in humanities/international services, religious activities, intra-company transferees, researchers, instructors, skilled labour, and technical interns.

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The Ministry of Foreign Affairs is then informed, which in turn issues a work visa through its consulate in the worker's country of origin (ADB, ILO and OECD, 2016).

A key ministry with respect to foreign workers once they are in Japan is the Ministry of Health, Labour and Welfare, which is responsible for labour-management administration. It collects information on labour market conditions that is vital to the Advisory Council's task of recommending the occupations that should be open to admission, but its main tasks lie in enforcing regulations on the protection and non-discriminatory treatment of foreign workers once they have been admitted. The Ministry requires all employers to report and register their foreign workers and attends to complaints and disputes that may arise (ADB, ILO and OECD, 2016).

Local governments play a crucial role in the implementation of foreign worker policies and in the protection of migrant workers' rights. It is at the local level where policies on so-called "coexistence" with foreign nationals residing in Japan are actually most obvious. It is the local governments that fund and provide vital services to foreign workers such as emergency hospitalization, education for their children, language training and, in some cases, housing. At the local level, civil society organizations and trade unions provide a variety of services such as finding temporary shelter, providing facilities for migrants' association activities, and helping migrant workers access labour authorities in case of problems with their treatment during employment (ADB, ILO and OECD, 2016).

Each of the ministries involved maintains its own database to carry out its immigration-related functions, but no arrangements exist for pooling data into a common database. The sharing of personal data on foreign nationals working and residing in Japan is strictly regulated by Japan's privacy law and for this reason no common database exists that can be accessed by all ministries. The Ministry of Construction, for example, does not have access to information on which companies employ foreign engineers. The Ministry of Health, Labour and Welfare has such information but can only share it according to the provisions of the privacy law (ADB, ILO and OECD, 2016). The main government-sponsored programmes for low-skilled labour migrant workers to Japan are introduced in Box 2.

In July 2019, MoLISA signed a Memorandum of Understanding and Cooperation with Japan's Ministry of Justice, Ministry of Foreign Affairs, Ministry of Labour and Social Welfare, and the National Police Agency, on the basic legal framework for implementation of the "Specific skilled labour" programme to strengthen, protect and facilitate the dispatch and receipt of specific labourers on the basis of the laws of the two countries. The memorandum specifies Japan's responsibilities for cost covering as well as commitments to include in the guidance documents the principles of cost-sharing between receiving organizations and agencies related to Japanese language training or skill training costs, travel costs including the specified skilled workers' return to Viet Nam after contracts end, and other necessary costs for sending specified skilled workers according to Viet Nam's regulations.

### Box 2: Government-sponsored programmes for low-skilled migrant workers to Japan

The Technical Intern Training Programme (TITP) is a government-sponsored programme developed in 1993 to bring low-skilled workers to Japan to fill labour shortages and transfer skills to migrant workers coming from less developed countries (Makoto, 2018). The TITP is a successor to earlier Japanese internship programmes that allowed young workers to enter Japan in the name of technical skill transfer. However, according to the secondary literature, as these interns were not protected by Japan's Immigration Control Act, their wages were below Japan's minimum wage and they were not safeguarded by the Japanese labour law, meaning that they could fall victim to abuse and labour exploitation. The TITP was established to grant foreign interns permission to legally stay and work in the nation for up to one year as a trainee and an additional two years as interns in the context of a growing number of illegal migrant workers in the country (Nguyen Manh Ha, 2015). Japan has Memorandums of Understanding with Viet Nam to facilitate the temporary immigration of Vietnamese workers under the TITP. In 2019, the Japanese government introduced the New Guest Worker Programme (NGWP) in response to labour shortages emerging as the result of Japan's ageing population. This programme allows approximately 345,000 blue-collar workers to enter Japan over a five-year contract (compared to the three-year contract currently offered by the TITP) and will coexist alongside the TITP.

## ANNEX 4. LEGAL AND POLICY FRAMEWORK FOR LABOUR MIGRATION TO JAPAN AND THE REPUBLIC OF KOREA

### REPUBLIC OF KOREA LABOUR IMMIGRATION POLICY

#### Visas

Temporary labour migrant workers to the Republic of Korea hold one of two types of visa: an H–2 visa for those of Korean origin and an E–9 visa for those of foreign origin (Cho et al., 2018).

#### Governance

Labour immigration to the Republic of Korea is managed through a sophisticated governance structure, led by the Ministry of Employment and Labour, which manages the labour and human resources involved. This has helped the government of the Republic of Korea manage often hostile public opinion surrounding its foreign workforce, with temporary labour migration most often perceived to be integral to the Republic's labour policy and separate from the immigration agenda and related social issues. Inflows of temporary labour migrant workers are facilitated and managed by the Foreign Employment Law under the purview of the Ministry of Employment and Labour, whereas immigration and refugee issues are under the purview of the Ministry of Justice.

