Population Mobility and Malaria: Review of Policies and Legal Frameworks that promote Access to Health and Malaria Services for Migrants in the Greater Mekong Sub-region
1. Objectives and methodology
2. International legal frameworks and policies on migration and health
3. Regional legal frameworks and policies on migration and health
4. Key national legal frameworks and policies that facilitate access to health services for migrants in the Greater Mekong Sub-region
5. Gaps on policies and legal frameworks
6. Policy recommendations
1. Objectives and Methodology
Objectives

To identify and describe existing laws, policies and legal frameworks in health and non-health sectors that impact on migrants’ access to health and malaria services in the Greater Mekong Sub-region

Methodology

1) Review of existing documentation on how GMS countries have addressed the health of migrants and responded to global and regional migration frameworks
2) Discussions with key informants: ministries and malaria experts

Each country review was conducted by in-country consultants or IOM country offices
Reviewed by the IOM Regional Office for Asia and the Pacific
A regional consultant integrated all country reports, creating a Regional Report
Reviewed by Migration Health Unit IOM ROAP & WHO ERAR focal person for Malaria and Border Health
2. International Legal Framework and Policies on migration and health
### International Human Rights Standards

#### ‘Health as a human right’

<table>
<thead>
<tr>
<th>United Nations Conventions</th>
<th>CAMBODIA</th>
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<tr>
<td>Universal Declaration of Human Rights, 1948</td>
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<td>Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979</td>
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<td>International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990</td>
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</table>
**World Health Assembly Resolutions**

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<thead>
<tr>
<th>Year</th>
<th>Resolution</th>
<th>Title</th>
<th>Content</th>
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<tbody>
<tr>
<td>2005</td>
<td>WHA 58.3:</td>
<td>INTERNATIONAL HEALTH REGULATIONS (IHR 2005)</td>
<td>Calls upon Member States to implement the IHR 2005: International Legal instrument which aims to “prevent, protect against, control and provide a public health response to the international spread of disease”.</td>
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</table>
| 2008 | WHA 61.17: | HEALTH OF MIGRANTS | Calls upon Member States:  
- “to promote **equitable access to health promotion and care** for migrants”  
- “to promote **bilateral and multilateral cooperation** on migrants’ health among countries involved in the whole migration process” |
| 2015 | WHA 68.2: | GLOBAL TECHNICAL STRATEGY AND TARGETS FOR MALARIA, 2016-2030 | **VISION** A world free of malaria  
**Targets:**  
- Eliminate malaria in 35 countries by 2030.  
- Reduce the global disease burden by 40% by 2020 and 90% by 2030  
**Pillars:**  
1. Ensure **universal access to malaria prevention, diagnosis and treatment**.  
2. Accelerate efforts towards elimination and attainment of malaria free-status.  
3. Transform **malaria surveillance** into a core intervention.  
**Supporting elements:**  
1. Harnessing innovation and expanding research.  
2. Strengthening the **enabling environment**. |
## International Labour Organization Standards

### Ratification of ILO Conventions

<table>
<thead>
<tr>
<th>ILO Conventions</th>
<th>Key obligations</th>
<th>CAMBODIA</th>
<th>LAO PDR</th>
<th>MYANMAR</th>
<th>THAILAND</th>
<th>VIET NAM</th>
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<tr>
<td>No. 97: Migration for Employment Convention (Revised), 1949</td>
<td>- Adequate medical attention during the migration process.</td>
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<td>- Same treatment as nationals in respect of social security</td>
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<tr>
<td>No. 102: Social Security (Minimum Standards) Convention, 1952</td>
<td>- Provision of medical care (preventive or curative).</td>
<td>x</td>
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<td>- Same rights as nationals.</td>
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<td>No. 143: Migrant Workers Convention, 1975</td>
<td>- Respect basic human rights of migrant workers.</td>
<td>x</td>
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<td>- Same treatment as nationals.</td>
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<tr>
<td>No. 155: Occupational Health and Safety Convention, 1981</td>
<td>- Develop occupational health services for all workers.</td>
<td>x</td>
<td>x</td>
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<td>- Surveillance of working conditions that may affect workers’ health.</td>
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<tr>
<td>No. 181: Private Employment Agencies Convention, 1997</td>
<td>- Protection of workers: social security benefits, OHS and compensations for occupational accidents.</td>
<td>x</td>
<td>x</td>
<td>x</td>
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<tr>
<td>No. 188: Work in Fishing Convention, 2007</td>
<td>- Ensure medical care, protection and social security of workers.</td>
<td>x</td>
<td>x</td>
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<tr>
<td>No. 189: Domestic Workers Convention, 2011</td>
<td>- Human rights protection of domestic workers and same working conditions than other workers.</td>
<td>x</td>
<td>x</td>
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</table>
### Other International Political Commitments

