



International  
Labour  
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## ► Policy review on social security for domestic workers in Thailand



"Domestic workers need Social Security Section 33"

“ลูกจ้างทำงานบ้าน  
ต้องการสิทธิประกันสังคม  
มาตรา 33”

- ▶ **Policy review on social security for domestic workers in Thailand**

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## ► Foreword

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Domestic workers are workers performing services in or for a private household or households. These services keep families safe, clean, comforted and fed – and for those with care responsibilities, enable work outside of the home. The emotional bonds often created, and the oft-repeated sentiment that domestic workers are “part of the family” are the aspects of this job that make it “work like no other”.

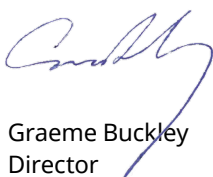
This attitude, which at the first sight can be portrayed as positive, can end up being also one of the reasons why this category of workers, who are mostly women and, in many instances, migrant, are not always treated like all other workers. Often, their employment status is not recognised, so they are not provided with the protections that other workers benefit from. In 2011, the international community adopted the ILO’s Domestic Workers Convention, 2011 (No. 189), which recognized for the first time that domestic work is also “work like any other”. The Convention gave momentum to domestic workers and their allies, who had been fighting for years to ensure that domestic workers are entitled to the same basic protections as other workers – such as maximum working hours, safe working conditions, protection from discrimination, and the provision of a minimum wage. This Convention also marked an important milestone for advancing gender equality in the world of work, and more specifically the rights of many women workers highly exposed due to the informality and decent work deficits.

Equality in legal protection is a catalytic requirement from which many other benefits and opportunities can flow. In Thailand, the Government is currently carrying a review the Ministry of Labour’s Ministerial Regulation No. 14 (2012) under the Labour Protection Act 1998. This is the key regulation, which currently excludes domestic workers from the scope of some of labour and social protections.

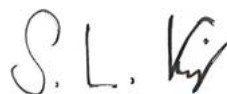
The review contributes to the discussion on the extension of labour rights to domestic workers, particularly access to social security. This report identifies the barriers for ensuring social security coverage for domestic workers in Thailand and provides recommendations for immediate actions and strategic measures to better protect domestic workers. It also highlights the mutual benefits from a positive shift towards formal employment and social protection in this sector. The primary data collected through interviews and questionnaires during the Project confirmed that both workers and employers support the provision of social security to domestic workers.

This report built upon the previous work of the United Nations Joint Programme which was a collaboration among the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) and the International Labour Organization (ILO), the United Nations Children’s Fund (UNICEF) and the International Organization for Migration (IOM).

Enjoy the reading and join our efforts to protect the domestic workers in Thailand.



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## ► Abbreviations

<b>CCC</b>	Civil and Commercial Code
<b>CEACR</b>	Committee of Experts on the Application of Conventions and Recommendations
<b>CLMV</b>	Cambodia, Lao PDR, Myanmar and Viet Nam
<b>ICLS</b>	International Committee on Labour Statisticians
<b>ICSE</b>	International Classification of Status in Employment
<b>IES</b>	Informal Employment Survey
<b>ILO</b>	International Labour Organization
<b>INPS</b>	National Social Security Institute, Italy
<b>IOM</b>	International Organization for Migration
<b>KII</b>	Key informant interviews
<b>LPA</b>	Labour Protection Act
<b>MHIS</b>	Migrant Workers Health Insurance Scheme
<b>MOL</b>	Ministry of Labour
<b>MoPH</b>	Ministry of Public Health
<b>MOU</b>	Memorandum of Understanding
<b>NSO</b>	National Statistical Office
<b>NV</b>	Nationality Verification
<b>SSO</b>	Social Security Office
<b>SWC</b>	State Welfare Card
<b>UHC</b>	Universal Healthcare Coverage
<b>UNICEF</b>	United Nations Children’s Fund
<b>UNJP</b>	United Nations Joint Programme
<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women
<b>WCA</b>	Workmen’s Compensation Act
<b>WCF</b>	Worker’s Compensation Fund

## ► Executive summary

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### Introduction

In contemporary society, care work at home is vital for the economy outside the household to function. Domestic work, nonetheless, is undervalued and poorly regulated, and many domestic workers who are mostly women and in many instances migrant remain overworked, underpaid, and unprotected. Notions of family and “non-productive” work divert attention from the existence of an employment relationship. This renders domestic workers vulnerable to unequal treatment and means they are usually excluded from employment-based social protection mechanisms. Thus, a crucial component of achieving decent work for domestic workers lies in the recognition that domestic workers are workers, whether they work in a family, are placed in a private household by an agency, or are employed in a public or private institution.

In Thailand, the Government is currently carrying out a review of Ministerial Regulation No. 14 (2012), under the Labour Protection Act 1998, the key regulation excluding domestic workers from the scope of labour and social protection legislation. This creates an enabling context to consider the extension of labour rights to domestic workers, including social security. Within this setting, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), and the International Labour Organization (ILO), in collaboration with the United Nations Children’s Fund (UNICEF), and the International Organization for Migration (IOM) are implementing the United Nations Joint Programme (UNJP) *Accelerating progress towards an integrated and modernized social protection system for all in Thailand 2020-22*. In this context, this report conducts a policy assessment with the objectives of reviewing existing policy and legislation and identifying barriers for the inclusive, effective and gender-responsive social security coverage of domestic workers. The methodology for the present study employs a mixed-methods approach and multiple data sources, including a literature review, legal mapping, localized quantitative and qualitative surveys, as well as a statistical analysis of domestic workers based on the Informal Employment Survey (IES) 2018. The findings will be used to develop a set of policy recommendations for the Government’s consideration to ensure that social protection or security systems benefits domestic workers who are mostly women by responding to their rights and needs.

### Conceptual framework

Definitions of domestic work and domestic worker vary from country to country. The international definition provided by ILO Domestic Workers Convention, 2011 (No. 189) identifies the home as a place of work as the feature that binds domestic workers together, rather than tasks.<sup>1</sup> The Convention also marked an important milestone for advancing gender equality in the world of work, and more specifically the rights of many women workers highly expose to informality and decent work deficits. Internationally and nationally, the type of authority between employers and workers is used to classify workers as dependent or independent. By this measure, domestic workers overwhelmingly are identified as dependent workers in a relationship of employment. Based on international classifications and how they relate to the national legal context, the present study makes a distinction between four basic types of domestic workers in Thailand: domestic employees, domestic workers employed by service providers, dependent contractors, and own-account domestic workers.

Domestic employees are characterized by being employed bilaterally for pay directly with a household. This is the most traditional employment arrangement for domestic workers in Thailand, but it is

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<sup>1</sup> Casual, hourly, task-based domestic work, if performed on an occupational basis, still falls within the scope of Convention No. 189.

specifically excluded from the full protections of labour legislation, including social security. Domestic workers employed by service providers also relate to the household as their place of work, but are ultimately in a relationship with the service provider who places them there. They are employees for pay, but of an enterprise and as such are treated as any other employee in any formal industry in Thailand. Third, dependent contractors are workers who have contractual arrangements of a commercial nature to provide domestic work services to households, or through a third party. They are not employees of this third party, but are dependent on it for organization and execution of the work, income, or for access to the market. The difference between dependent contractors and self-employed workers can be difficult to draw, particularly for the end users – or households – who may not be aware of the exact nature of the third party’s involvement. Own-account domestic workers are effectively self-employed, working for multiple clients and even providing their own equipment. Such workers are not considered as domestic workers under C.189, and their economic activities are primarily regulated through legislation applicable to own-account or self-employed workers, regardless of the industry they participate in.

## The legal framework around domestic work

The international legal framework recognizes domestic work as “work”, including domestic workers who are employed directly by households, or by service providers, like agencies or digital platforms. Both are recognized as employment relationships. This is important because in national settings, the employment relationship determines the level of protection afforded. The firm definition that Thai legislation makes between hire of employment and hire of service – and thus of who is in an employment relationship – does not actually fit the new forms of work that have appeared in the labour market in general, and in domestic work in particular. The Labour Protection Act (LPA), 1998 regulates the relationship between *employers* and *employees*, defined persons who accept to engage and agree to work for wages, respectively. The Act does not make special provisions for different employment relationships, instead allowing the use of Ministerial Regulations to exempt the application of the Act in part or in whole to any category of employer.<sup>2</sup> In practice, this means that only the most standard employment relationship, understood as work that is full time and part of a subordinate relationship between an employee and employer, is regulated. Moreover, the LPA specifically excludes “work which does not involve business operations.” This creates a situation whereby certain employers have less responsibilities and their workers less protections – a type of second-level labour protection.

Consequently, the full personal scope of this law reaches less than half of all employed persons in the country, the remaining of which are considered “informal”. In this sense, informality in Thailand is partly created by the legislations restraint to include all workers into its scope. Particularly affected are workers in part-time, multi-party, multi-employer workers, as well as those in industries which are not considered to generate economic profit.

Through Ministerial Regulation No. 14, the LPA explicitly excludes domestic workers from several key provisions, like the minimum wage, equal pay for equal work, limits on working time and compensation for overtime work, among others. The ongoing revision of this regulation provides an opportunity to address this limitation. The Social Security Act (SSA), 1990 establishes the benefits under the Social Security Fund. Through a 2017 Royal Decree, it limits its personal scope to match that of the LPA, although this is not automatically linked. Consequently, domestic workers only have access to voluntary insurance for the partial benefits offered under Section 40 of the Act. Migrant domestic workers are excluded from this too. The situation is the same for the Workmen’s Compensation Act (WCA), 1994, which provides workers with benefits, should they experience occupational injuries or illness through the Worker’s Compensation Fund (WCF). Migrant workers in Thailand have varying degrees of protection available, depending on their regularization status, including the dedicated Migrant Workers Health Insurance (MHI) scheme.

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<sup>2</sup> See Section 5 of the Labour Protection Act (LPA) B.E. 2541, 1998.



The Ministry of Labour (MOL) is currently in the process of revising Ministerial Regulation No.14 with the aim of expanding the rights of domestic workers. Some of the proposed revisions are significant, such as the extension of the minimum wage. There is also an intention to extend maternity leave, but it is not clear if it will be paid, and paid sick leave is not on the list. Overall, the revision would not guarantee the full protections of the LPA, thus maintaining a distinction between their employers and others. This will continue to challenge the effective extension of social insurance coverage to this group, for example, in the case of maternity leave. It is thus strongly recommended that there is parallel action at the level of the WCA and SSA to remove clauses which exclude domestic workers on the basis of their work not involving “business operations.”

Two attitudes contribute to the general notion that domestic workers should be treated differently than other workers by legislation. The first is that they are part of the family and so that formal instruments like employment contracts are not an appropriate way to regulate the relationship. The second is that their work produces no economic profit. It is important for civil society and those supporting the full extension of rights to this group, to work on reducing these misconceptions by emphasizing the continued relevance of labour rights in any employment relationship, as well as raising awareness about the economic value of this sector, outside traditional notions of economic profit.

## A profile of domestic work in Thailand

The number of domestic workers in Thailand has increased by almost a third in recent years. According to the Informal Economy Survey (IES), in 2018 there were nearly 290,000 domestic workers in the country and seven out of ten were women. The survey showed that the sector is an important source of employment for women, and increasingly for men too. The number of men in domestic work has increased by 85 per cent in recent years thanks to the growth in male-dominated occupations, like driving. Domestic work is lifelong employment in Thailand, particularly for women. For the social protection system, it means this is employment that can facilitate qualification for social insurance benefits such as old-age pensions and is thus an opportunity to boost the numbers of women obtaining Social Security Fund pensions in Thailand. Domestic workers perform a wide range of tasks, and these are shifting. Male-dominated occupations like security and maintenance, and driving, are experiencing significant growth. Qualitative data points at women domestic workers performing a wider range of tasks compared to men. Thus, when trying to define domestic work, it is best not to use task-based definitions, in line with the approach taken by ILO Convention No. 189.

As outlined in the ILO’s background technical note for this study (ILO, 2022a), the 2018 IES also shows that domestic workers in Thailand overwhelmingly identify themselves as domestic employees (99 per cent), meaning as dependent workers. Domestic workers who identify as own-account workers are employed by or through service providers, meaning that they are still dependent workers but in a multi-party rather than a bilateral relationship. The data also points at the fact that the role of third parties in the sector has increased rapidly since 2014. These include traditional recruitment agencies but also new players such as digital platforms. A third of domestic workers, predominantly men, are now hired by or through service providers. This is an important development that requires further research, in particular with regards to the employment model between these agencies and the workers, which might involve liability for social security registration. There remains a lack of information to identify dependent contractors. Different employment statuses are not mutually exclusive - workers may have as many statuses as they have jobs. The effective inclusion of a sector like domestic work into the social protection system requires accommodating all types of employment statuses, occupations, and arrangements.

