

# Is Regular Migration Safer Migration? Insights from Thailand

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## Executive Summary

In the context of sharply increasing levels of international migration, development actors across Southeast Asia have begun to focus their attention on programming intended to make migration safer for aspiring and current migrant workers. These projects, however, typically begin with the assumption that more regular, orderly migration is also *safer* for migrants, an idea built into the language of the Sustainable Development Goals and the Global Compact on Migration. This article questions this assumption. It takes as its starting point the observation that migrant workers who move through legal channels do not systematically experience better outcomes among a range of indicators. Based on data collected from Cambodian, Burmese, Laotian, and Vietnamese labor migrants recently returned from Thailand, this work highlights the limits of regular migration to provide meaningfully “safer” experiences. Although migrants moving through regular channels report better pay and working conditions than those who moved through irregular channels, they also systematically report working conditions that do not meet legal standards, and routinely experience contract substitution. In other areas, regular migrants generally fare similarly to or worse than irregular migrants. They are more likely to experience deception and to have written or verbal agreements broken in migration processes. On arrival in Thailand, they routinely have their documents held, and they are more likely than irregular migrants to experience harassment and abuse both in the migration process and at their worksites. They are also more likely to return involuntarily and to struggle with financial insecurity and indebtedness after returning. These findings challenge mainstream development discourses seeking to promote safer migration experiences through expanding migration infrastructure. At the same time, they highlight the need for policymakers, development actors, and migration practitioners to reconsider the conflation of “safe” with “regular and orderly” migration throughout their programming.

## Keywords

safe migration, legal status, migration policy, Southeast Asia

## Introduction

On December 18, 2017, International Migrants’ Day, the President of the United Nations General Assembly (UNGA) marked the occasion with these words:

Allow me to make three points as we mark today’s celebration. The first is that, while millions of people are on the move, too many fall victim to exploitation and abuse. Half of international migrants are women, and some 31 million are children. These are particularly vulnerable to exploitation by smugglers and traffickers . . . Migrant women and girls are often overlooked. Women take on jobs in the informal economy. They make a valuable contribution but are under-paid, work in unsafe conditions and often have very little or no legal protections. Many are at risk of physical and sexual violence at the hands of unscrupulous recruiters and employers. Child migrants may also fall victim to exploitation through child labour – locked away in sweatshops or put to work on distant farms. We must not forget them. We must not turn a blind eye. Migrants’ human rights must be protected. And this is one reason why it is critical that we fulfill our joint commitment to agree a Global Compact on Migration. . . . The Compact will be our opportunity to take joint action to address irregular migration; to bring order; and to make migration safe. (Lajčák 2017)

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Both the speech's general message and its final lines underscore the widely articulated claim in the development community that a key way to make migration *safer* is by ensuring that cross-border movements become more *orderly*. A range of logics and claims supports these ideas, such as that smugglers and unscrupulous recruiters exploit migrant workers, migrants without legal status are more likely to experience rights violation, and work in the informal economy is less safe than work in the formal sector. Among these logics, the working assumption is that illicitness itself generates other forms of vulnerability. Thus, the act of ordering and regulating migration dynamics — making illicit movements visible and licit — is also expected to increase migrant safety.

On the same day that the UNGA President reaffirmed the need for “safe, orderly, and regular migration,” the International Labour Organization (ILO) and the International Organization for Migration (IOM) released a joint study on the “Risks and Rewards” of labor migration in the Greater Mekong region (Harkins, Lindgren, and Suravoranon 2017; hereafter called Risks and Rewards). Although the Risks and Rewards report received little critical attention, its findings quietly undercut the development community's approach to reducing vulnerability among migrant workers. “Regular migration is not necessarily safe migration,” the report asserts. Rather, there is “no clear association . . . between the conditions of regular migration (using a regular channel, having a written contract, or obtaining legal documents) and better outcomes” (ibid., xv).

The juxtaposition of these two simultaneous assertions — one advocating for regular migration as a means of increasing migrant safety and the other suggesting the limits of such an approach — provides the starting point for this article. Drawing on an extended analysis of the same data presented in the ILO-IOM study, this work aims to complicate the current policy discourse on migration and development by highlighting the theoretical, empirical, and practical problems with conflating “safe, orderly, and regular” in migration discourse and practice. In doing so, I explore a politically uncomfortable but empirically defensible proposition: that regular, more orderly migrations are not necessarily safer for migrant workers than the disorderly and informal streams they more typically rely on. Whereas orderly migration benefits states, it does not always benefit migrants.

I focus on the case of Thailand and use survey data to show that although regular migrants consistently report better working conditions than those who moved through informal channels, among a range of other indicators there is little evidence to suggest that irregular movement is less safe than regular movement. Moreover, the push for greater regularity and order in migration dynamics may actually be generating new forms of exclusion, by legitimating the forms of unfreedom built into the regular migration process (McKeown 2012; Dauvergne and Marsden 2014; Strauss and McGrath 2017). These arguments matter greatly if our concern is not only physical safety but also economic, social, family, and political rights more broadly conceived. And these concerns are particularly important to highlight in the current moment, as states across Southeast Asia are redoubling efforts to direct migrants toward regular channels (Bylander and Reid 2017). To be clear, this is not to suggest that legal status is not important, that it is not protective in certain ways, or that it is not desirable, either for migrants or for states. Rather, the data introduced in this article emphasize the limits of regular migration in supporting migrant safety — in part because regular migration is poorly regulated, but also because regular migration offers only a limited set of rights to workers, some of which also limit their potential for safety and well-being. Although the article's arguments are specific to the Thai context, its findings may be applicable elsewhere.

## Labor Migration in Thailand

During the past three decades, Thailand has become an attractive destination for migrant workers from neighboring countries. An estimated 3.25 million migrants — primarily from neighboring Myanmar, Cambodia, and Laos — were employed in Thailand in 2017, comprising roughly 8.5 percent of the country's labor force (ILO 2017). Recently, there has also been a growing population of Vietnamese migrants, although these flows are still believed to be quite small relative to those from neighboring countries. Historically, most migrants have crossed into Thailand through irregular channels, either on their own or through informal brokers (Huguet 2014). A much smaller fraction has moved through the formal channels set up in 2002 and 2003 through bilateral Memorandums of Understanding (MOUs) between the Royal Thai government and Myanmar, Cambodia, and Laos, which set out formal systems of migrant recruitment.<sup>1</sup> For instance, in August 2016, the ILO reported only 350,185 MOU migrants in the country, with far higher numbers (964,130) reported to have completed regularization processes intended for irregular migrants (ILO 2017). Given the total estimated migrant population (3.5 million, which is a low estimate), these numbers suggest upward of 1.5 million additional irregular migrants.<sup>2</sup>

At least four points are critical in understanding Thailand as a site of migrant labor: the durable migrant networks that have been established across the region, the persistence of amnesty programs for irregular migrants, the distinctions between MOU migrants and irregular migrants who go through amnesty processes, and the poor regulation of formal recruitment. Taken together, they underscore the real and persistent incentives for informal movement. Because the vast majority of labor migrants in Thailand come from neighboring countries, cross-border movements take place in the context of strong, extensive informal knowledge sharing and

<sup>1</sup> By definition, MOU migrants move through regular channels.

