Policy Brief

HEALTH, HIV AND LABOUR MIGRATION IN THE GMS

Country in focus

Myanmar

Last updated

March 2014

Myanmar is the largest source country for migration in the Greater Mekong Subregion (GMS), with Thailand as the primary destination. In 2011 some 1,154,400[1] migrants from Myanmar were registered in Thailand, with estimates of more than 1.5 million unregistered migrants, and an additional 130,000 Burmese refugees in the Thai border areas.[2] A significant number of migrants from Myanmar come from ethnic minority groups in the eastern border states, and include young men and women migrating for work or fleeing conflict and longer-term irregular migrants who have settled with families in Thailand.[3] Workers from Myanmar reside in all provinces of Thailand, with high numbers in the Thai/Myanmar border areas. Both men and women work in construction, fisheries/fisheries processing, and manufacturing, with women over-represented in informal sectors such as sex work, domestic work, and agriculture. Myanmar workers also migrate to the border provinces of Lao PDR and China to work in the growing construction and manufacturing sectors of those countries. Over recent years Chinese migration to Myanmar has increased, with estimates ranging from 10,000 to 2 million[4] temporary Chinese migrants working in small industries as irregular migrants or as engineers, in construction, and as road workers along development corridors across the country. Myanmar also is host to migrants from India, Bangladesh, and Pakistan.

Myanmar has a concentrated HIV epidemic, with elevated HIV rates for injecting drug users (21.9 percent), sex workers (9.6

AT A GLANCE

HIV prevalence among injecting drug users

21.9%

HIV prevalence among sex workers

9.6%

HIV prevalence among men who have sex with men

7.8%

Total number of migrants

103,117

SUPPORTED BY ADB

JUNIMA Joint United Nations Initiative on Migration, Health and HIV in Asia
www.junima.org

UNDP Empowered lives. Resilient nations.

percent), and men who have sex with men (7.8 percent), compared to a low national adult prevalence of 0.53 percent.[5] HIV prevalence is highest in urban centres among the three key population groups, and is also high among patients with tuberculosis (9.9 percent).[6] In 2011 an estimated 120,000 people were eligible for antiretroviral therapy (ART), which reached an estimated 33 percent of this number.

While reliable data on HIV prevalence in migrant populations in Myanmar is limited, studies indicate that the risk of HIV be linked to some occupations of high mobility, to high-risk sexual or drug taking behaviour, to certain geographical locations, and to limited access to affordable health care and HIV prevention and treatment.[7] Migrants in the GMS also face specific HIV vulnerability due to exploitative living and working conditions, government policies that confine migrants to specific locations or employers, and high levels of stigma and discrimination.[8]

There is evidence of increased HIV vulnerability for migrant fishermen, sex workers, truck drivers, and pregnant women from Myanmar in some border areas. For example, in 2004 Myanmar fisherman in four Thai coastal and border areas showed HIV prevalence up to 9.4 percent.[9] Long-distance truck drivers from Myanmar working on the China/Myanmar border in 2009 showed an elevated HIV prevalence of 3.5 per cent.[10] Most notably, sex workers from Myanmar working in the Thai border province of Ranong showed an HIV prevalence of 21 percent in 2005[11] and 6.7 per cent in 2006, which was higher than that of Thai sex workers in the same province (4.9 per cent).[12] Pregnant migrant women in the Thai/Myanmar border areas of Tak and Ranong showed HIV prevalence that was two to three-times higher than Thai pregnant women over the period 2004–2006.[13]

Injecting drug use is another risk factor in Myanmar's eastern border states (Northern Shan and Kachin), which are conflict-affected, difficult to access for health service delivery, have high numbers of drug users, and witness significant outgoing migration to Thailand and China. The overlap of two high-risk behaviours – paid sex work and injecting drug use – exacerbates the HIV risk for migrant populations in the China/Myanmar border areas.

National policies/development initiatives on migration, health, and HIV

Labour migration in Myanmar is overseen by the Ministry of Labour, Employment and Social Security under the 1999 Overseas Employment Law, which mandates the nature of outgoing migrant training and recruitment. Outgoing migrant workers must pass a health test, but this does not include HIV testing unless mandated by the destination country. Myanmar has no HIV-related travel restrictions

or mandatory HIV testing for entry, work, or residence in the country.[14] The country currently has four border trade points and one special economic zone on its border with Thailand, with plans for more border development in the future.