#### SUSTAINABLE DEVELOPMENT GOALS (SDG) 2015

- **GOOD HEALTH AND WELL-BEING**
  - End malaria epidemic by 2030
  - Achieve universal health coverage and access to quality essential health care services for all

- **REDUCED INEQUALITIES**
  - ‘Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies’

#### THE RIO POLITICAL DECLARATION ON SOCIAL DETERMINANTS OF HEALTH

- Adopted in 2011 during the World Conference on Social Determinants of Health in 2011.
- **Global political commitment** to reduce health inequities through action on social determinants of health in five critical areas:

  1. Adopt better governance for health
  2. Promote participation in policy making
  3. Reorient health sectors towards reducing health inequities
  4. Strengthen global governance and collaboration
  5. Monitor progress and increase accountability
Other International Political Commitments

**THE GLOBAL OPERATIONAL FRAMEWORK ON MIGRANTS HEALTH**

It was agreed during the Global Consultation on the Health of Migrants in 2010 (Madrid, Spain)

- **Monitoring Migrants’ Health**
- **Policy and Legal Frameworks**
- **Migrant Sensitive Health Systems**
- **Partnerships, Networks and Multi-country Frameworks**

**THE HELSINKI STATEMENT ON ‘HEALTH IN ALL POLICIES’ (HiAP)**

The HiAP approach takes into account the health implications of decisions, and avoids harmful health impacts thereby improving population health and health equity.
3. Regional Legal Framework and Policies on migration and health
The Strategy for Malaria Elimination in the GMS 2015-2030

A region free of malaria and the continual threat posed by antimalarial drug resistance

Objectives

1. To interrupt transmission of P. falciparum in areas of multidrug resistance, including ACT resistance, by no later than 2020, and in all areas of the GMS by 2025.
2. To reduce malaria in all high-transmission areas to less than 1 case per 1000 population at risk and initiate elimination activities by 2020.
3. To prevent reintroduction of malaria transmission in areas where it has been interrupted.

Key interventions

1. Case detection and management
2. Disease prevention in transmission areas
3. Malaria case and entomological surveillance

Supporting elements

1. Expanding research for innovation and improved delivery services
2. Strengthening the enabling environment
The Dhaka Declaration – Migration with Dignity

• The Dhaka Declaration was adopted during the ‘Fourth Ministerial Consultation for Asian Labour Sending Countries’ held by Colombo Process Member Countries in April 2011.

• It includes recommendations to promote migrant-inclusive health policies to ensure equitable access to health services as well as occupational safety and health for migrant workers.

Regional Legal Instrument | CAMBODIA | LAO PDR | MYANMAR | THAILAND | VIET NAM
---|---|---|---|---|---
Dhaka Declaration | ✗ | ✗ | ✗ | ✓ | ✓
ASEAN’s Legal Frameworks and Policies

The Declaration on the Protection and Promotion of the Rights of Migrant Workers
- Signed during the 12th ASEAN Summit in 2007.
- It recognizes migrant workers as a vulnerable group whose rights requires protection.

The Declaration on Strengthening Social Protection
- Signed during the 13th ASEAN Summit in 2013.
- ‘Migrant workers and other vulnerable groups are entitled to have equitable access to social protection’

Other Dialogues and Declarations:
- ASEAN Unity in Health Emergencies Declaration (2006)
- Healthy ASEAN Lifestyles Vientiane Declaration (2002)

Regional Legal Instrument | CAMBODIA | LAO PDR | MYANMAR | THAILAND | VIET NAM
--- | --- | --- | --- | --- | ---
ASEAN’s Declarations | ✔ | ✔ | ✔ | ✔ | ✔
Other Regional Instruments

The GMS MoU on Joint Action to Reduce HIV Vulnerability Related to Population Movement (2011)

GMS countries identified the following priority needs:
• improved understanding of treatment and care across borders, including treatment compatibilities across borders
• increased joint implementation prevention and care programmes at source and destination
• greater advocacy for migrants’ inclusion in universal coverage schemes.