<sup>2</sup> There are other forms of status that may protect these workers. For instance, border provinces have specific forms of registration that allow for legal work in those specific provinces.

well-developed migrant networks. Only a minority of irregular migrants to Thailand migrate through informal brokers. Most rely on friends, family, and their own prior experiences to facilitate border crossing. Thus, although international organizations often describe the dangers of informal movement with reference to the unscrupulous brokers who manage smuggling networks, these portrayals fail to recognize the extensive social networks, informal knowledge sharing, and form of social trust that shape informal movement (Sanchez 2017). Most aspiring migrants are not unwitting, isolated individuals who follow strangers into treacherous borderlands. In contrast, they often come of age within communities where migration is a norm, and they have access to a range of trusted friends and family members when organizing employment and movement. In these heavily networked communities, informal brokers are incentivized to be decent to those traveling with them. If not, migrants will use the services of someone else. For all of these reasons, irregular migration, although illegal, is not typically as dangerous as it is often depicted in international discourse.<sup>3</sup>

Second, many migrants who cross irregularly into Thailand gain a form of temporary legal status on arrival. During the past two decades, the Thai state has enacted more than a dozen amnesty programs for migrants who have entered illegally. These amnesty programs have offered millions of low-skilled migrants in Thailand temporary leave to remain and documentation allowing them to work in the country for specific periods of time. Although temporary documentation has been inconsistently offered and has been limited in terms of its protections, generally speaking irregular migrants who registered with amnesty programs have been safe from deportation, so long as they remain employed. Historically, crossing the border illegally and then obtaining temporary status have been significantly cheaper and easier than moving through regular migrant recruitment processes, which is one key reason why irregular migration persists in the region.

There are, however, additional incentives for irregular movement. Although workers who are recruited through the MOU process must return home after two years and may work for only a single employer (selected in advance from a small range of options), migrants who arrive outside of regular channels can select an employer on their own, change employers (with employer permission), and remain in Thailand for longer periods of time without being forced to return. Often, they have trusted friends or family who can describe in detail working and accommodation conditions, and the explicit costs and benefits of work. This also means that irregular migrants can find work near friends and family, or in a location where others from their community are working. In contrast, MOU migrants rely on recruitment agents, who may have incorrect information about working conditions and benefits, and may have incentives to deceive workers. Whereas aspiring MOU migrants have friends or family in Thailand, they are unlikely to be able to request placement at the same site or nearby. Perhaps most critically, they are unable to easily change jobs after arrival in Thailand, even when the terms of their contract are not being honored.<sup>4</sup> Moreover, whereas MOU migrants cannot bring children with them to Thailand, those traveling through irregular channels can and often do bring young children with them. Although there is some ambiguity about the legal status of the children of migrants who have gone through amnesty processes, in practice young children staying with quasi-documented parents or caretakers have not been targeted by police or immigration authorities.

Finally, the primary means through which regular migration occurs is through legal recruitment systems, which are poorly regulated both in Thailand and in sending countries. Legal recruitment companies are primarily private, for-profit organizations that operate with the permission of the government. Across most of the region, however, they operate with limited oversight, which has led to widespread abuse within the system. For instance, in Cambodia, legal recruitment agencies have been routinely accused of deception, exploitation, cheating or fraud, and abuse, to the point that in recent years both local politicians and international organizations have described them as either responsible for or complicit in trafficking in persons (Khoun 2011; UNIAP 2011). On the Thai side of the border, there is also minimal oversight, in part because Thailand has historically been a migrant-sending state, not a migrant-receiving one. Thus, although the Thai government has a well-developed system of labor recruitment regulation intended at protecting Thai migrants abroad, it has made little progress adapting this system to the needs of incoming migrant workers (Harkins and Ahlberg 2017). Moreover, conflicting regulatory practices impede migrant workers from accessing the rights to which they are entitled (Campbell 2017; Campbell 2018). For instance, migrants who have the right to change employers and/or travel are barred from doing so by local authorities, and labor protection offices adjudicate claims in ways that do not even meet the standards of current labor laws (Campbell 2018).

## Safe, Orderly, and Regular Migration

Given the description above, it is not altogether clear why development organizations in the region seek to direct migrants toward regular channels. Yet nearly all development actors involved in migrant communities do just this: describing the inherent risks in

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<sup>3</sup> Certainly, trafficking, deception, and exploitation by brokers do occur. My argument, however, is that these experiences are the exception, not the norm, in most migrant sending communities.

<sup>4</sup> As a matter of policy, the Thai government allows MOU migrants to change employers, with employer agreement. In practice, however, recruitment companies are generally unwilling to facilitate and process these changes unless the migrant pays a change fee that is often equal to the initial recruitment fee.

irregular migration and the relative safety of moving through regular channels (see also Lindquist 2010; Molland 2010; Molland 2012). In most cases, these lessons are part of broader “safe migration” programs, which educate would-be migrant workers on strategies to mediate some of the vulnerabilities inherent in migration. The central focus of these programs, however, is routinely to stress the importance of migrating through legal channels. Thus, at deportation centers, deportees are made to watch videos describing the process of legal migration. In migrant-sending villages on all sides of the border, nongovernmental organizations (NGOs) host safe migration workshops, theatrical productions, exchanges, and hotlines to share information on the benefits of legal migration. In financial literacy and safe migration trainings, rural residents are informed of the benefits of migrating through legal channels. In books, videos, and brochures, NGOs describe the links between trafficking and irregular movement, and offer tips about how to migrate safely, such as through regular channels. Yet the conflation of safe with legal migration has little grounding in local context. Rather, it is an idea shaped by global and national discourses on migration management, which suggest that directing migrants to regular, orderly forms of movement is a key way to make them safe (Molland 2010; Molland 2012).<sup>5</sup>

At the international level, the value given to orderly migration is best expressed through the Sustainable Development Goals (SDGs) and the associated Global Compact on Migration (GCM). Both documents are aspirational, and taken together they highlight the rise of migration management as a new focus of migration and development. For instance, one of two SDGs specifically focused on migration, Target 10.7, aims to “facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies.”<sup>6</sup> To measure how “well-managed” migration policies are, the SDG uses a set of indicators of Migration Governance, which includes questions about the capacity of states to monitor, detect, and respond to irregular entry (EIU 2016). Both border enforcement and redirecting irregular migrants to regular channels are explicit development goals.

The idea that orderly migration leads to safer migration is also clearly articulated by the GCM, which aims at compatibility with the SDGs. Its final draft even includes the SDG’s phrasing in its title — the *Global Compact for Safe, Orderly, and Regular Migration* — and, like the SDGs, it explicitly links “keeping migrants out of harm’s way” with predictability and orderly, regular migration. The specific objectives of the Global Compact focus on the strengthening of borders, the elimination of irregular migration, a strengthened response to smuggling, and more managed and secure borders.<sup>7</sup> In addition, it sets out goals for migrants to have more information, hold proper identification and documentation, and be able to access enhanced pathways for regular migration. Throughout both of these aspirational documents, the word “safe” is placed alongside “orderly and regular,” a combination that suggests the affinity of these concepts or at least their complementarity.

## Questioning The Narrative

There are at least three sleights of hand here, which are so common at the level of international development discourse as to go unnoticed. The first is the assumption that irregular migrants are more likely to experience rights abuses than those who move through regular channels. The second is that bringing “order” to migration will bring safety to migrant workers. The third is the related expectation that legal status and migration channel are the primary levers of change if we are interested in improving migrant safety and/or rights.

Certainly, there is some innate logic to the idea that regular (and thus legal) migration is safer for migrants than moving through irregular channels. These ideas are particularly familiar for those who are most accustomed to thinking about migration in the Global North, where progressive efforts are focused on advocating for the regularization of undocumented workers. The images of overloaded migrant boats in the Mediterranean, migrant deaths in the Sonoran deserts, and the horrific migrant slave markets of Libya all broadcast the dangers of irregular movement for asylum seekers, survival migrants (e.g., Betts 2013; Sassen 2016), and labor migrants seeking entry into the United States and Europe. Given the prominence of these narratives in the public imagination, the case for *safe, regular, orderly* migration appears unassailable. To have legal documents, surely, is preferable than to lack them. Thus, migrants who move through regular channels — who should, by definition, have some form of legal status — should clearly be more protected than those who do not.

<sup>5</sup> As Molland argues, these discourses are defended based on an assumption that promoting legal migration will “dry up” opportunities for trafficking. In this sense, Molland (2010, 2012) argues that safe migration discourse and practice are inherently understood as antitrafficking work.

<sup>6</sup> Indicators include worker-borne recruitment costs as a percentage of yearly income, and the number of countries with well-managed migration policies. Another migration-related SDG target seeks to “reduce to less than 3 per cent the transaction costs of migrant remittances and eliminate remittance corridors with costs higher than 5 per cent.”