In 2003 Myanmar signed an memorandum of understand (MoU) on labour migration with Thailand, which entitles registered workers to health insurance, minimum wages, and labour entitlements under Thai law. Recent collaboration with the Thai Government has resulted in improved formal migration mechanisms, including nationality verification centres established in three border towns in Myanmar, and Myanmar officials working in Thailand to verify migrant worker documentation. A Myanmar labour attaché is based in Bangkok with the mandate to assist Burmese migrants, to resolve disputes with employers, and approve contracts; and Myanmar is currently developing a more comprehensive National Plan of Action on migration management.[15] The GMS MoU (2011) on HIV vulnerability and population movement has been signed by Myanmar and other GMS countries, targeting HIV prevention and treatment for migrant populations, improvements in policy, and collaborative GMS development strategies.

Labour rights protections in Myanmar are governed by a series of laws for various sectors and workers, and the Labour Organization Law of 2012 guarantees workers the right to organize. However, there is limited information on the implementation of these laws for migrant workers in Myanmar.

Myanmar's National Health Plan 2012–2016 aims to strengthen primary health care systems, and prioritizes the development of health facilities in the underserved border areas.[16] The country has increased its health care funding with longer-term plans for universal coverage and the expansion of the national Social Security scheme to cover the most disadvantaged.[17] The Social Security Act (2012) mandates businesses with more than five employees that have operated for at least three months provide social security coverage for workers via contributions of the designated rate (2.5 percent by employer, 1.5 percent by employee). Insured workers under the scheme are eligible for free medical treatment, cash benefits, and occupational injury benefits, and all workers are covered other than those in seasonal work.[18]

Myanmar's National Strategic Plan on HIV 2011–2015 targets migrants and their sexual partners, mobile populations, and migration-affected communities (source, transit, and destination). Strategies are particularly aimed at border transit zones and construction and development projects, and include HIV prevention via migrant-friendly health services, portable 'health history' books, and

referral systems. Community-based activities include drop-in-centres, community-based treatment, interventions for young people, and safe mobility education in key source, transit, and return communities. Improved data collection, referral systems, mapping of migration, and bilateral collaboration to promote continuum of care for migrants with HIV is also a priority. In addition, targeted HIV prevention for sex workers, men who have sex with men, and injecting drug users aim to achieve 80 percent condom use and to expand ART and prevention of mother-to-child transmission services across all population groups.

Good practice programme and advocacy initiatives on migrant health/HIV

The Targeted Outreach Programme (TOP 2004–2011): This programme uses a peer-outreach advocacy model to make HIV-prevention and treatment services accessible to sex workers and men who have sex with men. TOP provides clinical services for sexually transmitted infections, tuberculosis, and opportunistic infection management; referral for HIV treatment; drop-in-centres; and HIV care and support. With centres in 18 cities across Myanmar, TOP has reached over 45,000 sex workers and 58,000 men. TOP advocacy has also resulted in the implementation of the Myanmar Government's Administrative Order (2000) – also noted in the National HIV/AIDS Prevention Plan – prohibiting police from using condom possession as evidence to prosecute sex workers.

The Ministry of Labour, Employment, and Social Security and the Myanmar labour attaché in Bangkok: The Ministry and the attaché are working in collaboration with the Thai Government and the International Organization for Migration to improve the National Verification Programme (NVP) and formal migration process and, for the first time in decades, to implement information campaigns in Burmese migrant communities in both Myanmar and Thailand to support increased access to legal migration channels.

The Myanmar-Country Coordination Mechanism (MCCM): The MCCM recently convened under Round 9 of the Global Fund and integrated an approach to expand the forum into a high-level multi-stakeholder forum for all issues regarding HIV/AIDS, malaria, tuberculosis, and maternal, newborn, and child health in order to promote collaborative management across multiple sectors.

Current policy incoherence and gaps on migrant health and HIV

HIV prevention and treatment gaps: While the Myanmar National Strategic Plan on HIV/AIDS (NSP) outlines strategies to target mobile populations, it needs to have a more specific policy response for

the large numbers of irregular migrants – including undocumented migrants from Myanmar working in the GMS and undocumented foreign migrants from GMS countries working in Myanmar. Irregular migrants in both source and destination countries have limited access to affordable HIV treatment and comprehensive sexual and reproductive health services due to their irregular status and vulnerability to exploitation. The NSP also needs to include a more comprehensive policy and programme response for documented foreign migrants who are working in Myanmar in order to better define their entitlements to HIV/health care and social protection while in the country.[19]

Myanmar's health care system has limited national coverage, and universal access to primary health care remains a challenge, especially in rural and border areas. There is a lack of adequate, affordable HIV-prevention and treatment services for mobile population groups, citizens, and migrants in Myanmar, especially in border regions and rural and conflict-affected areas in the country. Access to ART treatment in government health clinics is currently restricted by residency requirements that necessitate evidence of house registration, which makes such access particularly difficult for HIV-positive people in highly mobile groups such as sex workers and migrants.[20] Furthermore, limited surveillance and behavioural data on migrants in Myanmar results in a lack of evidence on migrant HIV trends and treatment needs for outgoing migrants, returning migrants, and migrants working in Myanmar. This data needs to be scaled-up, as do strategies to improve health financing, to strengthen health systems, and to move from time-limited, project-based initiatives to a sustainable HIV response via integrated public health services.