There is a significant wage gap between domestic employees and other employees in Thailand, as well as between female and male domestic employees. About half of all domestic workers earn below the minimum wage and three in four of these are women. Despite lower wages, domestic employees are more likely to work long hours. Social security coverage among domestic workers is lower than that of the general population. Coverage data by regime is not available, but given the legal barriers for

their participation, it is likely that most insured workers are participating voluntarily. Women domestic workers, as well as those with the lowest incomes, are least likely to be affiliated, this means the largest share of domestic workers currently have no access to unemployment protection or employment injury and sickness insurance. Coverage is related to income, but ability to pay is not the only factor affecting the willingness to enroll. Qualitative data showed mixed results in terms of workers' awareness about the benefits of the social protection system. Workers have high expectations of employer support during times of need. On their side, employers interviewed were positive about making contributions to the social insurance system and the benefits this would entail for themselves and their workers.

The lack of reliable information on the share of migrant workers in the sector means the potential reach of policies aimed at expanding coverage of social security is uncertain. Negative attitudes towards migration might contribute to attitudes towards domestic work. Mainstreaming immigration into labour and social protection policies is necessary to effectively regulate sectors like domestic work.

## Summary of challenges and possible means to address them

**Exclusion from the scope of the law:** In Thailand, the LPA's use of the undefined term "business operations" is being used to draw a line between the public and private spheres, in a way that responds more to traditional public attitudes towards domestic work, than to the labour realities of the sector and are used to justify legal exclusions. It is important for policy-makers to reevaluate their interpretation of this term in favour of more comprehensive understandings of economic value and of what constitutes labour. Other national legislations address this issue, by focusing on the gains achieved by the work, rather than the location where it is performed. At the most basic level, exclusion clauses targeting domestic work within Ministerial Regulation No. 14 of the LPA, the 2017 Royal Decree of the SSA and Article 5 of the WCA are the main obstacles to expanding legal coverage to domestic employees in Thailand. Removing them would amount to implicitly extending the coverage of the legal framework to domestic employees, who would then simply fall under the legal category of "employees" in these legislations. In this sense, focus on the WCA should be equal or greater than that placed on the SSA, as the protections it offers will address more immediate risks facing domestic workers. In the end, ensuring consistency between all legislations will be important.

**Limited scope of the law:** There are structural limitations in the Thai legislative framework that hinder the expansion of its scope to complex sectors like domestic work. The data reflects a changing sector where multi-party and multi-employer relationships are increasing. These are not employment arrangements that are considered or catered for by the LPA, and thus even if domestic employees are no longer excluded from the legislation through the steps above, there might still remain an important gap between legal and effective coverage. Thus, it might be necessary to consider more explicit approaches to the inclusion of domestic workers into the relevant legal framework. International practice points at the development of dedicated regulations for domestic work as the most effective way of extending labour and social security protection. In Thailand this could be achieved by repurposing Ministerial Regulation No.14 or by developing a specific law for the regulation of domestic work.

**Formalizing the employment relationship:** Effective social protection hinges on recognizing the employment relationship. In practice, domestic workers fit the criteria set out by the Thai Supreme Court to be considered dependent workers, or employees, and thus entitled to the protections of labour and social protection legislation. In the absence of legal reform, the implementation of model contracts could serve as an instrument to gradually formalize these relationships and encourage the extension of minimum labour standards, even when those are not currently extended to domestic workers.

**Extension strategy design and removing administrative barriers:** International experience shows that once legal coverage exists, making enrolment mandatory is essential to extend coverage to challenging groups like domestic workers. However, it is important to design the modalities of participation so that they are adapted to the specificities of domestic work and successfully address the obstacles to effective coverage. Such simplified modalities include administrative processes, in particular registration,

contribution payment and collection. In the domestic work sector, it is necessary to accommodate the existence of multi-party (temporary agency work or subcontracted labour) and multi-employer relationships as a way to acknowledge part-time work (including hourly and daily work). The effective inclusion of workers working in or for private households will also require inspection capacities to be adapted to this new setting.

**Developing adequate financing mechanisms:** In addition to creating mechanisms that facilitate the payment of contributions, it is also important to adapt the manner in which contributions are determined. Differentiated contribution rates based on working time and age are interesting strategies in the Thai context and could be used to promote both increased coverage as well as employment in the sector. In addition, policy makers may consider offering fiscal incentives and revising existing subsidies for more effective results.

**Raising awareness:** In the case of domestic work in Thailand, attitudes and behaviours towards the sector may be linked to this exclusion. This perspective is shared by policy makers and civil society actors who see this as one of the key challenges to extending legal rights to domestic workers. In this context, there is a need to generate evidence on the economic and societal value of domestic work. Increasing awareness about the rights and contributions of domestic workers, including migrant domestic workers, is important both among the public, but specifically policy makers. In addition, when the revision of Ministerial Regulation No. 14 is finalized, it will be essential to raise awareness among domestic workers and their employers about their new rights and obligations. Survey data showed that employers and workers use different communication channels to find one another. It is important that this is considered by outreach efforts.

## Final policy recommendations

### Immediate actions

- 1. Establish a forum for tripartite dialogue on the extension of social insurance to domestic workers** which can support both the finalization of the revision of Ministerial Regulation No.14 and work together towards the next steps in the process, under a formal work plan.
- 2. Spread awareness about the economic and social value of domestic work** as a prerequisite to achieve the necessary legal reforms.
- 3. Expand legal coverage by removing exclusion clauses targeted at domestic workers and consider a more explicit inclusion of the sector for translating this into effective coverage.** Work towards the amendment of exclusionary clauses within the WCA and the 2017 SSA Royal Decree. Prioritize the reform of the WCA to extend its benefits as soon as possible.
- 4. Begin design work for the implementation of gender-responsive social security providing paid maternity leave, and ideally, paid sick leave.** Define how the extension of maternity leave, currently under consideration, would be implemented in policy and administrative arrangements.
- 5. Institute the use of model contracts** as a concrete step to prove the employment relationship and regulate it within the bounds of existing labour standards.
- 6. Study further the diversity among third parties in domestic work.** Understand the kind of work arrangements and employment statuses emerging, so that coverage extension plans can keep up.

## Strategic actions

- 1. Evaluate the need and feasibility of an explicit approach to legal coverage.** Consider developing specialized regulations which unequivocally extend the scope of the LPA to all types of domestic workers. Contribute to the wider debate on the need to update the LPA to reflect a changing labour market.
- 2. Embrace a sector-wide approach to expansion** which explicitly includes domestic workers both as a unique sector, as well as through the recognition of the multiple employment statuses they might take.
- 3. Prioritize and facilitate mandatory affiliation** to achieve effective coverage extension. Once legal barriers are addressed, an accompanying administrative reform will be necessary.
- 4. Develop adequate financing mechanisms** in the form of differentiated contribution rates, fiscal incentives, and revised subsidies. These should be evidence-based and agreed among social partners.
- 5. Mainstream the needs of migrant workers** who make up an important part of the sector but are particularly vulnerable to the lack of labour and social protection entitlements.



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# Introduction

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Domestic work is one of the world's oldest and most important occupations for millions of women around the world. Today there are 75.6 million domestic workers across the globe, 80 per cent of whom are women (ILO, 2021a). In contemporary society, care work at home is vital for the economy outside the household to function. Cleaning, cooking and caring are crucial contributions that domestic workers make to societies and economies across the world. In the past two decades demand for care work has been on the rise everywhere. The increasing participation of women in the labour force, ageing of societies, the intensification of work and the frequent lack or inadequacy of policy measures to facilitate the reconciliation of family life and work underpin this trend (ILO, 2018a). Today, the number of domestic workers is increasing as a portion of the workforce in several countries, including Thailand.

Domestic work, nonetheless, is undervalued and poorly regulated, and many domestic workers remain overworked, underpaid and unprotected. These decent work deficits are due, in part, to the fact that paid domestic work remains virtually invisible as a form of employment in many countries. Domestic work does not take place in an office or factory, but in private homes. Domestic workers are overwhelmingly women, who do not work alongside other co-workers, but in isolation behind closed doors. Domestic work is care work which contributes to the welfare of millions of households worldwide. Yet, its social and economic value is not adequately recognized by governments, citizens and others (Bundlender, D, 2011). Domestic work typically entails the otherwise unpaid work predominantly performed by women in the household. Furthermore, these workers often belong to historically disadvantaged communities such as minority ethnic groups or migrants.

Notions of family and “non-productive” work divert attention from the existence of an employment relationship. Domestic work tends to be perceived as something other than employment, and thus as not fitting the general framework of existing labour laws. Although domestic workers are not members of the family, the relationship between employer and employee is governed by emotion and reciprocity, rather than contracts. In the Thai context, there is fear that the heavy enforcement of labour laws would undermine these types of relations (Anderson, 2016). As a result, in most legislations the specific nature of the domestic employment relationship is not addressed and domestic workers may be specifically excluded from labour rights and protections. This renders domestic workers vulnerable to unequal treatment and means they are usually excluded from employment-based social protection mechanisms.

Thus, a crucial component of achieving decent work for domestic workers lies in the recognition that domestic workers are workers, whether they work in a family, are placed in a private household by an agency or are employed in a public or private institution. Regulating domestic workers' working conditions and providing them with social protection is key not only to acknowledge the economic importance of care work, but also of the inherent dignity of occupations that sustain the well-being of the society and economy. Domestic work requires specific, effective laws and regulations that acknowledge the personal character of the work, while reaffirming its compatibility with the employment relationship. Domestic work must be treated both as work like any other, and as work like no other (ILO, 2010a).

In Thailand, the Government is currently carrying out a review of Ministerial Regulation No. 14, 2012, the key regulation excluding domestic workers from the scope of labour and social protection legislation. In parallel, there are also discussions regarding the conditions for ratification of the ILO Domestic Workers Convention, 2011 (No. 189). This creates an enabling context to consider the extension of labour rights to domestic workers, including social security. Within this setting, UN Women, in collaboration with the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF) and the International Organization for Migration (IOM) are implementing the United Nations Joint Programme (UNJP) *Accelerating progress towards an integrated and modernized social protection system for all in Thailand 2020-22*. The overall objective of the UNJP is to provide support to the Government of Thailand to increase the country's social protection coverage towards universality, including for children and specific

vulnerable groups such as domestic workers and migrant workers, through sustainable, inclusive, and gender-responsive social protection systems, including floors, contributing to the implementation of the 2030 Agenda in Thailand. One of the key activities under this collaboration is to design policy options to ensure more effective coverage of domestic workers, including migrants, within the existing social security schemes. National stakeholders, including the Ministry of Labour, were involved in this work through interviews, during the course of February, 2022 as well as a public consultation workshop in June of the same year.

Although the Government has made efforts to ensure the rights and protection of domestic workers, both Thais and non-Thais, the implementation of policies remain challenging and there are policy gaps that do not ensure protection for all domestic workers. In this context, this report conducts a policy assessment with the objectives of reviewing existing policy and legislation to identify barriers for the effective social security coverage of domestic workers. The findings will be used to develop a set of policy recommendations for the Government's consideration, aimed at improving access and coverage of social security for domestic workers.

## ► 1. Scope of the report

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For the purpose of this report, social protection is defined as 'a system of social transfer schemes that intervene through legally determined functions in cases where a defined set of needs is present' (ILO et al., 2021a). This definition is in line with previous reports produced under the UNJP. The report focuses on social insurance, which provides benefits to people who meet qualifying conditions, including the payment of contributions by and/or on behalf of beneficiaries, usually on the basis of employment. In Thailand, the main contributory social insurance scheme is the Social Security Fund (SSF), under the Social Security Act (SSA) (ILO et al., 2021b).<sup>3</sup> The focus on social insurance, as opposed to other non-employment based benefits, is guided by the fact that domestic workers are specifically excluded from the first, but not the latter. Important non-employment based social protection benefits in Thailand include the Universal Healthcare Coverage (UHC) Programme and the State Welfare Card (SWC) Programme. The report also excludes civil servants' programmes.

## ► 2. Methodology

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The methodology for the present study employs a mixed-methods approaches and multiple data sources, with the aim of providing, to the maximum extent possible, a comprehensive picture of domestic workers in Thailand, their needs for social protection interventions, and the feasibility of extending coverage of such policies to this subgroup.

More specifically, the methodology consists of:

- a. A desk review of the national policy and legislative framework, and relevant literature. This includes a comprehensive mapping of relevant labour and social protection legislation in the country, as applicable to different employment statuses.

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<sup>3</sup> In the report, the terms social protection, social security and social insurance are used interchangeably.

- b. A statistical analysis of domestic workers based on the Informal Employment Survey (IES) developed in an ILO technical note (ILO, 2022a) drafted during the early stages of this study.
- c. Key informant interviews (KIIs) carried out with government and civil society stakeholders, Thai legal experts and technical experts from UNJP agencies (Annex I).
- d. A dedicated quantitative survey profiling domestic workers in Thailand carried out by UN Women in 2022 (UN Women, 2022). The survey included Thai and non-Thai domestic workers, as well as employers.
- e. A qualitative survey based on data collected from 20 domestic workers, including migrants, and four employers in Thailand in 2022 (ILO, 2022b). Unless otherwise specified, all quotes from workers and employers in this report come from this ILO Note.

### 1.2.1 Limitations

Some key limitations of the work relate to the availability of information. Error: Reference source not found provides an overview of the general challenges for identifying domestic workers through specialized household surveys. In addition, in Thailand there is no single national data source that estimates the number of domestic workers, including migrant workers, that allows for the analysis of key socio-demographic characteristics of the workers and economic units that employ them. More detail on limitations related to the statistical analysis of domestic workers in Thailand can be found in a recent ILO publication (ILO, 2022a).