<sup>7</sup> It is worth noting that these recommendations are a clear departure from mainstream development publications a decade earlier. For instance, in 2009, the UNDP’s flagship Human Development Report focused on “overcoming barriers” to mobility, with its introduction highlighting the rise of “increasingly repressive entry regimes.” On the whole, the report argues for a “bold set of reforms,” including an expansion of people’s freedoms in the migratory process, rather than further controls or limits on movement.

The relationship between legality and safety also has a strong empirical backing. Both in the United States and elsewhere, researchers have consistently found that legal status is a key dimension of security (Goldring and Landolt 2011). Undocumented migrant workers consistently earn less and experience more job precarity than those with regular status (Cobb-Clark and Kossoudji 1999; Phillips and Massey 1999; Rivera-Batiz 1999; Capps et al. 2003; Bloch 2010; Bowers and Chand 2018). In what has been called the “work-citizenship matrix,” research has shown that “precarious legal status has a long-lasting, negative effect on job precarity” (Goldring and Landolt 2011). Disadvantage persists outside the workplace as well, with undocumented migrants likely to experience fear and stigma (Abrego 2011), poor access to healthcare (Larchanché 2012), barriers to education (Silver 2018), and other forms of disadvantage.

Both the protective benefits of legal status and the dangers inherent in irregular crossing are worth reexamining, however, when applied to migratory movements within the Global South (i.e., South-South movements), particularly those between neighboring countries. For instance, in the Greater Mekong subregion, although irregular border crossings may be physically uncomfortable for migrants and pose a degree of physical and financial risk, they do not pose systematic risk of death, severe physical violence, extended time in prison or detention camps, being held for ransom, or extended separation from family. Even though irregular migration may be risky, in the context of extensive, durable, and longstanding migrant networks, these risks are often far lower and more negotiable than is assumed by international actors (Sanchez 2017). Although deportation (and the general stress of being undocumented) is a real concern for undocumented migrants, in the Thai context migrants can usually buy some degree of security through small bribes to local police. If they are caught and deported, the porousness of the border ensures that they can easily and quickly return to work across the border. These irregular crossings are also quite cheap, lessening the economic incentives to make risky choices en route, and lowering the financial risks associated with failed migrations. Moreover, as discussed above, many irregular migrants obtain quasi-legal status in Thailand, offering them protection from deportation.

At the same time, although legal movement *may* be associated with a host of economic, social, residence, and family rights in some contexts, this is not always the case. As Martin Ruhs (2013) aptly observes, there tends to be a trade-off between the *number of low-skilled immigrants* that a given state will accept and the *number of rights* granted to those groups. In contexts when states accept only a limited number of foreign workers, those they accept tend to be granted greater economic, political, and social rights. Conversely, in countries that accept large numbers of low-skilled workers relative to their population, migrants tend to be granted relatively few rights and experience greater state control. In the contemporary moment, such controls are built into the structure of guestworker programs, which often offer workers only a narrow set of economic rights for a time-bound period.<sup>8</sup>

During the past decade, a wealth of research has pointed to the problems associated with guestworker programs, highlighting how they systematically advantage employers vis-à-vis their workers (Anderson 2010), generate forms of hyper-precarity (Lewis et al. 2015), and create labor markets ripe for exploitation (Gardner 2010; McKeown 2012; Pande 2013).<sup>9</sup> Although the problems associated with guestworker programs are well established, there is, however, little research in southern contexts that systematically compares the experiences of regular and irregular low-skilled workers when they work side by side.<sup>10</sup> Yet the limited studies comparing these experiences raise compelling questions. For instance, a recent IOM report notes that migrants in Thailand perceive the MOU process as less desirable than regularization on arrival, in part because of the dynamics created by indebtedness to employers (Huguet 2014).<sup>11</sup> Other recent studies highlight the lack of distinctions between regular/irregular, and documented/undocumented, migrants. For instance, in 2015, a study of more than 5,000 Burmese migrants in Thailand found “limited differences in the levels of job satisfaction, living conditions, access to healthcare and education amongst documented and non-documented migrant workers, providing minimal support for the notion that documentation increases migrants’ access to improved living and working conditions and access to services” (IOM and ARCM 2015, 5–6). The Risks and Rewards study also affirmed these findings, although it reported them in minimal detail, stating simply that the data “did not demonstrate that regular migration was essential to better outcomes” (Harkins, Lindgren, and Suravoranon 2017, xxi).

Engaging with the question of whether, and when, regular migrations are indeed safer is important to ask, because we are in a moment when the development community has become newly committed to migration management as a development outcome and is beginning to pressure states to act in line with such goals. And it is a particularly timely question to ask in the Thai context,

<sup>8</sup>In the Thai context, even basic social rights have been tightly controlled in recent years. For instance, only 10 years ago, migrants in some provinces in Thailand were restricted from using mobile phones without employer permission, riding motorbikes, congregating in groups larger than five, and leaving their worksites during specific hours (Kaur 2010).

<sup>9</sup>In one of the more scathing critiques, historian Adam McKeown (2012, 43) calls such programs “the Janus face of traffickers, the legitimate ‘free’ face of labour brokerage and exploitation.”

<sup>10</sup>It is not uncommon in the Thai context for employers to employ migrant workers who come through the MOU process alongside those who arrived through irregular channels.

<sup>11</sup>Typically, MOU migrants will be subject to several months of wage deductions to repay the costs of their recruitment and migration. During this period, employers often exert more control over these workers (including holding their documents and limiting movement) because of these debts. In comparison, migrants who register on arrival in Thailand are more likely to self-finance the costs of migration and documentation.

because Thailand has recently introduced a new law aimed at cracking down on irregular migration and irregular employment (Bylander and Reid 2017). Although the implementation of the law has changed several times since its introduction, the Thai government has signaled a clear interest in shifting away from regularization and amnesty programs in the future, and cracking down on both undocumented migrants and their employers. To the extent the government continues down this path, the share of migrants moving through regular channels is likely to substantially increase.

## Data and Methods

This article primarily draws on an ILO-IOM survey of 1,419 migrant workers who had recently returned from work in Thailand, conducted in July and August 2016. The study, which is a baseline for a set of interventions related to the ILO's TRIANGLE II project, was also the basis for the Risks and Rewards report described in the introduction. Thus, this analysis builds directly on, and elaborates on dynamics described in, the Risks and Rewards report (Harkins, Lindgren, and Suravoranon 2017).

The original ILO-IOM survey includes data collected from 1,808 return migrant workers throughout the Greater Mekong sub-region, each of whom had recently returned from work in either Thailand or Malaysia during the past two years. The survey was conducted in 12 sites throughout four countries: Cambodia, Lao People's Democratic Republic (PDR), Myanmar, and Vietnam. Return migrants were selected on the basis of the following criteria:

- 18–45 years old
- Had returned from work in Thailand or Malaysia during the past two years
- Were engaged in low-skilled work in fisheries, domestic work, agriculture, manufacturing, construction, or hospitality and food services

In addition, the sample aimed for an even split between men and women. Readers interested in a detailed breakdown of research methodology can find further details in the initial research report published in 2017, "Risks and Rewards: Outcomes of Labour Migration in South-East Asia."<sup>12</sup> Because there are critical differences between the destination contexts of Thailand and Malaysia, this analysis focuses exclusively on workers who recently returned from Thailand, who also make up the majority of the returnee sample (1,419).

Given its nonprobabilistic sampling method, the survey should *not* be taken to be representative of migrant workers currently living and working in Thailand. Moreover, because it is limited to migrants who have returned from Thailand, it is possible that respondents have more negative experiences than the typical migrant because more "successful" migrants may be inclined to remain in Thailand. These limitations aside, it remains one of the better comparative datasets on migration in the region, and it includes a sample size large enough to be able to compare outcomes among key variables of interest. In addition to the survey data, I also draw on a longer history of qualitative and quantitative work on migrant experiences in the region. Although this work is not described in detail here, it supports and informs my interpretations of these data.