There is a lack of standard protocols for cross-border information sharing and the treatment of referrals to neighbouring GMS countries for migrants with HIV; and there is no clear policy mechanisms to receive arrested and deported irregular migrants from Thailand. This results in mass deportation of undocumented Myanmar workers, resulting in turn in challenges to the coordination and follow-up of their HIV treatment, increased costs, rising debts, and the exploitation of workers in reiterative migration patterns.[21]

Barriers to an enabling environment: Ineffective and inaccessible migration policies and mechanisms have led to high levels of irregular migration and subsequent barriers for access to HIV prevention and treatment for irregular migrants in destination countries. Myanmar has yet to develop a comprehensive migration policy incorporating human and labour rights standards, formal labour migration mechanisms, citizen documentation, and human rights protections for Myanmar migrants overseas.[22]

Despite recent improvements, the bilateral MoU and NVP procedures with Thailand remain more expensive, time-consuming, and inflexible than informal migration channels, leading to high rates of irregular migration.[23] Burmese migrant workers comprise the largest migrant population group in Thailand, so it is imperative that a more effective bilateral agreement should be set in place. The Myanmar/Thailand MoU needs to be reviewed to include specific minimum health care entitlements or health insurance strategies for outgoing documented migrant workers from Myanmar. Formal citizenship documentation is urgently required for the large number of undocumented migrants from Myanmar residing in Thailand, including ethnic nationality groups, stateless migrants and their children, and informal sector workers who face extensive barriers to HIV prevention and treatment.

Laws that discriminate against key mobile population groups in Myanmar pose a serious barrier to HIV prevention. There is currently no law in Myanmar that prohibits discrimination on the grounds of HIV status in the workplace or community setting, and Penal Code (article 269) criminalizes HIV transmission.[24] The Suppression of Prostitution Act 1949 criminalizes sex work with penalties of imprisonment for three years, and the Myanmar Penal Code (section 377) criminalizes homosexuality. As such, female, male, and transgender sex workers face police harassment, violence, and discrimination.[25] Further, the Narcotic Drugs and Psychotropic Substances Law (1993) requires intravenous drug users to register for mandatory medical treatment with penalties of five years of imprisonment, and the Myanmar Excise Act (1917) prohibits needle distribution without a license – all measures that compromise a harm-reduction response. [26]

RECOMMENDATIONS	LEAD AGENCIES
1. Review and harmonize national migration and health policy to provide an optimum package of sexual/reproductive health and HIV prevention/treatment service for all migrants regardless of legal status, without discrimination, and of the same quality as citizens – including review of residency restrictions on ART access for mobile populations.	Myanmar Ministry of Labour, Employment and Social Security / Ministry of Health / Ministry for Immigration and Population
2. Improve national data collection to include: sentinel surveillance for HIV; health seeking and HIV-risk behaviours among migrants; health management information systems for mobile populations; and outflows and return migration data, including deportation.	Myanmar Ministry of Labour, Employment and Social Security / Ministry of Health
3. Increase migrant participation in HIV prevention via community-based, peer-outreach models with dedicated financing for long-term programming.	Myanmar AIDS Technical and Strategy Group
4. Consider measures to improve access of national population and foreign migrants to national health insurance systems and social security protection.	Myanmar Ministry of Labour, Employment and Social Security / Ministry

		Health
5.	Review and amend laws and policies that criminalize sex work, intravenous drug use, homosexuality, and needle exchange programmes, and enact HIV anti-discrimination legislation to improve human rights entitlements for people living with HIV.	Myanmar Ministry of Justice / AIDS Technical and Strategy Group
6.	Develop a comprehensive, sustainable, multi-sector policy response to HIV and migration in the GMS to define: specific entitlements for *all* migrant workers to HIV prevention, treatment, and care; subnational delivery mechanisms supported by technical and financial resources; guarantees of confidentiality and prevention of punitive measures for irregular migrants who seek health care; and a clear statement regarding migrants rights and mechanisms to access ART.	Myanmar AIDS Technical Strategy Group / Ministry of Labour, Employment and Social Security / Ministry of Health
7.	Develop intraregional collaboration mechanisms and an effective model for HIV referrals/treatment and health insurance for GMS migrants in source, transit, and destination countries.	Myanmar AIDS Technical Working Group / Ministry of Labour, Employment and Social Security / Ministry of Health / Ministry for Immigration and Population / GMS partners
8.	Improve access to formal migration mechanisms that guarantee decent work, labour rights, and comprehensive health entitlements for all migrants. Strengthen the implementation of formal bilateral migration mechanisms with Thailand (MoU and National Verification Programme) to reduce costs and complexity and to enable migrant workers from Myanmar to participate in Thailand's national health insurance scheme, without penalty or restriction.	