The UNJP supported efforts to fill in information gaps through the methods outlined above. This includes surveys carried out by UN Women and the ILO over the course of 2022. The sample of these surveys is not representative and so their results cannot be generalized to the national population of domestic workers in Thailand. However, the results of these separate efforts appear to be consistent with those of the statistical analysis. Together, these various pieces of research paint a more complete picture of the people involved in this sector.

## ► 3. Conceptual framework and definitions

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### 1.3.1 Defining domestic work

**Definitions of “domestic work” and “domestic worker” vary widely from country to country.** Article 1 of the Domestic Workers Convention, 2011 No.189 (C.189) provides the following international legal definition:

- a. The term “domestic work” means work performed in or for a household or households;
- b. The term “domestic worker” means any person engaged in domestic work within an employment relationship; and
- c. A person who performs domestic work only occasionally or sporadically and not on an occupational basis, is not a domestic worker.

**Unpacking some of the wording of this definition reveals the wide scope of the domestic work sector.** First, it is noteworthy that unlike other sectors (i.e., construction, agriculture), domestic work is not defined by the tasks performed. In fact, not all national legislations define the nature of domestic



work. Countries which do specify the occupational categories may still expressly provide for the inclusion of others in similar occupations, as long as a homeowner employs them “to work directly at his or her place of normal residence”.<sup>4</sup> This is because while some tasks like cleaning and cooking can usually be related to domestic work, the full scope of tasks varies widely from household to household, country to country and over time. Some workers perform only a single task or service for their employers, while others perform multiple tasks or services. Workers may work full-time for one employer or part-time for one or more employers.

**Amongst this diversity, the feature that binds domestic workers together is their place of work, that is, the household.** As the word ‘domestic’ denotes, the tasks performed by domestic workers are carried out within the sphere of the home, in the employers’ residence or premises. With that in mind, the fact that C. 189 does not specifically define the term “employer”, leaves the door open for domestic workers who are employed directly by a member of a household for which the work is performed or a service provider – public or private – that employs domestic workers and makes them available to households. Both arrangements are recognized as employment relationships. Importantly, C.189 defines domestic workers as persons engaged in this occupation within an employment relationship. It thus becomes important to distinguish between these different types of workers.

### 1.3.2 Classifying domestic work

**International statistical standards provide guidance on how to categorize domestic workers.** It is clear from the above that one of the characteristics of domestic workers in many parts of the world is that the jobs they perform in private households are difficult to delineate. Latest internationally agreed statistical standards can provide a common language to understand the configuration of national labour markets and analyse the impact of government policies related to its regulation – including social protection expansion policies. The 20<sup>th</sup> International Conference of Labour Statisticians’ (ICLS) Resolution of 2018, defines domestic workers as “*workers of any sex employed for pay or profit, including in-kind payment, who perform work in or for a household or households to provide services mainly for consumption by the household*” (ILO, 2018b para.104). The ICLS classifies workers by their status in employment, which refers to the inherent characteristic of the jobs they hold. There are two basic criteria for this classification, the first being the authority relationships between workers and employers; and the second being the type of economic risk that follows from each status.

**The type of authority is used to classify workers as dependent or independent.** At its core, the key question of this classification is whether an employment relationship exist or not.<sup>5</sup> This is determined according to the type of authority between workers and employers. The type of authority refers to the nature of the control that the worker has over the organization of his or her work, and the extent to which the worker is dependent on another person or economic unit for the organization of the work and access to the market (ILO, 2018c). Accordingly, the type of authority is used to classify workers as dependent or independent. In short, dependent workers are those who do not have authority or control over the economic unit for which they work. Independent workers, on the other hand, own the economic unit for which they work and control its activities and thus they are not accountable to or supervised by other persons.

<sup>4</sup> Cambodia, Section 4 of the Labour Code.

<sup>5</sup> In labour literature, the standard employment relationship is understood as employment that part of a subordinate and bilateral employment relationship (ILO, 2016a).

**The type of economic risk refers to the extent to which the worker is exposed to income insecurity.<sup>6</sup>**

Economic risk is determined by several factors, such as the degree of stability of the job but also the extent to which the worker is protected in the event of lifecycle risks that would prevent them from working, such as sickness, maternity or old age, among others. The ICLS classifies workers as *in employment for pay* and *in employment for profit* based primarily on the nature of their remuneration. The former, are those who receive remuneration in return for time worked or service produced. In the case of domestic work, domestic employees and domestic workers employed by service providers are employed for pay. On the other hand, workers in *employment for profit* are employed persons whose remuneration is directly and entirely dependent on the profit or loss made by the economic unit in which they are employed. They do not receive a wage or salary in return for time worked and therefore also face a greater risk of loss (ILO, 2018c).

As a result, the latest standards present domestic work under three broad classification groupings:

- a. Domestic employees**, defined as all workers engaged directly as employees of households to provide services mainly for consumption by the household members, irrespective of the nature of the services provided, including: (i) live-in domestic employees; and (ii) live-out domestic employees.
- b. Domestic workers employed by service providers**. Domestic workers employed by service providers are employees of economic units such as agencies that provide domestic services to households.
- c. Domestic service providers employed for profit**. Domestic service providers employed for profit provide domestic services to private households as independent workers or dependent contractors.

Generally, there is an overlap between employment for pay and dependency, and employment for profit and independence. Error: Reference source not found provides an overview of this intersection. However, the two classifications are not interchangeable as some dependent workers might be employed for profit. This is the case of dependent contractors, who are employed for profit but, as their name connotes, are actually dependent workers. In this case, the fact that the workers are paid for profit does not mean that they are not in a relationship of dependency, and thus that they should be afforded the corresponding entitlements. In this and other cases, establishing the type of employment relationship is key to distinguish between domestic workers and self-employed persons who may be providing domestic services.

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<sup>6</sup> The Resolution mentions specifically the extent to which the worker may: (1) be exposed to the loss of financial or other resources in pursuance of the activity; and (2) experience unreliability of remuneration in cash or in kind or receive no remuneration.

► **Table 1 Status in employment by authority type relevant to domestic work**

Employment relationship	Employment status	Economic risk	Definition
<b>Dependent workers</b> (Part of an employment relationship)	Employees	Employment for pay	Workers employed for pay, on a formal or informal basis, who do not hold controlling ownership of the economic unit in which they are employed. They are remunerated in cash or in kind in return for time worked or, in some cases, for each task or piece of work done or for services provided. Employees may be employed in market units, non-market units and households producing goods/services mainly for own consumption (par. 41-43 ILO, 2018c).
	Dependent contractors	Employment for profit	Dependent contractors are workers who have contractual arrangements of a commercial nature (but not a contract of employment) to provide goods or services for or through another economic unit. They are not employees of that economic unit, but are dependent on that unit for organization and execution of the work, income, or for access to the market. They are workers employed for profit, who are dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them (par. 35 ILO, 2018c). A defining characteristic of dependent contractors is that they are employed for profit and paid by way of a commercial transaction. They are therefore usually responsible for arranging their own social insurance and other social contributions.
<b>Independent workers</b> (Not part of an employment relationship)	Self-employed workers (independent workers without employees)	Employment for profit	Own-account workers in household market enterprises without employees are workers who operate an unincorporated market enterprise for profit, alone or with one or more partners or contributing family workers, and do not employ any persons to work in the enterprise on a regular basis as an employee.

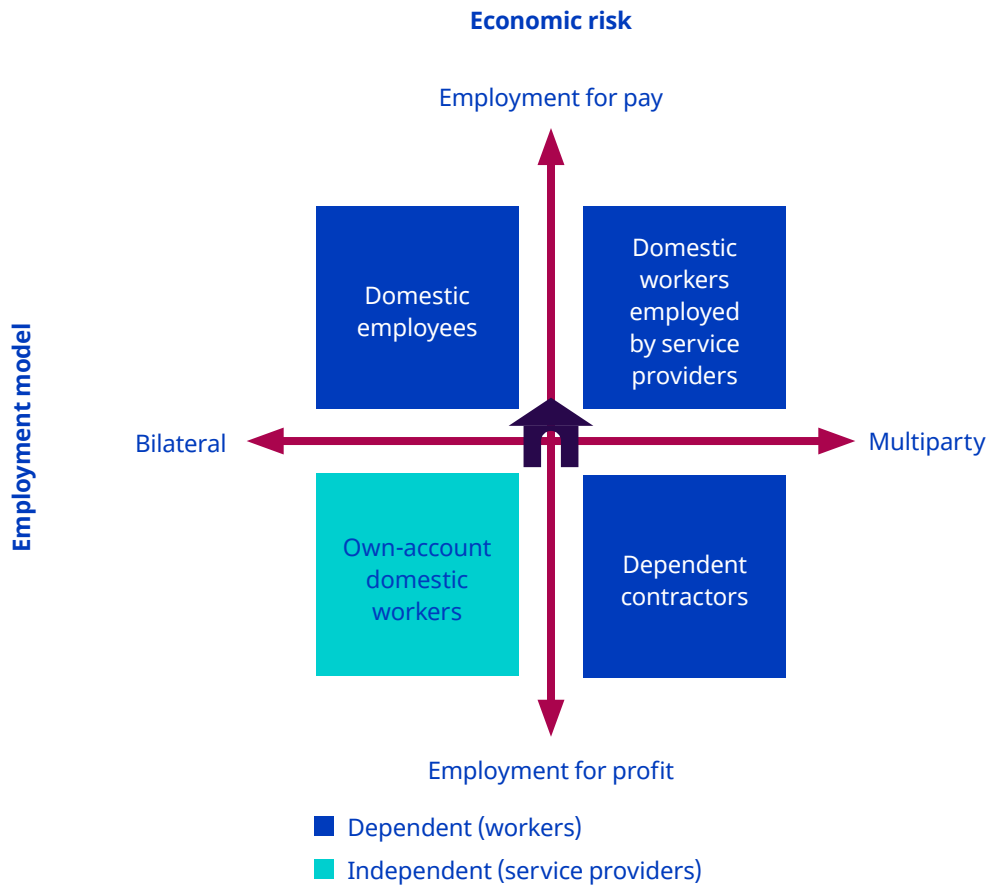
Source: Author's compilation from ILO, 2018a.

### 1.3.3 A typology of domestic work

**This study uses a typology of employment statuses within domestic work as a basis to formulate policy proposals.** The analytical frameworks presented above can be quite abstract, especially when considering how it applies to a specific sector. The typology presented in Figure 1 attempts to provide a simplified tool for applying statistical classifications to the domestic work sector. The vertical axis portrays the economic risk of employment. At one end, domestic employees and domestic workers employed by service providers are classified as workers in employment for pay. On the other end, employment for profit includes own-account (or self-employed) domestic workers and dependent contractors. The type of authority is distinguished by colours, helping to visualize the predominant nature of dependent relationships in domestic work.

**It is also important to consider the heterogeneity and distinctive features of those who employ domestic workers.** Some employment statuses involve a direct bilateral relationship with the end user, namely, the household. This is the case of domestic employees. Although they are not in a relationship of employment, own-account domestic workers also engage directly with the households. On the other hand, other models are characterized by the participation of third parties. In most cases, the agency or contractor recruits the domestic worker and negotiates the contract with the employer. As a result, the employer-employee relationship becomes tripartite, or multi-party (temporary agency work or subcontracted labour). Accordingly, in this typology the horizontal axis captures what is labelled here as the *employment model* and refers to the actors involved in the relationship.

►Figure 1 A typology of employment statuses within domestic work



Source: ILO, 2022.

**Going clockwise, domestic employees are characterized by being employed bilaterally for pay.** They are most commonly employed for time worked – be it full or part-time – but could also be engaged to perform specific services, such as ironing or gardening. The nature of this relationship is aligned with the definition of employees presented in Table 1. Arguably, this has been the most common model of domestic work worldwide. However, the growing importance of recruitment agencies in the domestic work sector, in countries like Thailand (Anderson, 2016), has meant that multi-party employment relationships have become more common. Multi-party employment refers to relationships where, in addition to an employee and an employer, there is a third party involved.

**Domestic workers employed by service providers**, relate to the household as their place of work, but are ultimately in a relationship with the service provider who places them there. They are employees for pay, but of an enterprise and as such, are treated as any other employee in any formal industry in Thailand. This group of domestic workers, identified in the upper right quadrant of the typology, might be those with the most “standard” employment relationship and thus able to better fit the general framework of existing labour laws.

**Multi-party relationships also encompass dependent contractors.** Service providers can have different levels of involvement, from acting like employers as above, to merely making matches between workers and households. The modalities of multi-party relationships are becoming increasingly complex. Dependent contractors are workers who have contractual arrangements of a commercial nature, to provide domestic work services to households, for or through a third party.

They are not employees of this third party, but are dependent on it for organization and execution of the work, income, or for access to the market. They are workers employed for profit, who are dependent on another entity that exercises control over their productive activities and directly benefit from the work performed by them (ILO, 2018c). Along this line, it is possible that the workers on digital platforms offering domestic services could be considered dependent contractors, depending on the nature of the contractual arrangements they offer workers.