There are limits to my approach, which one might argue reproduces binary distinctions between regular and irregular migrants (McIlwaine 2015). As has been well described in the Southeast Asian contexts and elsewhere, these distinctions are far more blurry, inconsistent, and temporal than they appear (Gruss 2017). Legal migrants may at times migrate through irregular channels, irregular migrants can gain legal status, and those who migrate through regular channels can easily become undocumented (Gruss 2017; Campbell 2018, 1; see also McIlwaine 2015). Moreover, as I have described, there are a range of temporary, protective statuses that migrant workers can obtain on arrival in Thailand. At the same time, the distinction of regular migration is meaningful in the region — both analytically and practically. Regular migration is a distinct form of movement, with different costs, processes, timelines, and restrictions. It is specifically advocated by development actors, governments in sending countries, and the Thai government. It is regulated in both sending and receiving countries, and there are systematic efforts to direct migrants toward these channels. For their part, migrants choosing to migrate through regular channels often do so in part because they expect to be better protected than migrants choosing other pathways. Thus, although recognizing that migrating through regular channels is only the starting point of what might be a shifting landscape of legal status, it is worth considering the degree to which migrants who move through regular channels experience benefits in doing so.

In addition, it is important to note that the data presented here cannot account for the potential differences that regular and irregular migrants may have in their expectations or understandings of their migration process. For instance, it is possible that those migrating through regular channels — who pay quite high fees for their recruitment — might hold recruitment companies to a higher standard than an irregular migrant moving with a smuggler or broker. The threshold for deception, coercion, harassment,

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<sup>12</sup> After the publication of the initial report, the full dataset was made fully accessible (at no cost) to the author along with other researchers wishing to do further analysis. The author had no role in data collection and, with the exception of a short consulting project (unrelated to this study), has not directly worked with the ILO or IOM.

**Table 1.** Basic Characteristics of Migrant Returnees from Thailand.

	Percent
Female	50.2
Age	
18–20	8.4
21–25	21.0
26–30	25.4
31–35	19.4
36–40	14.5
41–45	11.4
Country of Origin	
Cambodia	29.6
Lao	31.7
Myanmar	22.4
Vietnam	16.3
Sector of Work	
Domestic work	11.2
Fisheries/fish processing	5.6
Agriculture	15.9
Manufacturing	26.0
Construction	23.0
Hospitality/food	18.3
Migration Status	
Migrated via formal channel	12.8
Migrated via informal channel	87.2
	N = 1,419

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

abuse, or what is considered a “poor working environment” may be systematically different among regular and irregular migrants, none of which is possible to account for here.

To be clear, this article presents only bivariate analysis, a choice I make due to the minimal descriptive data collected about migrant returnees, the relatively small number of regular migrants, and my interest in exploring the relationship between migration channels and a range of outcomes. Thus, differences between groups should be read as patterns worth further investigation, ideally through more systematic qualitative or quantitative data collection. Moreover, the data presented in the remainder of the article are not intended to make, and should not be read as making, claims about *causes* of migrant exploitation, safe migration, and/or divergent return outcomes. Rather, the article considers a narrow and specific question: Is there evidence that regular migrants experience safer migrations and better outcomes on return? Presumably, they should, and for reasons that have little to do with the individual characteristics or experiences of migrant workers. In moving through regular migration channels, recruitment companies (in coordination with governments) promise both legal status and a range of specific protections and services. Regular migrants attend trainings to learn their rights, they are assigned a representative in-country to speak with in cases of labor exploitation, and they are required to sign binding contracts with employers who are obligated to follow labor laws. Both employers and recruitment agents are monitored (at least in theory) by governments, with sanctions for bad actors. It is these specific processes, obligations, and checks — not specific migrant characteristics — that are expected to engender safer migration experiences. Put differently, if legal recruitment channels work the way they are intended to, a migrant’s individual social, economic, and human capital should not predict their likelihood of experiencing either abuses in the migration process or labor rights violations. Similarly, although it is clear that individual migrant characteristics play a role in shaping migration *outcomes*, development institutions continue to contend that it is the *processes* of regular migration per se that are associated with improved migration outcomes. Thus, even without controlling for individual or community characteristics, if regular migration works the way it should, we should expect to see better outcomes among migrants moving through formal channels.

### Descriptive Statistics

Table 1 describes the data, highlighting the range of experiences captured in the survey. Migrant returnees surveyed are young, evenly split between women and men,<sup>13</sup> and most likely to have worked in the manufacturing and construction sectors, with large

<sup>13</sup>This result is an artifact of the survey design, which aimed for a gender-balanced sample.

**Table 2.** Characteristics of Migrant Returnees from Thailand, by Migration Channel.

	Migrated via Formal Channel	Migrated via Informal Channel	
Age			
18–20	5.0	8.9	
21–25	20.4	21.1	
26–30	23.8	25.6	
31–35	23.2	18.8	
36–40	15.5	14.3	
41–45	12.2	11.3	
Sector of Work			***
Domestic work	4.4	12.2	
Fisheries	7.2	5.3	
Agriculture	12.2	16.5	
Manufacturing	55.3	21.7	
Construction	17.1	23.9	
Hospitality and food	3.9	20.4	
Female	46.4	50.8	
Male	53.6	49.2	
Country of Origin			***
Cambodia	61.9	24.9	
Laos	10.5	34.8	
Myanmar	16.6	23.3	
Vietnam	11.1	17.0	
Highest Education Completed			
No formal education	9.9	12.9	
Primary school	46.4	40.0	
Secondary school	43.1	45.9	
Tech/vocational or university	.6	1.2	
Job Level Prior to Migration			***
Unemployed	7.2	7.1	
Low-skilled	75.1	83.9	
Semiskilled	7.2	7.0	
Medium/high-skilled	10.5	1.9	
Monthly Income Prior to Migration (Average)	\$81.6	\$53.5	***
		N = 1,419	

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

<sup>†</sup>*p* < 0.1. \**p* < 0.05. \*\**p* < 0.01. \*\*\**p* < .001.

shares also working in hospitality, agriculture, and domestic work. Most of those surveyed migrated informally, with only a small share (13 percent) moving through formal channels.<sup>14</sup>

Table 2 shows basic characteristics of migrants by their migration status (formal vs. informal).<sup>15</sup> Notably, the largest share of regular migrants surveyed were returnees in Cambodia (62 percent).<sup>16</sup> Among those migrating through regular channels, there were fewer Laotian (11 percent), Burmese (17 percent), or Vietnamese (11 percent). In addition, there is a small gender difference in the sample, with men slightly overrepresented among regular migrants. Regular migrants are also less likely to be younger than 18 — a result of age minimums on legal recruitment — and they are more likely to be employed in more highly skilled work prior to migration. Most regular migrants (55 percent) were recruited for manufacturing jobs, with large shares also going into construction work (17 percent) and agriculture (12 percent). There is no clear suggestion that education is associated with choosing to migrate through regular channels: although regular migrants are slightly more likely to have some schooling than those moving through irregular

<sup>14</sup>Those migrating formally primarily use licensed private recruiters (66 percent), although some are also directly recruited via employers (33 percent). Those migrating informally use brokers (24 percent) or friends or family (36 percent), or they migrate independently (37 percent).

<sup>15</sup>Significance tests shown are the results of chi-square and independent *t*-tests.

<sup>16</sup>To be clear, the majority of Cambodians migrate irregularly. Only 26 percent of Cambodian returnees surveyed had traveled through regular channels. The survey includes, however, a disproportionately large share of Cambodians versus other groups. Cambodians are slightly more likely to migrate regularly, leading to this overrepresentation. In comparison to the 26 percent of Cambodian returnees reporting regular migration, only 4.2 percent of Laotians, 9.4 percent of Burmese, and 8.7 percent of Vietnamese returnees reported traveling through regular channels.



channels, these differences are not large, nor are they statistically significant. Among irregular migrants, 13 percent reported having no formal education; among regular migrants, 10 percent reported having no formal education. Regular and irregular migrants were similarly likely to report completing some secondary school (43 and 46 percent, respectively). Regular migrants do tend, however, to have significantly higher pre-migration incomes, suggesting that migrants who have more resources may be more likely to move through regular channels (Bylander 2017). On average, regular migrants reported incomes of \$81 per month prior to migration, whereas irregular migrants reported an average monthly income of only \$53. Although these differences highlight that irregular and regular migrants may be systematically different, on the whole they suggest that regular migrants are either similarly or relatively *more* advantaged than those moving through irregular channels. They are older and more educated, have higher existing wages, and move into less dangerous and difficult jobs. Thus, if anything, we should expect to see these differences manifest in better overall migration experiences.