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<th>CAMBODIA</th>
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The Extension of MoU among the Health Ministries of the Six Mekong Basin Countries on the Mekong Basin Disease Surveillance (MBDS) Cooperation 2015

MBDS countries signed an extension of this MOU in May 2015 agreeing:
• Strengthened national and regional capabilities in disease surveillance
• Considered Malaria a priority disease among others
• The scope of cooperation includes health system development, multi-sector collaboration, cross-border activities and joint outbreak responses

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<th>CAMBODIA</th>
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</table>
4. Key National Policies and Legal Frameworks that facilitate access to health services for migrants in the Greater Mekong Sub-region
The GMS faces large volume of intra-regional migration unequally distributed due to the consistent and unequal economic development in recent years. The majority of intra-regional migrants work in low-skilled jobs and are undocumented.

Main ‘receiving country’ in the region: 3,721,000 migrants

### Social Protection and Labour Laws and Policies enabling migrants access to health services

#### HEALTH CHECKS & PRE-DEPARTURE ORIENTATION

<table>
<thead>
<tr>
<th>Country</th>
<th>Cambodia</th>
<th>Laos PDR</th>
<th>Myanmar</th>
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<td><strong>Outbound migrants</strong></td>
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<td>Sub-decree 190; 2011</td>
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<td>Prakas No.046/13; 2013</td>
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<td>Prakas No.251; 2013</td>
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- **Inbound migrants**
  - Regular
  - Labour Law; 1997
  - Labour Law; 2013
  - Social Security Law*; 2013
  - National Health Plan 2011-2016

- **Internal migrants**
  - Labour Law; 1997
  - Labour Law; 2013
  - Social Security Law; 2013

Information for migrants on employment rights, access to health and OHS

Migrants shall undergo medical assessments

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### SOCIAL SECURITY & OCCUPATIONAL HEALTH & SAFETY

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<tr>
<th>Country</th>
<th>Cambodia</th>
<th>Laos PDR</th>
<th>Myanmar</th>
<th>Thailand</th>
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<td><strong>Inbound migrants</strong></td>
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<td>Social Security Law*; 2013</td>
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- **Labour Protection Act; 1998**
- **Workmen’s Compensation Act; 1994**

- Decree on Labour Contract; 2013

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### Notes:

- Prakas No.251; 2013
- Law on Overseas Employment; 1999
- Main country of destination N/A
- Decree on Labour Contract; 2013
OCCUPATIONAL MALARIA PREVENTION INTERVENTIONS TARGETING MIGRANTS

- Tier 1: Credible evidence of artemisinin resistance
- Tier 2: Significant inflows of MMPs with intensified malaria control

Artemisinin resistance tiers in the GMS (February 2015). WHO.

National Malaria Strategic Plan; Guidelines on the prevention and control of malaria for migrants in Myanmar; 2012

National Strategic Plan for Malaria Control and Elimination 2011-2016

Lao PDR National Strategy for Malaria Control and Elimination 2011-2015

Decision on the promulgation of the Action Plan to Prevent Artemisinin-Resistance Malaria for the period 2015-2017

Malaria posts
Rapid Diagnostic Tests
Repellents
IEC

Strategy to Address Migrant and Mobile Populations for Malaria Elimination in Cambodia; 2013

Early diagnosis & treatment
Malaria clinics
IEC/BBC
LLINs
# Health Laws and Policies enabling migrants access to health services

## Universal Health Coverage (UHC)

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<thead>
<tr>
<th>UHC</th>
<th>CAMBODIA</th>
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### Health Schemes specifically for migrants:

- Regular migrants
  - Social Security Office Scheme*
  - Migrant Health Insurance Scheme

- Irregular migrants
  - 2,200 THB (annual fee 1,600 THB)

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*Given the provisions of the Labour law, which suggest that documented migrant workers are afforded protection and access to healthcare, it could be inferred that documented migrant workers are entitled to health services under the SSO.

---

- Strategic Framework for Health Financing (2008-2015) & Social Health Protection Master Plan (draft)
- Commitment to achieve UHC by 2030
- Commitment to provide health coverage for 80% of its population by 2020

intend to further develop and expand universal coverage of social services
Memorandum of Understanding between GMS countries on labour, trafficking and health

<table>
<thead>
<tr>
<th>YEAR</th>
<th>CAMBODIA</th>
<th>LAO PDR</th>
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- **Labour Co-operation**
- **Cooperation in the Employment of Workers**
- **Cooperation against Trafficking in Persons in the GMS**
- **Cooperation to Combat Trafficking in Persons, especially Women and Children**
- **Cooperation in Preventing and Combating Trafficking in Persons and Protection of Victims of Trafficking**
- **Joint Action to Reduce HIV Vulnerability Related to Population Movement**
- **Health Cooperation**
- **Trilateral Cooperation for Health: Burma, Thailand and United States Cross-Border Partnership**
5. Gaps on National Policies and Legal Frameworks that facilitate access to health services for migrants
Gaps on Social and Labour Laws and Policies