**Own-account domestic workers, or self-employed workers are also represented.** Other domestic workers are effectively self-employed, working for multiple clients and even providing their own equipment. Gardening, specifically, is one category of domestic work (like periodic cleaning) that may in fact be structured like an enterprise in industrialized market economies. In these cases, however, such workers are not considered as domestic workers under Convention No. 189, and their economic activities are primarily regulated through legislation applicable to own-account or self-employed workers, regardless of the industry they participate in. The difference between dependent contractors and self-employed workers can be difficult to draw, particularly for the end users – or households – who may not be aware of the exact nature of the third party’s involvement. In such instances, the obligations of the parties concerned can be unclear. The type of authority relationship between these workers and service providers might vary with each company’s model, and so determining the existence of an employment relationship becomes more complicated in the bottom half of the frame.

### 1.3.4 Domestic work and the employment relationship

**Traditionally, around the world domestic workers have had employment relationships directly with a given household.** In accordance to this, their access to social protection and other labour rights has been determined by whether the national legislation recognizes this employment relationship. While the standard employment relationship is not a legal concept, it is associated with an employment status that is at the basis of most labour and social security law, including in Thailand. That status is that of employees in a dependent and bilateral relationship of employment. Accordingly, the absence of an employment relationship can be understood as self-employment. The employment relationship is a key indicator for domestic work because of the role that the specific nature of the domestic employment relationship has played in its exclusion from labour and social protections. In domestic work, each of the various statuses in employment are characterized by unique employment relationships.

**Moreover, workers may be in as many employment statuses as the number of jobs they have.** Workers may be in more than one employment relationship simultaneously, for example, by working part-time directly with a household, and doing piece work for other households through a service provider. A gardener could be working for a household on a regular basis and thus be a part-time employee of that household, whether he is paid per time worked or service provided. At the same time, he could additionally be doing on-call piecemeal jobs for other households. Whether this second relationship is classified as employment or own-account work, depends on the type of authority between the parties and the level of risk to which the worker is exposed – being employed for pay, services or profit. Simply put, workers may have as many employment relationships as they have jobs. The implication of this is that their full income and contribution to the economy might not be fully considered, unless all those employment relationships are acknowledged and incorporated into the national legislation. Indeed, different countries have tried to address these challenges differently in their legislations.

**National legislation can be more or less inclusive of this complexity.** While national legislation should strive to offer comprehensive coverage of workers irrespective of the manner and frequency of their remuneration, some countries restrict the coverage of domestic workers (or the definition of domestic employees) in terms of the duration of employment, requiring the work to be “on a regular basis” and/or “continuous”. For example, Bolivia requires that the work be “continuous”, Paraguay that it be “regular”, and Portugal that it be executed continuously. Other legislations require that domestic workers remain employed by the same employer for a minimum number of hours or days per week. Until recently,

Argentina used to exclude employment of less than a month, fewer than four hours per day or fewer than four days per week for the same employer. Today, any person working at a private home must be registered for benefits by their employer, regardless of the number of hours they work for them. Countries like the Philippines deem that any and all domestic work is covered by their Labour Code.

**Distinguishing among the different types of employment relationships and arrangements is key to effective policy-making.** A key objective of this report is to understand what the configuration of this typology looks like in the Thai context, and its relationship to social protection coverage.<sup>7</sup> One advantage of this approach is that it allows for the identification of each employment relationship, by law and existing policies, individually, and thus has more room to explore the possibilities of extending social protection to various types of domestic workers who may face different opportunities and challenges in this respect. The typology also allows for differentiated but concrete goal setting for the incremental improvement of social protection to domestic workers in different sub-groups, be it through legal or administrative channels. It gives a way to unpack the heterogeneity within domestic work and thus to see the steps in a gradual roadmap towards addressing all current gaps. At the same time, having a general framework can be useful to incorporate other dimensions that might overlap with non-standardization, such as informality, gender, ethnicity, and migration status. Specifically, by recognizing other types of employment relationships which result in different statuses, the framework can ideally provide more room for a gendered analysis of employment relationships.

### 1.3.5 Non-standard employment and its overlap with informality

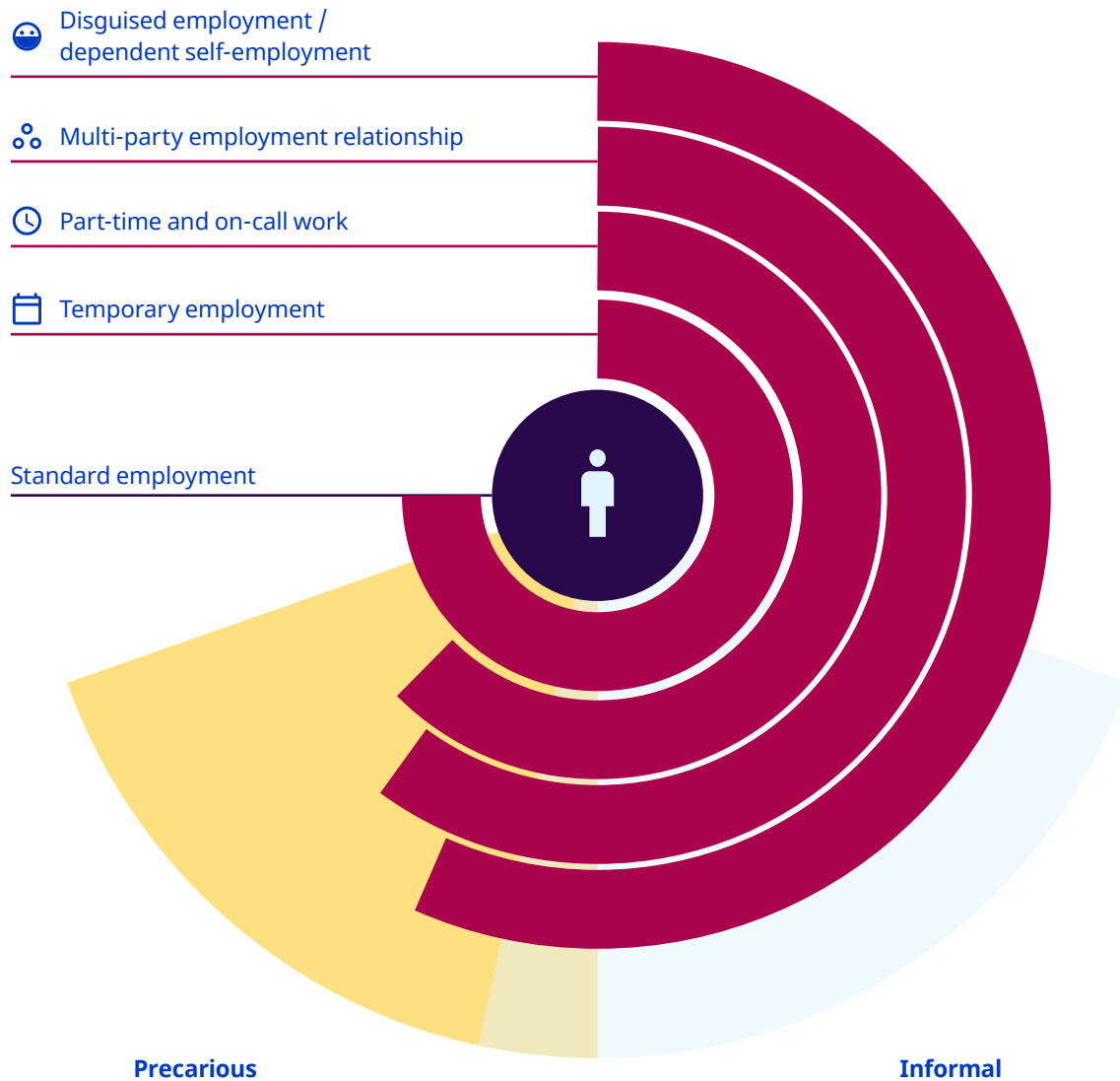
**There are important distinctions between the concepts of the standard employment relationship and formal employment that call for separate consideration.** As Error: Reference source not found illustrates, there are many overlaps between non-standard employment – in which many forms of work do not provide legal protection, either in law or in practice – and informality.<sup>8</sup> Like standard and non-standard employment, formality and informality are umbrella terms for a diverse set of

employment arrangements (ILO, 2016a). In the ILO's Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), informality is described as referring to all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. The room document 15 presented at the International Conference of Labour Statisticians (ILO, 2018b) defines informal employment as to include: (1) employers of their own informal sector enterprises; (2) own-account workers (self-employed); (3) contributing family workers; and (4) employees holding informal jobs. The latter are those whose “employment relationship is, in law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advance notice of dismissal, severance pay, paid annual or sick leave, etc.)” (ILO 2003a, para. 5. in ILO, 2018b).

<sup>7</sup> The extent to which this is possible will depend on the availability of appropriate quantitative and qualitative data available to the researchers.

<sup>8</sup> See ILO, 2016a for a full discussion on the issue.

► Figure 2 Overlap of non-standard employment with informality and precariousness



Source: ILO 2016.

**Rather than making a distinction between standards and other statuses in employment, most discussion of labour markets in countries like Thailand has focused on whether employment is formal or informal.**<sup>9</sup> This is appropriate when considering the overall labour market situation and the macroeconomic challenges to decent work – that is, opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity including a fair income and social protection for the workers and their families (ILO, 1999). In many countries like Thailand, much of the labour force is employed informally (ILO, 2021b). Like elsewhere, the sources of this informality

<sup>9</sup> See United Nations series: Thailand Social Protection Diagnostic Review (ILO, 2021b; ILO et al., 2021b; IOM, 2021).

include legal exclusion; lack of implementation; and insufficient levels of legal protection. Depending on the situation, formalizing informal workers means undertaking one or more of the following actions:

- extending legal coverage to those excluded;
- providing an adequate level of legal protection; and
- ensuring effective compliance with laws and regulations.

It is thus important to understand which situation calls for which type of measure, which is why the status in employment framework can be highly relevant for a sector-level analysis. Not least because the concept of the employment relationship forms the basis of labour law in Thailand as elsewhere (See 2.2.1 *The employment relationship at the center of protection* in Section 2.2).

**A conceptual framework that reflects the heterogeneity of different realities that domestic work may take on within employment is more conducive to a tailored policy response.** Based on the features of domestic work presented in Table 1, some domestic workers would fall under two categories of informal work, as employees in informal jobs and own-account workers. While this is an important classification, it does not provide the level of detail necessary to formulate policies that respond to the diversity of forms of work that might be classified as informal jobs. Moreover, it does not specifically include dependent contractors. Still, the policy responses for informality, whether directed at the worker (through the extension of social protection to individuals who are not in wage employment) or at the macroeconomic environment (growth in GDP to stimulate the shift to wage employment) are distinct to those that would be applied to disguised employment relationships. For this reason, the report does not classify all non-standard employment arrangements as informal. Understanding this distinction is crucial in order to formulate appropriate policy solutions at the national level. Ultimately, a sector-specific analysis – in this case of domestic work – can benefit from a framework that refers to each employment status individually, especially since the policy responses to any potential decent work deficits may need to be distinct.

**Measures used towards the formalization of domestic work are still relevant, and they can be even more effective when targeted appropriately.** The legal recognition of domestic workers as employees with associated labour rights and social security entitlements has been previously identified as the key barrier for extending social security coverage to domestic workers in Thailand (ILO, 2021c). This is true for domestic workers engaged in traditional employment models, but might not be so straightforward for those in multi-party employment relationships or those in disguised employment relationships. For these kinds of domestic workers whose relationship is primarily with a service provider, different legal frameworks might apply and the most appropriate response might range from redefining their employment status, to focusing on compliance measures. Thus, conducting an analysis based on the nature of employment relationships is expected to allow for a better understanding of the extent to which each of these measures will be effective in formalizing domestic work in the specific context of Thailand.

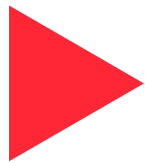


## ▶ 4. Key messages

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- ▶ Definitions of domestic work and domestic worker vary from country to country. The international definition provided by ILO Convention No. 189 identifies the home as a place of work as the feature that binds domestic workers together, rather than tasks.
- ▶ Internationally and nationally, the type of authority between employers and workers is used to classify workers as dependent or independent. By this measure, domestic workers overwhelmingly are identified as dependent workers in a relationship of employment.
- ▶ There are four basic types of domestic workers in Thailand: domestic employees, domestic workers employed by service providers, dependent contractors and own-account domestic workers. Workers may be in as many employment statuses as the number of jobs they have.
- ▶ Domestic employees have a direct bilateral relationship with the end user, namely, the household. They might also have multiple employers. Although they are not in a relationship of employment, own-account domestic workers also engage directly with the households.
- ▶ Other workers are in multi-party relationships, where a service provider (or agency), have different levels of involvement, from acting as employers themselves, to merely making matches between workers and households. These modalities are becoming more common and complex with the rise of the digital economy.





2

# The legal framework around domestic work

## ► 1. The international legislative framework

ILO Convention No. 189 entered into force in 2013, and builds on other instruments and interventions at the international level that aim to protect domestic workers. These interventions include the UN Committee on the Elimination of All Forms of Discrimination Against Women General Recommendation No. 26 on Women Migrant Workers, 2008, and the General Recommendation on Discrimination Against Non-Citizens, 2002 issued by the United Nations Committee on the Elimination of Racial Discrimination, which briefly mentions domestic work.