## Findings

In this section, I describe each aspect of the migration experience, drawing on the Risks and Rewards data to highlight differences between regular and irregular migrants among various dimensions (Table 3). Broadly speaking, the survey data suggest that although there are *some* protective effects of moving through regular channels, they are largely limited to rights and benefits tied to the workplace, such as minimum wage, sick leave, and overtime pay. At the same time, regular migrants are more likely than irregular migrants to report other challenges in the migration process, including deception, contract substitution, harassment and abuse at employment sites, and illegal wage deductions. They are similarly likely to experience a range of other unwanted outcomes. Moreover, a sizeable proportion of regular migrants still experience labor rights abuses (e.g., earning less than minimum wage and lack of paid leave). Finally, regular migrants pay significantly higher costs for migration, experience worse return outcomes throughout a range of indicators, and report more concerning experiences of indebtedness both in the migration process and post return. If our definition of migrant safety expands both beyond the workplace and beyond the direct migration experience, these are deeply concerning trends.

### Challenges in the Migration Process

Table 3 describes the different kinds of experiences reported by regular and irregular migrants. Despite moving through formal channels, regular migrants reported similar gaps in information, demands for bribes, levels of discrimination, and harassment and abuse as compared to their irregular counterparts. Similarly, 11 percent of regular migrants and 10 percent of irregular migrants reported “poor employment opportunity on arrival,” suggesting that moving through legal recruiters does little to mediate the potential of moving into unacceptable work. Moreover, regular migrants were significantly more likely to report deception in their migration process: 9 percent of regular migrants but only 5 percent of irregular migrants reported some form of deception. Regular migrants were also far more likely to report being challenged by long wait times and complex bureaucratic processes.<sup>17</sup> Within this category, the only challenge that informal migrants were substantively *more* likely to report was a lack of legal documents. Also notable is that less than half of irregular migrants (38 percent) cited a lack of legal documents as a challenge in their migration process, suggesting that the majority of migrants moving through irregular channels either later obtained a form of status they found protective or did not perceive being undocumented as a challenge.

### Contracts and Contract Substitution

The vast majority of those migrating through regular channels had verbal or written agreements (92 percent), whereas only 45 percent of migrants moving informally reported any such agreements. In addition, written agreements were far rarer among informal migrants, with only 4 percent of informal migrants (compared with 74 percent of formal migrants) signing a written contract. Yet although regular migrants were far more likely to have written or verbal contracts, they were also more likely to experience contract substitution than irregular migrants who had such agreements. Twenty-two percent of regular migrants experienced some form of contract substitution on arrival, with the most common changes being in the sector and location of work. In comparison, 16 percent of informal migrants who had prior employment agreements experienced substitution on arrival. Although the prevalence of contract substitution may be partially explained by the long lag time between when employers request workers and when workers arrive (during which time needs may have changed), they also likely reflect intentional misrepresentation by recruitment companies and/or employers. For instance, recruitment companies often promise that placement sites will have ample overtime work, free accommodation, or other benefits as selling points, regardless of whether they are going to be provided.

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<sup>17</sup>The typical regular migrant reported a three-month wait between the decision to migrate and beginning work. Longer waits were also common, however: 25 percent of regular migrants waited 180 days or more before beginning work abroad. In contrast, the typical informal migrant waited only 28 days between deciding to migrate and being able to start work in Thailand. A quarter of informal migrants were able to begin work in eight days or less.

**Table 3.** Migrant Experiences in Thailand, by Migration Channel.

	Migrated via Formal Channel (%)	Migrated via Informal Channel (%)	
<b>Challenges Reported in Migration Process</b>			
Lack of information	12.7	15.2	
Delay	33.2	10.3	***
No legal documents	1.7	38.3	***
Overcharging	9.9	6.8	
Deception	9.4	5.3	*
Poor employment opportunity	11.1	10.3	
Discrimination	1.1	0.7	
Harassment or abuse	4.4	2.6	
Complex process	6.1	3.0	*
Demand for bribes	2.2	2.7	
<b>Contract Substitution<sup>a</sup></b>			
Any form of contract substitution	22.2	15.8	†
Change of location	12.6	7.8	†
Change of sector of work	12.6	5.1	**
Change of job duties	1.2	4.0	†
Change of working hours	3.6	4.5	
Change in wages	6.0	7.3	
Change in benefits	2.4	1.6	
Change in leave	2.4	1.5	
Change in living conditions	9.0	4.2	*
<b>Working Conditions, Rights, and Benefits</b>			
Average hours worked daily	10.1	10.0	
Days worked per week	6.3	6.5	***
Monthly salary (USD)	\$288	\$260	*
Paid annual leave	47.5	29.3	***
Paid holidays	80.7	49.4	***
Paid sick leave	74.0	49.3	***
One day off/week	77.4	39.0	***
Paid maternity leave	11.1	3.8	***
Minimum wage	64.1	36.7	***
Overtime pay	75.7	51.1	***
Severance pay	16.6	12.0	†
Enrolled in government health insurance	25.4	8.6	***
Enrolled in social security	9.4	5.3	*
Enrolled in private health insurance	15.5	4.2	***
Enrolled in workers' compensation	11.1	1.1	***
<b>Workplace Exploitation</b>			
Wages withheld	16.6	20.0	
Wages below legal minimum	9.9	16.2	*
Excessive overtime	11.6	14.3	
Injured at work	8.8	7.8	
Retention of ID docs	51.9	9.9	***
Illegal wage deductions	16.0	7.4	***
Restriction of movement	14.9	19.8	
Harassment or abuse	8.8	4.2	**
Gender-based discrimination	0.0	1.1	
		N = 1,419	

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

† $p < 0.1$ . \* $p < 0.05$ . \*\* $p < 0.01$ . \*\*\* $p < .001$ .

<sup>a</sup>Among those who reported written or verbal contracts: 92% of formal migrants ( $N = 167$ ) and 45% of informal migrants ( $N = 552$ ).

### Working Conditions, Rights, and Benefits

To the extent that moving through a regular migration channel benefits migrant workers, it does so through improved working conditions and workplace benefits. Formal and informal migrants work similar numbers of hours. Formal migrants, however, earn more on average than informal migrants (\$288 vs. \$260) while working fewer days (6.25 vs. 6.5). Although these differences are not substantively large, they are statistically significant. Moreover, those migrating through regular channels are more likely to report a range of additional benefits. Formal migrants are more likely to be granted paid annual leave, holidays, sick leave, days

**Table 4.** Wage Differences by Migration Status and Sector.

	Share of Sector Moving through Regular Channels (%)	Average Wage of Regular Migrants	Average Wage of Irregular Migrants	Wage Gap
Domestic work	5.0	\$264	\$286	\$-22
Fisheries	16.5	\$422	\$394	\$28
Agriculture	9.7	\$154	\$152	\$2
Manufacturing	27.1	\$285	\$282	\$3
Construction	9.5	\$352	\$270	\$82
Hospitality and food	2.7	\$239	\$262	\$-23
				N = 1,419

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

off, and maternity leave. They are more likely to be given the legal minimum wage as well as overtime pay, and they are more likely to be enrolled in government social protection schemes.

The survey, however, also highlights the persistence of labor rights abuse, even among regular workers. For instance, more than a third of workers traveling through regular channels did not receive the minimum wage, roughly a quarter did not receive appropriate overtime pay or sick leave, less than half reported paid annual leave, and one-fifth did not receive paid holidays. The vast majority (89 percent) reported a lack of paid maternity leave, and only 17 percent reported any severance. Thus, although regular migrants fared significantly better than their irregular counterparts in terms of workplace conditions, routine workplace exploitation is still experienced by migrants traveling through most legal routes.