REFERENCES

[1] Saonuam, P., 2012, "Policy Initiatives and Proposed Action for HIV/AIDS and Mobility: Thailand Experiences," power-point presentation, Ministry of Public Health, Thailand.
[2] The Border Consortium Camp Population Data, January 2013, at theborderconsortium.org/camps/populations.htm.
[3] Mekong Migration Network and Asian Migrant Centre, 2012 (fourth edition), *Migration in the Greater Mekong Subregion, In-depth study: Border economic zones and migration*, Thailand.
[4] Rieffel, Lex, 2010, *Myanmar/Burma: Inside challenges, outside interests,* Brookings Institution.
[5] Myanmar Global AIDS Response Progress Report 2012, Myanmar National AIDS Programme.
[6] Ibid.
[7] Chantavanich, S., 2000, *Mobility and HIV/AIDS in the Greater Mekong Subregion*, Asian Development Bank and United Nations Development Programme (UNDP).
[8] Mekong Migration Network, op. cit.
[9] Ministry of Public Health, Disease Control Center, Thailand: 2001–2004, *cited in* Mandoza, A., 2013, *HIV Among Migrant Workers Policy and Program Issues*, UNDP, Asia-Pacific Resource Center, Bangkok.
[10] Joint United Nations Programme on HIV/AIDS (UNAIDS) China, 2011, "Background Paper: Cross-border programming to strengthen integrated HIV response in China," cited in Mandoza, op. cit.
[11] HIV/AIDS Data Hub, Myanmar Country Review, December 2011, at aidsdatahub.org.
[12] International Organization for Migration (IOM), 2010, *Migration and HIV/AIDS in Thailand: Triangulation of biological, behavioral and programmatic response data in selected provinces*, Bangkok.
[13] IOM, 2010, Ministry of Public Health, UNAIDS, and the Canada South-East Asia Regional HIV/AIDS Project, 2010, *Migration and HIV/AIDS in Thailand: Triangulation of Biological, Behavioural and Programmatic Response Data in Selected Provinces*, Bangkok.
[14] International Labour Organization, 2009, *Mandatory HIV testing for employment of migrant workers in eight countries of South-East Asia: From discrimination to social dialogue*, International Labour Organization and IOM, Bangkok.
[15] GMS Triangle Project, "Migrant Labour Protection Issues and Responses in the GMS," Mekong Forum, July 2013, Khon Kaen, Thailand; a presentation, at www.mekongforum.com/mekongforum2013/.
[16] Myanmar Health, 2013, "Briefing Paper: Health Policy, Legislation and Plans, at www.moh.gov.mm.
[17] Universal Health Coverage, Paying for health and innovating for value in Myanmar, at uhcforward.org/blog/2013/feb/4/paying-health-and-innovating-value-myanmar.
[18] Mekong Migration Network, 2011, *Legally Binding: A Summary of Labour Laws in the Greater Mekong Subregion* Bangkok, Thailand.
[19] Mandoza, A., op. cit.
[20] "Group Calls for Overhaul of Repressive, Antiquated Prostitution Law," *The Irrawaddy*, at www.irrawaddy.org/archives/41020.
[21] Empower Foundation, 2012, *Hit and Run: Sex Worker's Research on Anti-trafficking in Thailand*, Thailand.
[22] Hall, Andy, 2012, *Myanmar and Migrant Workers: Briefing and Recommendations*, Mahidol Migration Center, Institute for Population and Social Research, Mahidol University, Thailand.
[23] Mekong Migration Network, 2013, *Arrest, Detention and Deportation: Policies, Issues and Experiences of Migrants*, Thailand.
[24] Global Network of People Living with HIV, at www.gnpplus.net/criminalisation/country/myanmar-burma.
[25] UNDP, 2012, *Sex Work and the Law in Asia and the Pacific*, UNDP, Asia-Pacific Regional Centre, Bangkok.
[26] HIV/AIDS Asia Regional Programme, *Law and Policy Review*, July 2001, United Nations Regional Task Force on Injecting Drug Use and HIV/AIDS for Asia and the Pacific.