### ► Box 1. ILO Domestic Workers Convention, 2011 (No. 189)

The ILO Domestic Workers Convention, 2011 (No. 189) – along with the accompanying Domestic Workers Recommendation, 2011 (No. 201) – established minimum labour standards for domestic work, including equal treatment, with respect to working conditions and social security. The Convention calls for member states to realize the following fundamental rights at work:

- a. Freedom of association and the effective recognition of the right to collective bargaining;
- b. The elimination of all forms of forced or compulsory labour;
- c. The effective abolition of child labour; and
- d. The effective elimination of discrimination in respect of employment and occupation.

This means taking measures towards ensuring equal treatment between domestic workers and workers generally, in relation to normal hours of work, overtime compensation, periods of daily and weekly rest and paid annual leave in accordance to national laws, and taking into account the special characteristics of domestic work. Minimum wage coverage should also be applicable as well as conditions not less favorable than those applicable to other workers in respect of social security protection, including with respect to maternity.

The Convention also spells out who is a domestic worker (See Figure 1). It has provided some necessary momentum for the recognition of domestic workers' rights. As of November 2021, 35 states had ratified the Convention, including the Philippines as the only state from the Asia and Pacific region.

Source: ILO, 2022.

**The adoption of Convention No. 189 marked an important step toward the realization of decent work for domestic workers.** Convention No. 189 recognized the social and economic value of domestic work; applied international instruments to a generally sidelined segment of the global workforce; and acknowledged and integrated migrant and non-migrant workers into the same framework of protection (Anderson, 2016). The Convention therefore provides for the recognition of domestic work as

employment, and thus for domestic workers to be treated like other workers and not disadvantaged by occupation, gender, and race.

**Convention No. 189 is still due to be ratified by Thailand and its principles reflected in national law.**

The ongoing review of Ministerial Regulation No. 14 of 2012 and the parallel discussions regarding the conditions for ratification of the ILO Convention No. 189 create a good context in Thailand to consider the extension of social security and other fundamental labour rights to domestic workers (ILO, 2021c). Several stakeholders interviewed for this study acknowledged that any gains made in the expansion of rights to domestic workers take place thanks to civil society pressure, which can be strengthened by the existence of such international instruments. Aligning national legislation with the provisions of the Convention is an opportunity to ensure that domestic workers, including migrant domestic workers, can exercise their rights. This is a challenge for any international instrument, but it is particularly challenging when it comes to the regulation of domestic work because the work is conducted in a private household. This raises issues for regulatory authorities on account of the complex relation between state authority and the private household. The Convention's accompanying Recommendation No. 201 is a non-binding instrument that offers practical guidance for the strengthening of national laws and policies on domestic work and is thus a source of guidance that Thailand could take advantage of as they consider ratification.

**The provisions of Convention No. 189 apply to all domestic workers, including migrant domestic workers.** This is critical because migrant workers, and especially women, are particularly vulnerable in private households and regularly find themselves excluded from labour protections not only because of the sector they work in, but also on the basis of their citizenship or their immigration status. In different countries across the world, migrant domestic workers live in the shadows of two bodies of law: labour law and immigration law. Both almost always exclude migrant domestic workers. Caught between these two laws, migrant workers may find themselves working but not as “workers”. They may be excluded from labour protections as “not workers” at the same time as being found in breach of immigration controls because they are “working” (Anderson, 2016, p. 26). The next sub-sections explore these issues in the Thai national context.

## ► 2. Thai legislative framework

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### 2.2.1 The employment relationship at the center of protection

**The Thai labour legal framework is built around employment relationships, with two distinct pillars designed for employment contracts on the one side, and service contracts on the other.** The Thai Civil and Commercial Code (CCC) distinguishes between employment and service relationships. Notably, the legislation views these relationships through the perspective of employers, and so the personal scope of this and other relevant legislations primarily deal with whether the employers are included or excluded from coverage.

- **A hire of employment** is a contract whereby a person, called the employee, agrees to render services to another person, called the employer, who agrees to pay remuneration for the duration of the services (Title VI). A hire of an employment contract is governed by the Labour Protection Act (LPA) which provides details of working conditions and protection measures.

- **A hire of services** is a contract whereby a person, called contractor, agrees to accomplish a definite work for another person, called employer, who agrees to pay him a remuneration for the result of the work (Title VII).<sup>10</sup>

**The employment relationship determines the level of protection afforded to parties.** Local labour legal experts interviewed for this study, concurred that there are three key differences between a hire of employment and a hire of a services relationship. First, contractors as opposed to employees, work freely without control or supervision. Second, contractors are remunerated upon the accomplishment of the job, not by period of employment (daily, monthly or piece rate). Finally, contractors bear responsibility for any damages performed during the work, while in hire of employment, liability rests with the employer. There are several implications to misclassification of relationships. As one of the experts pointed out, the CCC applies to equal relationships between individuals or entities and employer and contractor have equal contractual rights and obligations (Titles 587-607). The LPA is different as it regulates employment relationships so that the parties cannot decide on working conditions outside the scope of set standards. In other words, the terms and conditions of employment cannot be under those of the LPA provisions and as such, the LPA provides a minimum level of protection for employers and employees. Therefore, relationships misclassified as hire of services leave both employers and “contractors” vulnerable to unfair working conditions, particularly in cases where there is an imbalance in power dynamics and the contractual relationship does not take place between parties with equal bargaining power. Second, an employee misclassified as a contractor could be wrongly held liable for damages that should actually sit with the employer.

**The distinction between hire of employment and services is not as straightforward as it once might have been.** As the name suggests, an employment relationship is only recognized under a hire of employment. The distinction between hire of employment and hire of service is analogous to the ICLS classification of employment for pay and employment for profit and is thus consistent with international classifications of status in employment. However, this approach can be limited if it does not provide room to recognize further subgroups. Globally, major changes in work organization have led to the appearance of new employment statuses – also called new forms of work – that do not necessarily fit with the traditional notion of an employment relationship. It is thus becoming increasingly challenging to determine who is in an employment relationship or not (Box 2).

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<sup>10</sup> See *Title VI Hire for Service* and *Title VII Hire for work* of the Civil and Commercial Code B.E. (1985). There is debate on the accuracy of these English translations, as the contents of Title VI refer to employment contracts while Title VII deals with service contracts. This report focuses on the contents of the titles.

### ► Box 2. Determining the existence of an employment relationship

Internationally, the type of authority is used widely to classify workers as dependent or independent. This is similar to the notion of control and supervision used in Thailand. Independent workers (or contractors in Thailand) own the economic unit for which they work and control its activities. They make important strategic and operational decisions about the economic unit for which their work is performed, are not accountable to or supervised by other persons, nor are they dependent on a single other economic unit or person for access to the market. Dependent workers, or employees, on the other hand, are workers who do not have complete authority or control over the economic unit for which they work. If they are in employment for profit they have no employees, and do not make the most important decisions about the activities of the economic unit for which they work (ILO, 2018c).

Countries have various ways of and indicators for determining the extent of authority and thus whether the employment relationship is dependent or independent. In Thailand and elsewhere, the presence of an authority relationship between employee and employer has been traditionally established, either statutorily or by case law. Authority consists of three related elements: the employer's power to give orders and directives to the worker; the employer's power to control and monitor how the worker performs the work or complies with the orders; and the employer's power to sanction or discipline the worker for poor performance or non-compliance with tasks given (Bignami et al, 2013 in ILO, 2016b). The type of authority in an employment relationship is thus used to classify workers as dependent or independent. In the case of Thailand, Supreme Court Decisions have outlined the following indicators to identify workers that should be protected under the LPA.

The implication of this is that they are in an employment relationship and are thus dependent employees by international standards:

- **Nature of work:** An employee performs work at the place and within the working time agreed with the employer.
- **Remuneration:** An employee receives a fixed wage or a minimum guaranteed wage for working time agreed, irrespective of the results of the work done. The employee is generally guaranteed a regular wage amount.
- **Employer's power of control:** An employee has management control over an employee's work, so that the employee performs work under the employer's direction on a regular and ongoing basis. An employer can determine the working days and holidays for an employee, unless otherwise specified in an employment agreement. An employee must observe and follow instructions and rules set out by an employer and can be subject to disciplinary action by an employer for failure to do so.
- **Responsibility to third parties:** An employer is jointly liable with an employee for the consequences of a wrongful act committed by an employee in the course of employment.
- **Provision of work materials:** An employee works with the materials provided by an employer.
- **Working time:** The normal working hours of an employee cannot exceed 8 hours per day and 48 hours per week. The employee requires permission from the employer to take holidays.
- **Reimbursement:** All expenses during the performance of the work are reimbursed by the employer.
- **Right to appoint a substitute:** An employee performs the work oneself and cannot be replaced by any other person.
- **Exclusivity:** An employee works exclusively for an employer during the working time agreed.

Source: ILO, 2022.

**International statistical definitions have recently been updated to try to capture this reality.<sup>11</sup>**

This was done in recognition of the need to broaden existing standards on status in employment. The objectives were to better capture various aspects of the relationships between workers and the economic units for which they work, and adequately monitor changes in employment arrangements and forms of employment (ILO, 2018c). Consequently, the classification based on type of authority, which classifies workers as dependent or independent, accounts for five different types of status in employment with further subgroups. Table 2 compares this classification to the Thai framework. The CCC predates such developments, and as such does not refer to these employment statuses which by default are broadly classified as employment for hire. Specifically, the LPA does not consider dependent workers or contributing family members. One local legal expert reflected that dependent contractors might fit within the scope of the CCC and that contributing family members could not be considered under the LPA as the key element of wages would be lacking. Consequently, their work is governed solely through civil legislation as opposed to labour legislation, which is primarily governed through the LPA.

► **Table 2 International classification of status in employment according to type of authority**

Employment relationship	Employment status	Employment arrangements	Economic risk	Current Thai legislation
<b>Dependent workers (Part of an employment relationship)</b>	Employees	Permanent, fixed-term, short-term and casual employees. Paid apprentices, trainees and interns.	Employment for pay.	Hire of employment.
	Dependent contractors	Dependent contractors.	Employment for profit.	Not specifically recognized, not hire of employment by default.
	Contributing family workers	Contributing family workers.	Employment for profit.	Not specifically recognized, not hire of employment by default.
<b>Independent workers (Not part of an employment relationship)</b>	Employers	Employers in corporations and in household market enterprises.	Employment for pay.	Hire of employment.
	Independent workers without employees (own-account workers)	Owner-operators of corporations without employees.	Employment for pay.	Not specifically recognized, not hire of employment by default.
		Own-account workers in household market enterprises without employees.	Employment for profit.	Not specifically recognized, not hire of employment by default.

Source: ILO, 2022.

<sup>11</sup> In October, 2018, the 20th International Conference of Labour Statisticians resolution concerning statistics on work relationships reviewed the International Classification of Status in Employment (ICSE), adopted by the 15th International Conference of Labour Statisticians in January, 1993.



**The domestic work sector is a good example of the implications of this increasing mismatch between the realities of the labour market and the legal framework.** In domestic work, the employer may be a private individual or household that directly employs a domestic worker, or may be an organization (private or public, for profit or not), which then sells the services of domestic workers by deploying them to private households (ILO, 2016b). Own-account workers could also provide domestic services. In some arrangements involving a domestic worker, a household, and a service provider, it may not be so clear who bears the employer obligations towards the domestic worker. There may be cases where the household gives the instructions to the worker and controls the performance of duties, but it is an agency that issues the paychecks and makes the social security contributions. Sometimes it may be necessary to test where the employer obligations reside. As outlined in Box 2, when focusing on employers, one can distinguish between three main types of domestic workers: domestic employees, domestic workers employed by service providers and domestic workers employed through service providers for profit (ILO, 2018c).

Considering that laws and regulations – and their interpretation – should be compatible with the objectives of decent work, and that employment or labour law seeks, among other things, to address a potentially unequal bargaining position between parties to an employment relationship, the ILO's Employment Relationship Recommendation, 2006 (No. 198), refers to the importance of “ensur[ing] standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due” and of “combat[ing] disguised employment relationships” (ILO, 2006). The next sections of this chapter explore the legal challenges that each of this type of domestic workers experiences when accessing labour rights, including social protection.

## 2.2.2 Labour legislation and social protection rights

Although the legal framework stipulated by the Thai Constitution guarantees equal treatment of all persons, national policies governing certain groups are more restrictive (ILO et al., 2021b).<sup>12</sup> This is true by nationality, economic sector, and status in employment. As previous studies have noted, “the rigid design of policies and legislation de jure excludes large numbers of workers and de facto undermines the participation of workers with varied employment histories” (ILO et al., 2021b, p. 97). It stands in contrast with Thailand's obligations under the ILO Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), which Thailand ratified in 1968. Below follows a brief overview of the most important labour and social security legislations which shape domestic workers' access to rights and entitlements.