### *Workplace Exploitation and Access to Remedy*

Among most indicators, regular migrants report either similar or higher levels of exploitation than those migrating through irregular channels. The only exception to this is being underpaid: regular migrants are less likely to report being paid less than minimum wage. They are, however, twice as likely to report illegal wage deductions and harassment/abuse, and they are similarly likely to report having their wages withheld, excessive overtime, restriction of movement, and workplace injuries. Moreover, because they have (valued and expensive) documents, they are also far more likely to experience employers confiscating or retaining these documents. Indeed, more than half of regular workers note that employers held their documents, an illegal practice.

Migrants experiencing exploitation in the workplace rarely reported seeking any kind of assistance or remedy. Yet, even though migrants are similarly likely to seek help from recruitment agents as from informal brokers, the data suggest that informal actors are notably more successful at resolving migrant issues. Whereas only 13 percent of those seeking help from recruitment agencies report that their problem was fully resolved (an additional 36 percent reported some partial resolution), 38 percent of those seeking help from informal brokers reported a full resolution of their problem, and an additional 38 percent reported partial resolution. Such comparatively low reports of problem resolution suggest that recruitment agencies are either unable or unwilling to solve migrant issues when they arise, which raises concerns about their ability to provide safe experiences for workers.

### *Wage Differences*

As described in Table 3, formal migrants reported monthly earnings of \$288, compared with the \$260 average reported by informal migrants. In line with this difference, formal migrants reported remitting \$28 more per month than those who migrated informally (\$200 vs. \$172, respectively; not shown). These distinctions are worth further discussion, however, because the degree to which moving through a regular channel shapes wages appears to vary greatly by sector. For instance, in agriculture and manufacturing, there are not substantial wage differences between migrants who move informally versus formally; and in domestic work and hospitality, informal migrants report *higher* average monthly wages than formal migrants. In contrast, in fisheries and construction, the gains associated with regular migration are large. Table 4 details the wage differences of formal and informal migrants by sector. Although these data offer interesting suggestions, they should be read with caution because some averages presented are based on very small sample sizes.<sup>18</sup> In addition, differences may be an artifact of the way that some sectors are categorized. For instance, it may be that migrants moving into the fisheries sector via regular channels are primarily in fish processing, whereas those moving through irregular channels are doing less skilled or regular work. The distinctions presented in Table 5 are nonetheless worthy of

<sup>18</sup>For instance, there are only eight domestic workers who have moved through regular channels in the sample, seven regular migrants in the hospitality sector, and 13 regular migrants in fisheries. Other cells have more than 20 respondents.

**Table 5.** Costs and Debts Incurred for Migration, by Migration Channel.

	Migrated via Formal Channel	Migrated via Informal Channel	
Cost of migration (median)	\$490	\$153	***
Means of Paying for Migration Costs			
Borrowed	44.8%	31.3%	***
Wage deductions (in Thailand)	30.9%	9.4%	***
Saving	50.3%	58.5%	*
Selling or pawning assets	12.7%	6.5%	**
Among Those Reporting Borrowing for Migration Costs			
Amount borrowed (median)	\$490	\$153	***
Median annual interest rate	35.3%	0%	
Median number of months to repay loan	6	3	***
Returned prior to repaying loan in full	14.8%	12.1%	
Gave collateral for loan	35.8%	9.6%	***
Took a loan with interest	72.2%	42.9%	***
		N = 1,419	

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

<sup>†</sup>p < 0.1. \*p < 0.05. \*\*p < 0.01. \*\*\*p < .001.

discussion, most notably the data from the manufacturing sector, which has the largest share of regular migrants. Although the majority of regular migrants in Thailand (55 percent; not shown) are migrating into work in the manufacturing sector, manufacturing is one of the areas in which the wage gains from moving through regular channels are least apparent.

Finally, it appears that regular migrants are subject to systematically larger fees for remittance transfer, in part because they are more likely to use banks to send money home. Despite the consistent rhetoric directing migrants toward cheaper and safer formal channels for remittance transfer, both the Risks and Rewards survey and other regional data suggest that informal channels are substantially cheaper than formal channels (Deelen and Vasuprasat 2010), raising the question of whether regular workers are limited in some ways to more expensive (although formal) forms of remittance transfer because of their status. Regular migrants paid an average of \$6.45 each time they sent money home, whereas irregular migrants paid an average of \$3.48 (not shown).<sup>19</sup>

### Migration Costs and Migration Debt

Table 5 describes the costs and debts associated with migration, highlighting differences between formal and informal migrants. On average, those who migrated through formal channels paid \$490 for their migration/recruitment, whereas the typical irregular migrant paid less than a third of the price: \$153. This suggests that the typical regular migrant would earn \$672 more than the typical irregular migrant during a two-year period, but lose more than half of these gains to the increased costs of documents.

Because of these high costs, regular migrants were also more likely to borrow, to incur wage deductions, or to sell or pawn assets to finance their trips. They are also more likely to hold migration loans with worse terms than those of irregular migrants. Regular migrants were three times more likely to take a loan with collateral, were nearly twice as likely to take a loan with interest, and on average took twice as long to repay the migration loan in full. When regular migrants took out loans, they typically paid 35 percent annual interest, further eroding the gains offered by higher wages. In contrast, when irregular migrants borrowed for the costs of migration, they typically held interest-free loans given by friends or family.

The fact that regular migrants take on greater debts to finance migration and are more likely to experience wage deductions is not incidental to their migration experiences. Debt intersects with other interlocking forms of vulnerability to both heighten existing vulnerabilities and create new ones. In recent studies, indebtedness has been identified as compelling migration (Mosse et al. 2002; Bylander 2014), causing migrants to move into exploitive work (Yea 2017), making it more difficult for them to leave exploitive working situations (Gardner 2010; Yea 2017), causing anxiety and depression (Meyer et al. 2014), incentivizing re-migration (Schuster and Majidi 2013; Rus and Rus 2014), increasing the likelihood of forced labor (UNIAP 2011), and causing migrants to run away from employment contracts and thus lose legal status within their host country (Gardner 2010; Lindquist 2010). Moreover, the survey offers some suggestion that regular returnees struggle more with debt than those who migrate through irregular channels. In fact, among returnees who sent remittances, a full quarter reported that the majority of the money sent home was primarily used to service debt. Those who migrated through regular channels were, however, nearly twice as likely to report debt

<sup>19</sup>Some portion of this difference is capturing the difference in average amounts sent. Neither the small average difference in remittance sending nor the skew of these distributions explains this difference, however. The median transfer fee paid by regular migrants is still significantly larger (5.2) than the median amount paid by irregular migrants (2.8).

**Table 6.** Reasons for Return, by Migration Channel.

	Migrated via Formal Channel (%)	Migrated via Informal Channel (%)
Involuntary		
Deportation	0	2.3
Exploitation or abuse	5.0	2.5
End of job	24.3	3.7
Lost job	4.4	2.1
Voluntary		
Saved enough	0.6	6.7
Work at home	2.2	3.3
Situational		
Family obligations	25.4	38.1
Homesick	15.5	24.2
To give birth	2.8	7.0
Other	18.8	9.9
Don't know	1.1	0.2
		N = 1,419

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

repayment as the primary use of remittances. Among migrants who moved through formal channels, 40 percent reported debt repayment as a primary use of remittances, compared with only 21 percent of those who migrated through irregular channels. Nearly one in six regular migrant returnees came back to their home countries prior to repaying their migration loan in full.

### Reasons for Return

The picture becomes even more complex when we consider the experiences of returnees once they are back in their home countries (Tables 6 and 7). Although regular and irregular returnees reported only a six-month difference in their migration duration (31 months vs. 38 months, respectively), there are several divergences in their experiences of return, beginning with their reported reasons for coming home. Among both groups, the most common reason for return was family obligations, and a sizeable number of migrants returned due to homesickness (Table 6). There were also, however, considerable differences in return experiences among migration statuses. Although relatively few migrants reported returning home because they had saved enough money, irregular migrants were significantly *more likely* to report this reason. Seven percent of informal migrants reported returning home because they had adequately saved, but only one-half of 1 percent of regular migrants so reported.