- Need for adequate policy regarding **pre-departure training** for migrants
- Social protection legislation and policies **exclude undocumented migrants**
- Inadequate implementation of laws regarding **provision of healthcare** for migrant workers
- **Limited occupational health and safety** regulations
- **Low ratification** of relevant international conventions
Gaps on Health Laws and Policies

- Need for health policies or laws targeting all types of migrants
- Need for legislation promoting migrant-friendly health systems
- Need for improved legislation regarding access to healthcare for migrants
- Lack of policies on procedures to inform migrants of their health rights
Gaps on Malaria Policies

- **Inbound migrants** not specifically included in malaria national strategies

- **Difficulties in implementing malaria programmes** on migrant population:
  - inadequate *distribution of health services* (hard-to-reach areas)
  - *poor coordination* between partners to provide malaria services
  - presence of *unlicensed pharmacies* and clinics and *substandard antimalarial drugs*
6. Policy Recommendations
Recommendations for Internal Migrants

Short-term Recommendations

• Amend laws restricting access to health services that are based on hospital or residence registration

• Ensure that strategies promoting health service delivery consider specific factors affecting sustainability of health service uptake in both the public and private sectors

Long-term Recommendations

• Develop national plans to build health infrastructure in hard-to-reach areas
Recommendations for Inbound Migrants

Short-term Recommendations

• Develop policies to establish centres for migrants to provide information on malaria diagnosis, treatment and protective measures

• Modify laws which restrict access to health services that are based on hospital or residence registration

• Engage the private sector to provide migrants with health and labour rights information in appropriate languages

• Establish national health information systems which include migrant health indicators

• Agree on a definition of MMPs that includes inbound migrants to be consistently used throughout the policy framework of each country

Long-term Recommendations

• Ensure that both health and labour laws include inbound migrants and are implemented without discrimination

• Facilitate the portability of social security benefits across the ASEAN

• Develop GMS guidelines on minimum standards for social protection schemes, such as mandatory health insurance for migrants

• Ensure “Health in All Policies” (HiAP), in particular in immigration and labour policies
Recommendations for Outbound Migrants

**Short-term Recommendations**

- Strengthen **cross-border dialogue** and collaborations
- **Harmonization of malaria treatment** protocols across the region
- **Improve implementation of the Strategy for malaria elimination in the GMS 2015-2030** (WHO), especially regarding availability of malaria posts and mobile malaria teams in migrant key transit points

**Long-term Recommendations**

- Facilitate the **portability of social security benefits** across ASEAN
- Amend labour laws to include **pre-departure trainings** that provide information on access to health services in destination countries and malaria prevention measures
- Develop **national coordinated strategies** to reach those intending to migrate through irregular channels to ensure that they receive the **pre-departure trainings**
- Strengthen and implement formal **bilateral migration agreements** between GMS countries to improve access to formal migration mechanisms
General Recommendations

Short-term

- Strengthen multi-sectoral and inter-ministerial collaboration to develop interdisciplinary educational programmes for migrants
- Increase collaboration of regional financial institutions and multilateral development banks
- Improve monitoring and surveillance of migrants’ health by establishing systems to collect regional health migration data that include migrant health indicators and malaria trends
- Conduct periodical mapping of malaria trends (including for internal and irregular migrants)
- Conduct malaria risk assessments particularly for migrants involved in logging, mining, rubber plantations, agriculture, transportation, and road construction sectors
- Integrate migrants’ perspective when formulating upcoming health and labour policies by improving active participation of migrant communities in policy development
- Be guided by the 2030 Transformative Agenda for Sustainable Development Goals (Goals 3, 8 and 10)
- Be guided by the WHA 61.17 Resolution on Health of Migrants particularly on its key operational frameworks
General Recommendations

Long-term

- Include all migrant workers in social security schemes, in social protection mechanisms and in Corporate Social Responsibility
- Establish a welfare fund or special insurance scheme for migrant workers to cope with contingencies
- Develop policies towards UHC considering three channels of service delivery to achieve it: public, private and community based
- Develop pharmaceutical regulations to ensure high quality drugs
- Advocate inclusion of all types of migrants in the post-2015 development agenda
- Inclusion of the health of all migrants, displaced populations and refugees in post-2015 development agenda
- Advocacy for increased ratification of international instruments, in particular ILO Conventions No. 97, No 102, No 143, No 155, No 181, No 188, and No 189; the Refugee Convention, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families