**The Labour Protection Act B.E. 2541 (1998)** and its amendments are a set of laws concerning regulating the legal minimum wage, maximum working hours and minimum rest periods, paid sick leave, annual leave, maternity leave, and prohibitions against discrimination and workplace harassment and child labour. The LPA defines an employee as “a person who agrees to work for an employer in return for wages.” In practice this means that the personal scope of the LPA is limited to wage workers or “hire of employment” in CCC terminology. Moreover, in 2012, the Government issued Ministerial Regulation No.14 which specifically excludes “employers employing workers to perform domestic work which does not involve business operations” from several key provisions of the Act<sup>13</sup> (See Error: Reference source not found and Error: Reference source not found for a summary).<sup>14</sup> Consequently, the LPA does not fully regulate employers who employ employees to perform domestic work outside of business operations.<sup>15</sup> The term “business operations” is not defined in the legislation and none of the stakeholders interviewed

<sup>12</sup> See Section 27 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017).

<sup>13</sup> Ministerial Regulation No.14 was issued to replace the provisions in (2) of the Ministerial Regulation (B.E.2541) which stated several provisions of the LPA would not apply to employers who employ employees to do housework which is not part of a business operation. The overall effect remained the same and importantly, article (3) of the earlier Ministerial Regulation still stands.

<sup>14</sup> See Ministerial Regulation No.14 B.E. 2555 in accordance with the Labour Protection Act B.E. 2541.

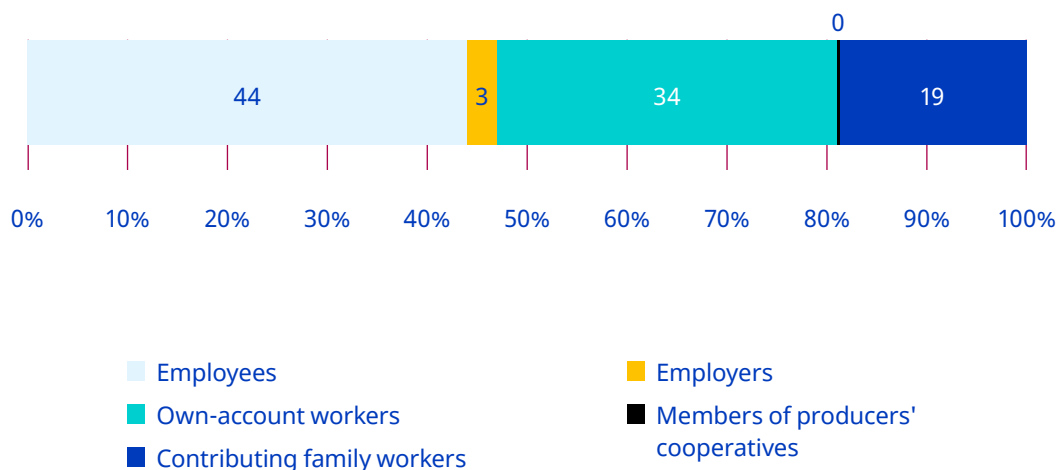
<sup>15</sup> See Ministerial Regulation B.E. 2541 (3) issued under the Labour Protection Act B.E. 2541.

for this study, be it legal experts or government officials, had an official or clear definition of what the term meant but it is customarily equated with tasks performed for a private household. Workers who perform their tasks in these settings have less entitlements than other workers. The Act does apply to migrant workers and ensures that they are guaranteed the same working conditions and protections as Thai workers.

**The current personal scope of the LPA reaches less than half of all employed persons in Thailand.**

As seen in Figure 3, as of 2018, over half of the employed population in Thailand was working as either own account workers (34 per cent) or contributing family workers (19 per cent). This means that the regulatory scope of the LPA, and consequently of other legislations that are modelled around it – like the SSA, reaches less than half of all workers in Thailand. Those workers not fully covered by the LPA are identified by the Government as informal workers. In this sense, informality in Thailand is partly created by the legislation’s own shortcomings in including all workers into its scope. These workers are primarily found in agriculture as well as in domestic work, hospitality, and construction. It is thus not surprising that they have virtually no access to protection under Section 33 of the SSA and thus the overall coverage of this core component of the social security system is as low as 25 per cent of all workers. The reach of Section 40 is also quite limited within these groups.

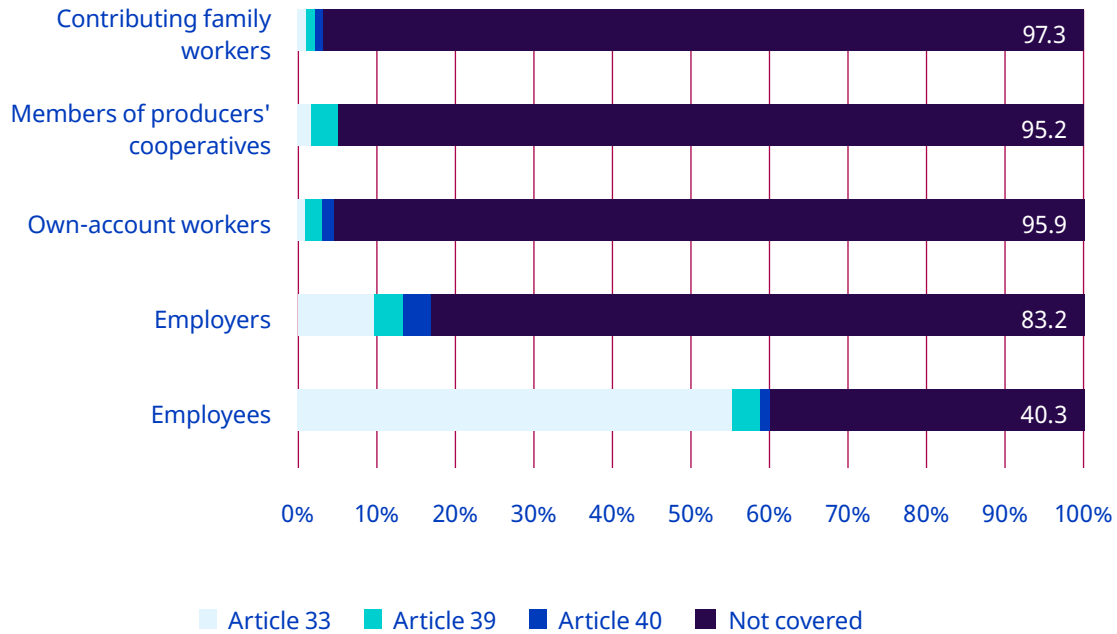
► **Figure 3 Employed persons by employment status, 2018**



**Source:** Author’s elaboration based on IES, 2018.

**Note:** In this figure total employment excludes civil servants.

► **Figure 4 Share of employed workers covered by section 33 of the SSA by employment status, 2018**



Source: Author’s elaboration based on IES, 2018.

**The Social Security Act B.E. 2533 (1990)** and its amendments are a set of laws establishing the scope of benefits under the Social Security Fund (SSF), a contributory social insurance scheme that receives contributions from the employer, the worker, and the state.<sup>16</sup> It provides for seven benefits related to non-work-related injury or illness, maternity, disability, death, children, old age, and unemployment.<sup>17</sup> The law organizes the coverage of three categories of insured persons, the details of this are provided in **Error: Reference source not found**. Section 33 of the law is mandatory for all *employees* in Thailand.<sup>18</sup> The original Act of 1990 defines an employee as “a person agreeing to work for an employer in return for wages irrespective of designation but excluding an employee who is employed for domestic work which does not involve business”.<sup>19</sup> This definition of an employee was updated in the SSA amendment of 2015 and no longer includes this reference to domestic work, seemingly opening the path to coverage. However, in 2017 authorities instituted a Royal Decree which excludes certain categories of workers from its scope, these include “employees of employers who are natural persons and the employees’ work does not have any business involvement”.<sup>20</sup> The language of the Royal Decree echoes back to the one used by Ministerial Regulation No.14, pointing to the need for any revisions in the personal scope of the LPA to be standardized across all labour legislation and its secondary regulations, as recommended by one of the legal experts interviewed.

<sup>16</sup> The agency responsible for administering the benefits guaranteed under the SSA is the Social Security Office (SSO) under the Ministry of Labour (MOL).

<sup>17</sup> See Section 34 of the Social Security Act B.E. 2533 (2015).

<sup>18</sup> See Section 5 Social Security Act B.E. 2533 (2015).

<sup>19</sup> See Section 5 of the Social Security Act, B.E. 2533 (1990).

<sup>20</sup> See Royal Decree prescribing businesses or employees not subject to the Social Security Act B.E. 2560 (2017) issued under the Social Security Act B.E. 2533.

► **Table 3 Social Security Act coverage by section**

SSA section	Eligible group	Entitlements	Parameters (contribution rate, retirement age, benefits)
<b>Section 33</b>	Employees in private enterprises, with some exceptions including domestic workers.	Health, non-work-related injury or illness, maternity, disability, death, family, old age, and unemployment. Section 33 workers are also required to join the WCF, for which employers contribute additionally for work-related accidents, sickness, and death benefits.	Contribution rate: seven per cent (3% employee, 3% employer, 1% government) for two benefit funds (old age and family benefits - 0.65 per cent allocated to family benefits). Benefit: Insured persons must contribute for 15 years (180 months) to receive a pension (a lump sum provided for those with fewer years). Minimum retirement age: 55 years.
<b>Section 39</b>	Individuals previously members under Section 33.	All except unemployment.	Contributions: Flat rate of 432 per month (9 per cent of base salary of 4,800 baht) Benefit: Calculated using the same formula as Section 33 pensions. Minimum retirement age: 55 years.

Source: ILO, 2022.

Regular migrant workers from the age of 18 to 55 years old are eligible to contribute to the SSF under Section 33 if they have a valid work permit and an identity document. This is a positive feature and opportunity for an important expansion in coverage. However, migrant workers are not eligible to participate under Section 40 which means that migrant domestic workers have no legal access under the SSA. Migrant workers who are not eligible to participate in the SSF are covered for basic medical needs through the Migrant Health Insurance only. In this respect, institutional fragmentation is a challenge for the expansion of rights to this group, as the MOL stated in their interview that this group is under the mandate of the Ministry of Public Health (MOPH).

**The Workmen’s Compensation Act (WCA) B.E. 2537 (1994)** and its amendments are a set of regulatory frameworks that provide workers with benefits should they experience occupational injuries or illness. The Act set up the Worker’s Compensation Fund (WCF) under the SSO to provide four types of benefits in relation to work-related accidents, injuries, and illness: cash compensation, medical expenses, occupational rehabilitation, and funeral expenses. Employers with at least one employee are required to register them with the WCF and pay an annual contribution. The contribution level is identified based on work risks, which vary between different sectors. According to the WCA, all workers, including migrant workers, are covered under the WCF, except domestic workers “whose work does not involve business”.<sup>21</sup> In 2019, the MOL extended the WCF’s coverage to workers in agriculture, fishery, forestry, and animal husbandry. However, domestic workers and employees of street or mobile vendors are still excluded.<sup>22</sup>

**The Occupational Safety, Health and Environment Act B.E. 2554 (2011)** stipulates an employer’s responsibility to uphold and provide occupational safety and health protections for all their workers, regardless of nationality. The act requires an employer to arrange and maintain the workplace in safe and hygienic working conditions. The Act applies to all employees and employers covered by the LPA, without e

<sup>21</sup> See Article 5 of the Workmen’s Compensation Act B.E.2537 (1994).

<sup>22</sup> See the announcement made by the MOL of 21 February, 2019, on categories, sizes and authorized local administration units of employers required to pay financial contribution to the fund, the contribution rate, the deposit rate, evaluation criteria, and methods of contributing to the fund. Available at: [www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/067/T\\_0019.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/067/T_0019.PDF).

► **Box 3. Regular migrant domestic employees:  
An opportunity for coverage expansion**

Regular migrant workers are non-Thai citizens who have a work permit, visa, or other documents which provide a legal right for their stay in Thailand. These migrant workers therefore have a regular migration status. The largest groups of regular migrant workers in Thailand are from neighbouring Cambodia, Lao PDR, Myanmar and Viet Nam (CLMV). Thailand has two official channels for regular migration from CLMV countries: Memorandums of Understanding (MOU) and border passes. Irregular migrant workers, in contrast, do not have documentation providing a legal right for their stay in Thailand. Formally, their presence in the country is considered illegal. However, irregular migrant workers can periodically regularize their status through a nationality verification (NV) process (IOM, 2021).

Domestic work is permitted for all types of migration status. The country has three social protection programmes available for regular migrant workers, with differential access depending on the type of regular status the migrant worker has. These are:

- SSF Section 33
- Workman's Compensation Fund; and
- Migrant Health Insurance Scheme

The SSF and WCF are mandatory for eligible migrant workers whereas the MHIS is in practice a voluntary scheme. The MHIS is considered a voluntary scheme because the MoPH does not have a legal mechanism to oblige enrolment. However, in practice, migrant workers are required to undergo and pass the obligatory health examination and purchase migrant health insurance as part of work permit application process (IOM, 2021).

The SSF provides the most comprehensive social protection coverage but is not accessible to regular migrant workers employed in domestic work, even if these workers have the required work and residence permits. This is thus less about migration status, and more about the fact that the domestic work sector is legally excluded from Section 33 of the SSF. The same eligibility criteria apply to the WCF, as employees insured under the SSF should automatically be registered under the WCF (IOM, 2021).