Although the survey does not ask specifically whether returns were voluntary, the response categories they include when asking about reasons for return can be usefully divided into three categories: voluntary returns (returning because there is a job at home or due to adequate savings), involuntary returns (deportation returns due to exploitation or abuse, or the end of a contract/lost job), and “situational” returns (those that may be unexpected, but are neither clearly coercive nor clearly chosen). Notably, these categories are problematic and do not accurately reflect the complex, blurred, and personal ways that migrants think about return decision making. For instance, it may be that some returns at the end of the contract period are in fact chosen and/or that a situational return (due to family obligations, for instance) is perceived as involuntary. At the same time, returns of frustration, perceived failure, or some kinds of exploitation may not be accurately captured here. These limitations aside, comparing returns that suggest more proactive planning to those that allow for less agency offers some insight into differences between regular and irregular migrants.

Perhaps surprisingly, regular migrants were far more likely to report an involuntary return than irregular migrants.<sup>20</sup> Whereas one-third of regular migrants reported a reason for return that suggests involuntariness, only 11 percent of irregular migrants reported involuntary return. In part, this difference is driven by the large number of regular migrants returning home at the end of their contract. Regular migrants were, however, also more likely to report returning due to exploitation or abuse (5 vs. 2.5 percent) or due to a lost job (4.4 vs. 2.1 percent). Here, two additional points are worth noting. First, only 2.3 percent of irregular workers reported deportation as the cause of return, highlighting the relative irregularity of this outcome. Second, a high percentage of regular workers describe returning for reasons *other than the end of their contract*, which raises the question of why workers are systematically returning before the end of their contract — a decision that can mean the loss of investment in passports and work visas, and often signals an unacceptable working environment.

<sup>20</sup>Here, the data are limited by a very large percentage of regular returnees coming home for “other” reasons. The survey enumerators asked no follow-up questions, so it is impossible to know if there were systematic reasons for return captured by the “other” category that might call for a reinterpretation of some of these findings/interpretations.

**Table 7.** Return Outcomes, by Migration Channel.

	Migrated via Formal Channel	Migrated via Informal Channel	
Average income gain post migration <sup>a</sup>	\$19.5	\$32.2	†
Skill Upgrading Post Migration <sup>b</sup>			†
Skill upgrading	12.8	16.2	
No skill change in job	82.7	82.0	
Skill downgrading	4.5	1.9	
Unemployed on return	8.8	10.3	
Level of Saving Post Return, Compared to Before Migration			*
Now has less savings than before migrating	28.7	20.0	
No change	31.5	36.9	
Now has more savings than before migrating	39.8	43.1	
Level of Assets Post Return, Compared to Prior to Migration			**
Fewer assets post migration	8.8	6.5	
Same number of assets post migration	39.8	28.5	
Greater number of assets post migration	51.4	65.0	
Social Challenges			
Disconnection from community	3.9	4.9	
Disconnection/disagreement with family	2.8	3.6	
Gossip or stigma	13.3	9.6	
Harassment or abuse	3.3	1.8	
Anxiety or depression	41.4	17.7	***
Boredom	45.9	23.9	***
Drug or alcohol abuse	4.4	2.8	
Divorce or separation	0.6	1.1	
No problems reported	47.5	67.3	***
Financial Challenges			
Debts	23.8	15.8	**
No money saved	42.0	31.67	**
Friends or family asking for money	16.0	9.1	**
Business losing money or failed	3.3	3.2	
Difficult to find a job	63.5	46.9	***
Job doesn't pay enough	47.0	26.9	***
Difficult to access credit	17.7	7.2	***
Has plans to migrate again	43.1	30.1	**
		N = 1,419	

Source: ILO-IOM Risks and Rewards survey (Harkins, Lindgren, and Suravoranon 2017).

†  $p < 0.1$ . \*  $p < 0.05$ . \*\*  $p < 0.01$ . \*\*\*  $p < .001$ .

<sup>a</sup>A constructed measure based on the difference between the monthly income reported at the time of survey, compared with pre-migration reports.

<sup>b</sup>A constructed measure based on the reported skill level of work at the time of survey, compared with pre-migration. The row does not include those unemployed prior to or on return, leaving an  $N$  of 1,220.

### Migration Outcomes

The Risks and Rewards Survey asks about seven indicators of financial challenge that returnees might experience post migration, and regular returnees are similarly likely or more likely to report each (Table 7). They are *more likely* to report post-migration debts, a lack of savings, being asked for money by friends and family, difficulty in finding a job, an inadequately paid job, and difficulty in accessing credit. They are also more likely to report aspirations to migrate again.

After they return home, regular migrants tend to report higher income than those who migrated through irregular channels. There is also, however, a selection effect at work here: migrants who travel through regular channels tend to have higher initial incomes than those who migrate informally. This distinction is maintained after migration. Regular migrants reported an average pre-migration monthly income of \$81.6, compared to \$101.1 at the time of survey, a gain of \$19.5. In contrast, migrants who traveled through irregular channels reported an average monthly income of \$53.5 prior to migration and \$85.7 post migration, a gain of \$32.2.<sup>21</sup> Moreover, irregular migrants were significantly more likely to increase their assets through the migration experience. Whereas 65 percent of irregular migrants reported an increase in assets post migration, only 51 percent of regular migrants did so. Similarly, irregular migrants were less likely to report a reduction in savings since migrating, and more likely to report savings

<sup>21</sup>Between both groups, however, the typical migrant experiences almost no income gain. The average gains reported above are skewed by a smaller number of more successful migrants. The median income gain among regular migrants is zero, and among irregular migrants is \$1.50.

gains than those migrating through regular channels. Finally, even though there were no significant differences between formal and informal migrants in terms of the skill level of their current work or their level of unemployment, informal migrants were more likely to experience skill upgrading, an increase in the skill level of their job, compared to prior to their migration.

In sum, the survey data raise serious questions about the protective effects of regular migration. Although regular migrants in Thailand report better pay and working conditions than irregular migrants, they also systematically report working conditions that do not meet legal standards, and routinely experience contract substitution. In other areas, regular migrants generally fare similarly to or worse than irregular migrants on many indicators. Indeed, they are more likely than irregular migrants to experience deception and to have written or verbal agreements broken in migration processes. On arrival in Thailand, they routinely have their documents held, and they are more likely to experience harassment and abuse both in the migration process and at their worksites than irregular migrants. They are more likely to return involuntarily, and to struggle with financial insecurity and indebtedness on return.

## Explaining the Lack of Safety in Regular Migration

Given the widespread assumption that regular migration offers safer, more protected opportunities, the distinctions (or, in some cases, the lack of distinction) between regular and irregular migrations in Thailand demand explanation. For instance, should these findings be read as an indictment of formal migration processes, or are they indicative of protective mechanisms at work for irregular migrants? Are these findings specific to the Thai case or more widely applicable?

My suggestion is that each of the above can be answered with a qualified yes. Certainly, oversight of both migrant recruitment and migrant labor in the region is poor. A recent ILO report puts it more bluntly: “only the most brazen violations of migrants’ rights are rectified. . . . Everyday abuses, including overcharging migrant workers on recruitment fees and misrepresenting the terms of employment, continue to go unchallenged” (Harkins and Ahlberg 2017, xii). Thus, although regular migration might appear to safeguard migrant rights on paper, in practice there are few checks against labor exploitation and/or recruitment exploitation.