By using the Ministry of Employment and Labour's existing infrastructure for intermediation and job matching as well as worker counselling, foreign workers are provided with the same services available to nationals of the Republic of Korea. Supported by this robust governance system, the entire process — from a mandatory language test during the pre-decision stage, to workers' identification and recruitment, to the provision of job-matching services and worker protection and counselling, to assistance with returns and settlement — is managed by the government of the Republic of Korea in coordination with the sending country government and with limited involvement of private sector agencies (Cho et al., 2018).

The main government-sponsored programme for low-skilled labour migrant workers to the Republic of Korea is introduced in Box 3. Principal responsibility for implementing and managing this programme sits with the Human Resources Development Service of Korea (HRD Korea), which was established specifically for this purpose — including the principal features of (a) government-to-government agreements with source countries for recruitment, (b) exclusion of private intermediaries, (c) some proficiency in the Korean language acquired in the source country to qualify, and (d) planned admissions using annual quotas (ADB, ILO and OECD, 2016).

To limit the number of migrant workers overstaying their labour contracts, in 2011, the Republic of Korea introduced a number of programmes including: provision of language tests on computers for migrant workers who return home in compliance with their contract periods; the policy for committed foreign workers who have worked in manufacturing businesses with 30 employees or fewer, or in the agriculture and livestock, or fishery sector without changing workplaces; and the Happy Return Programme, which supports foreign workers to return and reintegrate into the home labour markets (Nguyen, 2013).

#### Box 3: Government-sponsored programme for low-skilled migrant workers to the Republic of Korea

The Employment Permit System (EPS) is the Republic of Korea's flagship temporary labour migration programme for low-skilled workers. Temporary labour migrant workers who enter through the EPS represent the majority of the foreign-born population in the Republic of Korea. It can be classified as a non-seasonal guest worker programme and has the aim of “co-development”—that is, the mutual benefit of both the Republic of Korea and sending countries. Introduced in 2004 in partnership with just 6 countries, the programme has expanded to 16 countries since 2008. From the onset of the programme up to 2015, more than 540,000 individuals had worked in the Republic of Korea under the EPS, with the largest share of workers coming from Viet Nam (Cho et al., 2018). The annual quota for the E–9 visa (unskilled workers) was set at 55,000 for 2015 (ADB, ILO and OECD, 2016). The Republic of Korea has a Memorandum of Understanding with Viet Nam for the temporary immigration of Vietnamese workers under the EPS.



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According to notices on the website of the Department of Overseas Labour (DoLAB, [colab.gov.vn/](http://colab.gov.vn/)), the Republic of Korea's Ministry of Justice has announced new policies to encourage illegal immigrant workers in the Republic to return to their countries. The main policies are as follows:

1. Foreign workers (under E-9 visa) staying illegally in the Republic of Korea who voluntarily give themselves up and return home between 11 December 2019 and 30 June 2020:

- will not be subject to monetary fines, and will be allowed to continue staying in the country for up to three more months;
- if they return home within the above-mentioned time period, they will be allowed to sign up for a Korean language test and apply for jobs in the Republic of Korea under the EPS, if qualified for the test;
- when registering for the voluntary home-return programme, the worker will receive a "Certificate of voluntary home-return" issued by the Republic of Korea's Ministry of Justice. After between three and six months in their home country, they will be allowed to return to the Republic of Korea under the following visas: one-time short-term visit (C-3 visa); short-term employee (C-4 and E-8 visas); Korean language trainee (D-4 visa); corporate investor (D-8).

2. Foreign workers who did not follow the official procedures of job changing:

Foreign workers who changed jobs without following the official job changing procedures and whose visas are still valid: those voluntarily report themselves to the authority from 11 December 2019 to 31 March 2020 will only be subject to 30 per cent of the total fine, and will be allowed to continue their current jobs, or register with the Republic of Korea's Ministry of Labour and Employment to find another job.

This policy is also applicable to employers who are employing irregular workers or workers who did not follow the official job changing procedures, to encourage employers to report to the authority.

According to the website, the Republic of Korea introduced these new policies to encourage illegal foreign workers and unlawful employers to volunteer to report to the authority for the incentives, and at the same time, these set the foundation for future large-scale raids of foreign workers who are staying illegally in the Republic of Korea. Foreign workers who volunteer to return home and those who are deported will reduce the number of illegal foreign workers, and it serves as the basis for considering increasing the quota of foreign workers under the EPS.

On 15 January 2020, DoLAB also promulgated [Official Letter No. 115/QLLĐNN-HQTACP](#) to request provincial-level departments and central-level cities to collaborate with local authorities to disseminate information about the Republic of Korea's new policies and encourage families of irregular workers to persuade their family members to report to the Republic of Korea authorities and return home, so that they can be eligible for the incentives.

*Note:* As reported by study participants, illegal/overstaying workers who were caught and deported did not have to pay any monetary penalties. This could be a factor influencing the decision by many to overstay their contracts. Unfortunately, DoLAB's website as well as Official Letter No. 115/QLLĐNN-HQTACP sent by DoLAB to the provincial and central-level cities' do not mention a specific fine amount.

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