In principle this is good news, as it means that migrant domestic employees have the potential for effective compliance with laws and regulations. The regularization process means that they have an established record and identification as employees at the Ministry of Labour. Their current informality is a result of a legal exclusion that can be addressed by policy makers. Thus, the reform of regulations excluding domestic workers from SSF Section 33 and the WFF would benefit both national and migrant domestic workers without a second hurdle to overcome within migration regulations.

Source: ILO, 2022.

**The Health Examination and Health Insurance of Foreign Workers B.E. 2562 (2019).** The announcements of the Ministry of Public Health (MOPH) on Foreign Worker's Health provide the legal framework for the Migrant Workers Health Insurance Scheme (MHIS) for regular migrant workers of all categories, including MOU workers, NV process workers, and border pass holders. The MHIS is a contributory healthcare programme for migrant workers and their dependents up to the age of 18 years old who are not eligible for the SSF, or not yet covered by it because they have made less than three months' contributions to the SSF (IOM, 2021). Migrant workers are required to undergo and pass the obligatory health examination and purchase migrant health insurance as part of work permit application process. This is not, however, accessible for migrant domestic workers who are not eligible for a work permit. The insurance is only available at public hospitals and must be purchased from the public hospital where the worker undergoes their medical check-up on arrival; they are then linked to this service provider, which can be a challenge for workers who change employers. Benefits include an annual health check-up; general medical treatment including maternity and dental care; emergency medical treatment; communicable disease prevention; and HIV/AIDS medication.

### 2.2.3 The rights of domestic workers in Thai legislation

**Domestic workers employed by service providers are the only group of domestic workers currently covered by the LPA.** The personal scope of the LPA is narrow, covering only some employees. The LPA defines its coverage by the nature of employers rather than employees. It defines an employer as a natural or juridic person “who agrees to accept an employee for work by paying a wage.”<sup>23</sup> This relates to the CCC definition of hire for employment, but does not include all employees. The LPA does not identify the home as a place of work and although it provides for wages to be paid hourly, employment arrangements like part-time employment are not regulated.<sup>24</sup> Likewise, other types of dependent workers, such as dependent contractors and contributing family workers, are not recognized nor covered by the LPA. Generally, this is an issue because it is the recognition of the employment relationship which gives rise to reciprocal rights and obligations between the employer and the employee and ensures access to employment-related rights and benefits. In the case of domestic work, it means that domestic workers employed by service providers are currently the only group of domestic workers who fall within the personal scope of the LPA.

**Employment sectors characterized by employment statuses other than that of employees, like domestic work, are the most affected by this limitation.** Stakeholder interviews with local legal experts suggested that to date, the way in which policy makers have dealt with the discrepancy between the scope of the LPA and the existence of other forms of work has been through sector-based exclusions. Indeed, Section 22 of the LPA gives the Ministry of Labour the authority to exclude certain sectors like agriculture, fishing, and domestic work, among others, from the labour protections of the Act. A case in point is Ministerial Regulation No. 14 B.E. 2555 (2012), which excludes employers of domestic workers from the full coverage of the Act (See Error: Reference source not found).<sup>25</sup> Specifically, domestic work is not covered by provisions for liability of sub-contractors,<sup>26</sup> limits on normal working hours,<sup>27</sup> consent and compensation for overtime hours,<sup>28</sup> rest periods,<sup>29</sup> and special leave<sup>30</sup>. Domestic work is also excluded from minimum wage mechanisms,<sup>31</sup> computation of paid working hours,<sup>32</sup> wage deductions,<sup>33</sup> or severance pay.<sup>34</sup> They are only partially covered by provisions on weekly holidays,<sup>35</sup> paid traditional holidays,<sup>36</sup> and paid annual holidays,<sup>37</sup>. Domestic workers are also excluded from equal pay for equal

<sup>23</sup> See Section 5 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>24</sup> A recent minor exception are students who work in restaurants and convenience stores, as provided for by the Wage Committee Announcement on Hourly Wage Rate for Students. Available at: [https://www.doe.go.th/prd/assets/upload/files/alien\\_th/e90980ef8b675e525737e753acc2726e.pdf](https://www.doe.go.th/prd/assets/upload/files/alien_th/e90980ef8b675e525737e753acc2726e.pdf).

<sup>25</sup> See Ministerial Regulation No.14 B.E. 2555 in accordance with the Labour Protection Act B.E. 2541.

<sup>26</sup> See Sections 11/1 and 12 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>27</sup> See Section 23 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>28</sup> See Sections 24-26 and 53-55 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>29</sup> See Section 27 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>30</sup> See Sections 33-36 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>31</sup> See Section 90 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>32</sup> See Sections 68-69 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>33</sup> See Sections 76-77 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>34</sup> See Sections 118-122 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>35</sup> See Section 28 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>36</sup> See Section 29 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>37</sup> See Section 30 of the Labour Protection Act (LPA) B.E. 2541 (1998).

work provisions,<sup>38</sup> employment protection and protections against hazardous work during pregnancy.<sup>39</sup> In terms of social security provision, they are not entitled to the 90 days of maternity leave (recently expanded to 98) nor the 45 days of paid maternity leave covered by employers.<sup>40</sup> They are also left out of the 30 days of paid sick leave per year and all provisions for an Employee Welfare Fund (meant to cover the contingencies of unemployment and death).

**Employers still have the authority, and thus responsibility over the worker, but without the protections of the law to establish the terms of that relationship.** Officials interviewed in Anderson, 2016, pointed that one of the main reasons for the exclusion of domestic workers from many labour and social security related laws in Thailand is that an individual employer (as opposed to a company or business) does not have the capacity to provide full protection under these laws. However, the policy might actually have the opposite effect intended. Ministerial Regulation No.14 discriminates against these employers, who by virtue of being private households, are not in a position to issue service contracts but are also not allowed to issue employment contracts under the scope of the LPA. In the absence of a regulatory framework, employers are placed in the role of establishing the “law” themselves. This means they are required to assume responsibilities and make decisions they might not be equipped for, such as fixing an appropriate wage and appropriate compensation for overtime work, making arrangements for sickness and rest periods, finding an ethical response when a domestic employee becomes pregnant or too old to work, and determining whether a product used at work constitutes an occupational risk. Finally, employers are left with the full liability in the case of injury or disability occurring within their home, with no access to the benefits of the WCF. A 2016 study of migrant domestic workers in Thailand which interviewed a number of employers showed that employers struggle to manage the inequality in the relationship and are concerned about the lack of information on employer’s responsibilities when the issue is discussed in the press (Anderson, 2016).

**Attitudes and behaviours towards domestic work can contribute to their legal exclusion.** Neither the LPA nor Ministerial Regulation No. 14 define domestic work. Instead, the latter excludes “employers employing workers to perform domestic work which does not involve business operations”.<sup>41</sup> Government representatives interviewed for this study interpret this definition as referring to employers who employ employees to do work that is not intended to seek economic profit. Indeed, local legal experts noted that the LPA was designed to provide protection to all employees but that it always exempted workers whose work did not seek economic profit. They noted, however, that many of the sectors currently partially excluded from the LPA on this basis such as agriculture, mining and transportation, do objectively contribute to the economy. In the case of domestic work in Thailand, attitudes and behaviours towards the sector may be linked to this exclusion. Indeed, during stakeholder interviews, the MOL stated that a key difference between domestic workers and other workers is that they are usually seen as part of the family and their work creates no profit. Non-governmental stakeholders shared their impression that the MOL’s tendency to adopt this position hinders the legal development process. One saw the attitude of policy makers as the key barrier to the extension of the LPA and noted that they are currently more concerned about how increased protection might burden employers, without considering the power imbalance between them and workers – a key *raison d’être* for the LPA. The same respondent felt that the limited space given to stakeholder consultation in the legal drafting process contributes to this situation.

**There is a need to raise awareness about the economic and societal value of domestic work.** A recent study by the ILO and UN Women provided important insights on domestic workers’ perceived role as both family members and workers, and how this affects everything from working hours to wages, freedom of movement and association, and access to social protection (Anderson, 2016). The authors noted that despite the critical contribution that these workers make to society and the economy, the

<sup>38</sup> See Section 53 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>39</sup> See Section 42-43 and 38-40 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>40</sup> See Sections 41 and 59 of the Labour Protection Act (LPA) B.E. 2541 (1998).

<sup>41</sup> See Ministerial Regulation No.14 B.E. 2555 in accordance with the Labour Protection Act B.E. 2541.



establishment of a fictive kin relationship erodes the recognition of domestic work as work. Fictive kin is a term that suggests a close relationship that is governed by emotion and reciprocity rather than contract. While being “part of the family” is not detrimental in itself, the problem is rather that the fictive kin relationship can be applied selectively by the employer, or be withdrawn completely when workers may need it the most, such as sickness or old age. In Thailand, the study found, a substantial minority of employers thought that a written contract was not an appropriate right for any domestic worker. The authors conclude that there is a need to educate employers – and we might add policy makers – about the rights and contributions of domestic workers, emphasising that treating someone as “part of the family” should include respecting their human and labour rights (Ibid, 2016). In that sense, further research on the economic value of domestic work, as part of the care economy in Thailand, could be helpful to this discussion.

**National legal experts called for all workers to be treated equally.** For this, one recommended that the definition of *employee* should be revised and standardized across the relevant labour laws. While the SSA has been updated to reflect the same definition of employee as the LPA, the WCA, on the other hand, still defines “employees” as “a person agreeing to work for an employer in return for wages irrespective of designation but excluding an employee who is employed for domestic work which does not involve business.” All respondents admitted that the nature of domestic work is different from other work. Still, they all agreed that the need to customize certain protections for certain group of workers, should not mean they are afforded lesser rights. All legal experts interviewed independently put forward that the labour laws (LPA, SSA and WCA) should be minimum standards for all workers. One respondent in particular specified that this would mean the repeal of Ministerial Regulation No. 14, as the approach required is not an extension of certain rights, but guaranteeing that all workers are afforded no less protection than what is established in the LPA.

**The ongoing revision of Ministerial Regulation No. 14 is an opportunity to reconsider this situation.** Ministerial Regulation No.14 was issued under the LPA to revise Ministerial Regulation B.E. 2541 (1998), which involved an even more extensive exception of rights. At the time of issuing Ministerial Regulation No.14, policy makers positively recognized that through the exceptions made in the preceding Ministerial Regulation “the protection provided to an employee engaged in domestic work without any involvement in business operations does not respond to the changed social and economic conditions.”<sup>42</sup> The specific social and economic conditions are not specified, but it was concluded that it was reasonable to extend the list of protections provided to domestic employees. This is a positive precedent which establishes both the need and the possibility of adapting legislation to the realities of the labour market. Almost a quarter of a century after the last revision, the timing is right to reconsider the current social and economic conditions of domestic workers.

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<sup>42</sup> See notes section of Ministerial Regulation no.14 B.E. 2555 (2012) issued under the Labour Protection Act B.E. 2541.



► **Table 4 Key LPA, 1998, provisions set to be revised in the updated Ministerial Regulation No. 14**

Labour right	LPA (1998) section
Limits on normal working hours	23
Rest periods	27
Business leave	34
Maternity leave	41
Maternity employment protection	43
Minimum wage	78-91
Wage deductions	76-77

Source: ILO, 2022.

**The MOL is currently in the process of revising Ministerial Regulation No. 14 with the aim of extending the rights of domestic workers.** The adoption of the revision has been discussed for the past two years and is expected to take force shortly. During an interview with the MOL, representatives indicated that following consultations with stakeholders, the ministry considers certain revisions will address the protection gaps domestic workers currently face, although these gaps were not specified. Some of the proposed revisions are significant, such as the extension of the minimum wage. This is a key protection, not only for decent work, but for the implementation of social insurance benefits which need to be calculated on an insurable base. In light of this substantial change, it is noted that the revision falls short of extending other benefits such as overtime hours and equal pay for equal work, which together with the minimum wage work to ensure fair compensation. For the social insurance system, the joint implementation of this provision is important to ensure benefits are adequate and fulfill their consumption smoothing function. Notably, the proposed revision aims to address maternity leave but does not include the extension of paid sick leave, which is also regulated at the level of the LPA. This highlights a limitation of this gradual approach to expansion, within which it is difficult to say which provisions should be prioritized over others, as all labour rights and social security rights are both important and interrelated.

**The explicit recognition of an employment relationship is still desirable.** As legal experts interviewed for this study repeatedly pointed out, the ideal approach would be to include domestic workers in the full protections of the LPA. Fully removing Regulation No.14 would amount to implicitly extending the coverage of the Act to domestic workers and their employers, who would then simply fall under the general definitions of “employees” and “employees” in Section 5 of the Act. If not now, this is a necessary step to consider as part of a long-term strategy to formalize domestic work in Thailand. As it stands, the updated version of Regulation No.14 will maintain the exclusion of domestic workers from a significant number of provisions (See Annex IV). What is most likely in this case, is that the continuance of Ministerial Regulation No. 14 is used to maintain the rationale of withholding the full application of the LPA to “employers employing workers to perform domestic work which does not involve business operations.” This allows authorities to continue to make a distinction between domestic employees and other employees – specifically by avoiding the regulation of their employment relationship and the full scope of employer obligations that other employers have towards their employees. It is a practical strategy to avoid addressing the issue of how labour legislation applies to private households as both

employers and places of work. This strategy is also employed by the WCA and the 2017 Royal Decree excluding domestic workers from the provisions of Section 33 of the SSA using the same language.