However ineffective, regulation explains only one piece of the story suggested by the data above. Rather, my own research experiences in Thailand and Cambodia suggest that we have widely underestimated the protective effects of networks and the degree to which decent work demands job mobility.<sup>22</sup> Where migrants have strong networks and freedom of movement, they can and do find decent work. In comparison, the official MOU process severely limits the potential for regular migrants to change jobs or maintain their networks while in Thailand. Each restriction limits the ability of migrants to exercise agency and thus their potential to protect themselves from the worst forms of abuse. At the same time, the way that the regular system of migration ties migrants to employers creates an effectively captive labor force. Absent either effective regulation or an open labor market, employers have no real incentives to improve conditions for workers, or to offer the rights and benefits demanded by the legal system.

To be sure, the Thai case is unique. In particular, the long migration histories within the region have created space for the establishment of durable, broad networks that enable alternative forms of migration. As networks have grown throughout time, their ability to provide protection and support has increased. At the same time, immigration enforcement in Thailand is lax. Thai officials are routinely bribed to overlook irregular status, undocumented border crossings, and illegal employment, and in doing so facilitate a system in which well-networked migrants and employers can minimize the risks associated with irregularity, albeit for a cost.

Moreover, the potential for undocumented border crossers to obtain forms of temporary status on arrival in Thailand clearly shapes the experiences of many migrants who move through irregular channels. Without the potential for this quasi-form of status, it is likely that the differences between regular and irregular migrants would be more significant. This combination of elements, each of which lowers the risk of irregular movement, is particular to Thailand. At the same time, key aspects of the Thai case are broadly generalizable to migration corridors in other contexts. Many South-South migrations take place between neighboring countries (Ratha and Shaw 2007), where borders are porous, cultures of migration are present, and oversight of migrant labor is lax. Thus, for all that makes the Thai case specific, at least some elements of this case apply elsewhere. For instance, many of the same claims could be made about Mekong migration into Malaysia (and, indeed, such claims could be empirically defended using the Risks and Rewards data). Similarly, there are major South-South migration flows that are currently unregulated (for instance, from Nepal to India) but could in the future face pressures to regularize. Although this work does not aim to generalize its conclusions about the Thai case, it does raise questions that are relevant to ask in other contexts.

If one aim of this article is to highlight migrant experiences in Southeast Asia, another is to highlight the kinds of exclusions that safe migration discourses legitimize. To a degree, the findings presented here are unsurprising. During the past 10 years, critical scholarship throughout the social sciences has pointed to the problems of temporary guestworker programs, arguing that such programs subordinate the dignity of migrants to their labor (Dauvergne and Marsden 2014), engender both precarious employment and

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<sup>22</sup>In India, Mosse et al. (2002) made the same arguments, showing that migrants without strong social networks are vulnerable to a range of challenges, including wage exploitation, intimidation, and mental health challenges.

unfree labor relations (Strauss and McGrath 2017), normalize the restriction of workers' rights (Dauvergne and Marsden 2014), generate illegality (Gardner 2010; Pande 2013), mask slavery (Gardner 2010), and constitute modern forms of unfreedom (McKeown 2012; Philips 2013). At the same time, critiques of guestworker programs have done little to highlight the absurdity of rights-based institutions intentionally advocating for, and directing migrants into, such programs without recognizing the trade-offs involved in doing so. Currently, development discourses are promoting these efforts at migration management without adequate consideration of how migrants understand and experience either regular or irregular movement. It is my hope that this article invites such conversations.

## Recommendations

What does it mean to call a particular migration “safe” — or, more pointedly, to intervene in migration dynamics to make them more “safe”? Currently, development institutions seem to widely agree that bringing order to migration streams and directing migrants toward regular channels are key ways to engender safety. This article has used data from the Greater Mekong subregion to complicate this position. Based on survey data from Cambodian, Laotian, Burmese, and Vietnamese migrants who recently returned from Thailand, I have shown that migrating through formal channels is associated with only limited protections to migrants, primarily via greater rights and benefits in the workplace. In other important ways, regular migrants fare similarly to or more poorly than those moving through irregular channels. Moreover, regular migrants face substantively higher costs and systematically poorer return outcomes than those migrating through irregular channels. These data suggest a need to reexamine the assumption that regular, orderly migrations will necessarily be safer or better for migrants in all contexts.

Moreover, it is important to recognize that bringing “order” to “disorderly” migration flows is not a neutral, bureaucratic task. States actively seek to control and curtail the rights of migrants through migration governance. Indeed, in the Southeast Asian context, there is good reason to suggest that the current push for legalization and regular migration is the direct result of increased political concern with limiting the rights and movement of migrant workers. Thus, in Thailand as elsewhere, migrants are often seeking to avoid the control of the state for specific and good reasons. In being ordered, they are controlled and surveilled in new ways — ways that often limit them from finding better paying jobs, working near friends and family, bringing their children with them across the border, accessing acceptable work, and choosing their employment sites. At the same time, regular migration imposes layers of bureaucracy, each of which demands time and costs, drawing down individual and household resources in ways that clearly shape financial security. It is only by understanding migrant preferences and recognizing the real limits of formal recruiters to meet these preferences that we will be able to understand why migration management so often fails either to promote orderly migration or to keep migrants safe (Ryo 2017).

To be clear, this is not an argument for undocumented migration as somehow systematically preferable to documented migration. Many migrants in Thailand go to incredible lengths and spend exorbitant amounts of money to obtain documentation of various kinds on arrival. These efforts alone are a good indication of the value of legal status. Rather, I see these arguments as a critique of the limited rights, freedoms, and benefits associated with regular migration both in the Thai context and elsewhere. By suggesting that migration need simply be regular and orderly to be safe, contemporary development discourse directs attention away from the pervasive forms of abuse and exploitation that regular migrants face both in their migration processes and in their workplaces. At the same time, the “safe, regular, orderly” discourse legitimizes the unfreedoms and growing costs associated with regular migration.

Alternatives are possible. At the most basic level, this article argues for the need to disaggregate “safe” from “regular and orderly” in development discourse and migration practice. In doing so, development actors will have more room to advocate for the specific practices that will increase migrant safety and well-being, regardless of whether they also prioritize order. For instance, international organizations could stop encouraging legal migration as part of safe migration programming until they have evidence that these providers meet labor and recruitment standards. Alternately, rather than *promote* “safe migration,” development actors could do more to *engender* safe migration, either by distinguishing ethical recruiters and employers, or by providing platforms for irregular workers to share information.

Similarly, disaggregating these terms underscores that some migration systems are clearly antithetical to the realization of migrant safety and well-being, raising the question of how migration orders might need to shift to engender migrant safety. In the Thai case, I would suggest that the current migration order would need to shift fairly dramatically to support migrant safety. At minimum, this would include fostering forms of migration that eliminate the need for brokers and middlemen, encouraging or requiring that employers bear the costs of migrant recruitment, and simplifying documentation processes. Although international organizations have begun to advocate for such shifts, there is still a need to prioritize and strengthen these efforts. Moreover, these shifts are likely to only marginally improve migrant safety unless migrants are offered the same rights and benefits as Thai workers (see Fine and Lyon 2017). This includes the right to change employers without employer/recruiter permission, and the right to collective bargaining, both of which are currently limited. International organizations seeking to improve the safety of migrant workers should be focused on broadening the rights offered to migrant workers, in lieu of training migrant workers or directing migrants toward particular channels.



In tandem, both Thailand and its neighboring migrant sending countries should significantly strengthen and expand their oversight of both labor standards and migrant regulations, and the remedies offered to workers in cases of exploitation or abuse. This includes expanded monitoring of labor rights violations and outlets for migrants to make claims against brokers, employers, and recruitment agencies. In addition, given the difficulty of enforcing labor standards (Kerwin 2013; Fine and Lyon 2017), international organizations should focus on building partnerships and systems that might foster compliance and discourage abuses (Kerwin 2013).

More broadly, disaggregating goals of safety from concerns with orderliness might also allow for a more robust debate about forms of migration governance that are inherently less orderly, such as freedom of movement, or more flexible forms of migrant registration. Similar kinds of management schemes are already in place in border provinces and could serve as alternative models for the country as a whole. Although there may be little political appetite for “less managed migration” in the current moment, it is these least ordered forms of movement that are likely to produce the greatest benefits and the lowest risks for migrant workers.

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