**The challenge this creates can be illustrated by the proposed extension of maternity leave.** In an interview, MOL officials confirmed the revision of Ministerial Regulation No. 14 would extend Section 41 of the LPA, which entitles workers to 90 days of maternity leave per year. However, it is not clear if it will also include an extension of Section 59, which provides for 45 of those days to be paid by the employer. If Section 59 is not included, it would mean that workers would have the right to take leave but it would not be paid, likely making this an impossibility for most domestic workers. Currently, maternity benefits are only available through Section 33 of the SSA, together with other benefits, and is financed through contributions from employers, employees and the Government. A partial revision of Ministerial Regulation No.14 alone could not, however, address the issue of these actors liability to pay contributions, as it is the SSA and the WCA which establishes the duty of employers to pay contributions to secure qualifications to benefits.<sup>43</sup> Therefore, policy makers seeking to effectively extend social security coverage to domestic workers, and specifically social insurance, should in parallel seek the amendment of the WCA Article 5 and SSA Section 3(8) so as to remove any references to work which does not have any “business involvement.”

**It is strongly recommended that there is parallel action at the level of the WCA and SSA.** This would provide a better foundation for addressing issues of how the provisions of the LPA apply to different types of employers who are engaging in hires of employment by the definitions set out in legislation like the CCC as well as in customary law. Such discussions are most likely to benefit domestic employees working directly for households, but could also open channels for other types of domestic workers who could be seen as being employed by sub-contractors.<sup>44</sup> The LPA's own scope will likely mean that it will not reach other domestic workers who are in employment statuses not yet recognized by the LPA, be it part-time employment or multi-party relationships. It is thus important to consider that a more explicit approach will still be necessary to ensure the effective coverage of all domestic workers in Thailand, regardless of their contractual arrangements.

Legal exclusion from provisions is the first and thus main challenge to the expansion of social insurance benefits to domestic workers in Thailand. When assessing the best strategy to tackle this challenge, it is important to understand that different approaches will entail varying degrees of enforcement capacities, which in turn will determine the effective implementation of extended rights. Importantly, this process should include a strong component of consultation and social dialogue with concerned parties, such as domestic workers and their employers. The next chapter provides more information on the profile of domestic workers in Thailand and the working conditions they currently face. Seen in the light of the legal framework presented above, it helps to understand the need for legal reforms and the most appropriate approaches for effective results.

<sup>43</sup> See Section 46 of the Social Security Act B.E. 2533 (1990), Section 52 of the SSA, 1990, and Article 44 of the Workers Compensation Act B.E. 2537 (1994) as all provide for the joint liability of sub-contractors for paying contributions as an employer.

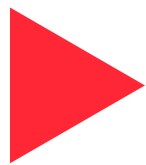
<sup>44</sup> Sections 11/1 and 12 of the LPA, 1990, and Article 10 of the WCA, 1994.

### ► 3. Key messages

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- The international legal framework recognizes domestic work as “work”, including domestic employees who are employed directly by households, or by service providers, like agencies or digital platforms. Both are recognized as employment relationships. This is important because in national settings, the employment relationship determines the level of protection afforded.
- The rigid definition that Thai legislation makes between hire of employment and hire of service – and thus of who is in an employment relationship – does not actually fit the new forms of work that have appeared in the labour market in general, and in domestic work in particular. This leaves both employers and employees unable to access employment-related rights and benefits.
- The Labour Protection Act (1998) is the main legislation regulating working conditions in Thailand, the current personal scope of this law reaches less than half of all employed persons in the country, the remaining of which are considered “informal”. In this sense, informality in Thailand is partly created by the legislations restraint to include all workers into its scope.
- Two attitudes contribute to the general notion that domestic workers should be treated differently than other workers by legislation. The first is that they are part of the family and so that formal instruments like employment contracts are not an appropriate way to regulate the relationship. The second is that their work produces no economic profit.
- Through Ministerial Regulation No. 14, the LPA explicitly excludes domestic workers from several key provisions, like the minimum wage, equal pay for equal work, limits on working time and compensation for overtime work, among others. The ongoing revision of this regulation provides an opportunity to address this limitation but a gradual approach is not likely to facilitate the effective extension of social insurance coverage.
- The formalization of domestic workers will require the full extension of the protections of the LPA, in the meantime, policy makers should strongly consider aligning the definitions of *employee* already adopted in the LPA, with those of the SSA and the WCA. Removing limitations linked to work which does not involve “business operations” is necessary to establish the employment relationship existing between domestic employees and their employers – as already recognized by a number of Supreme Court decisions.
- It is important for civil society and those supporting the full extension of rights to this group, to work on reducing these misconceptions by emphasizing the continued relevance of labour rights in any employment relationship, as well as raising awareness about the economic value of this sector, outside traditional notions of economic profit.





3

# Profile of domestic work in Thailand

## ► The size of the sector

**The number of domestic workers in Thailand has increased by almost 27 per cent from 2014 to 2018.**<sup>45</sup> According to estimates based on the IES survey, there were nearly 290,000 domestic workers in Thailand in 2018.<sup>46</sup> However, it is highly likely that this estimate is an undercount of domestic workers. Many more may be performing domestic work for households, within an employment relationship, but escape official labour force and employment surveys and censuses for various reasons (Box 1). MOL representatives interviewed for this study mentioned their working estimate of the number of domestic workers is around 200,000, excluding live-in workers who they have limited access to.<sup>47</sup> Earlier government studies put the number at more than 1.4 million.<sup>48</sup> These significant variations are more than a statistical inconvenience; they have critical ramifications for how we understand – and respond to – the vulnerabilities and needs of this group of workers.<sup>49</sup> In total, domestic workers make up 0.8 per cent of all employed persons, and 1.6 per cent of wage employees, see Table 5.

► Table 5 Domestic workers in Thailand, 2018

	Number of domestic workers	Domestic workers in total employment (percentages)	Domestic workers among employees (percentages)
<b>Women</b>	199 825	1.1	2.4
<b>Men</b>	89 935	0.4	0.9
<b>Total</b>	289 760	0.8	1.6

Source: Thailand, NSO, IES, 2018.

<sup>45</sup> IES questionnaires from 2016 and earlier, did not ask about types of workplaces, which might have contributed to an under-estimation of the total number of domestic workers in those years.

<sup>46</sup> Data refers to the NSO, Informal Employment Survey (IES), 2018 Q3.

<sup>47</sup> The respondents noted that the Department of Employment is the mandated agency who keeps track and informs them of the number of both Thai and migrant domestic workers.

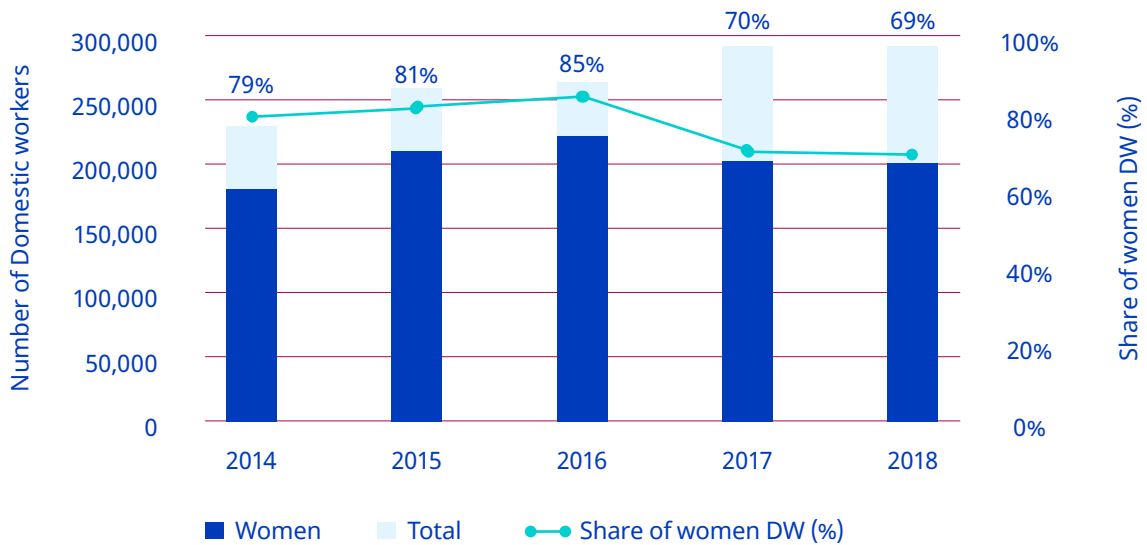
<sup>48</sup> In a 2018 study, the Social Security Office estimated 1,220,000 households with domestic workers nationwide and 1,431,000 domestic workers in total.

<sup>49</sup> For a full discussion on the data gaps between the Informal Employment Survey 2018 and Social Security Office administrative data, see the forthcoming ILO technical note, "A Contribution to the Dialogue on Extending Social Insurance in Thailand: A Statistical Analysis of the Profile of Workers Not Covered by Contributory Social Security in Thailand."



**Domestic work is an increasingly important source of employment for women as well as men.** In Thailand, around seven in ten domestic workers (69 per cent) were women in 2018. While the sector is characterized by a higher prevalence of women, it is also becoming an increasing source of employment for men. Since 2014, the number of men in domestic work has increased by 85 per cent, from 28,704 in 2014 to 89,935 in 2018.

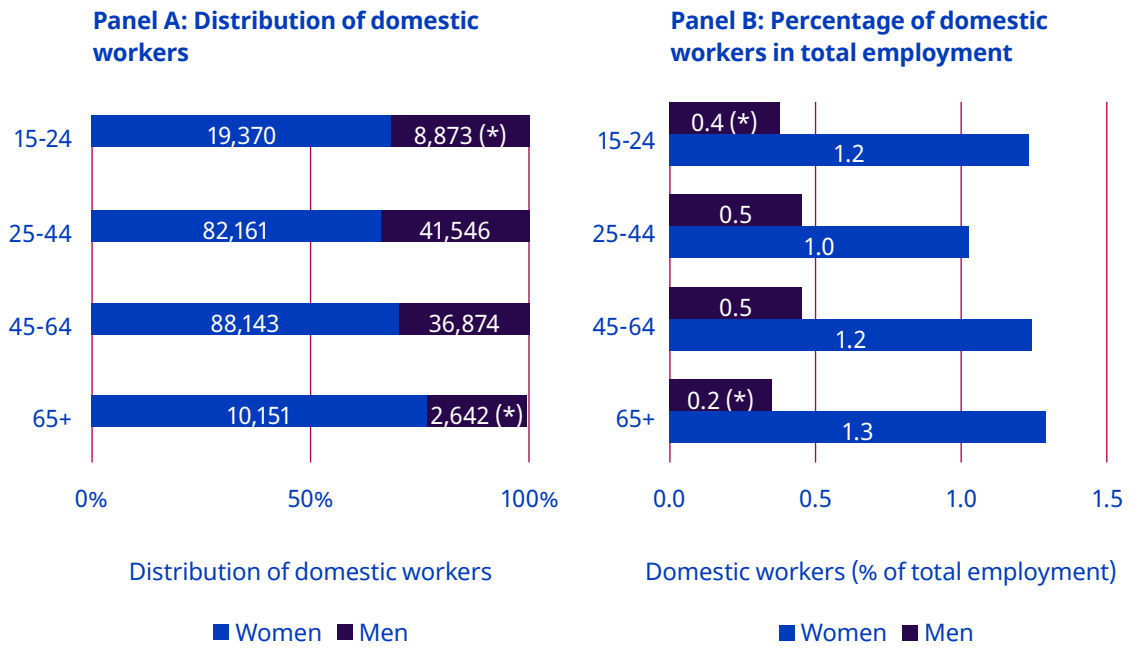
► **Figure 5 Domestic workers by gender 2014-18**



Source: Thailand, NSO, IES, 2018-2014.

**Still, around seven in ten domestic workers (69 per cent) are women.** When looking at only female employees, the importance of the domestic work sector for employment at least doubles. This is due to the relatively low number of female employees in the labour market. In Thailand, domestic work accounts for 1.1 per cent of female employment, but 2.4 per cent of female employees. The data also suggests that domestic work is often an important source of paid work for workers in older age groups, especially for women. Of all domestic workers aged 65 and older, nearly 80 per cent were women (Figure 6). This underscores the need to provide domestic workers with access to workmen’s compensation, health insurance and sick leave; protections which become increasingly relevant with age.

►Figure 6 Share of domestic workers, by sex and age group, 2018



Source: Thailand, NSO, IES, 2018-24.

Note: (\*) Denotes small sample cases of less than 30, where statistical numbers should be used with caution.



► **Box 4. Measuring domestic work**

Data on domestic work is notoriously difficult to capture. It is internationally acknowledged that estimates probably underestimate the number of domestic workers in most countries. First, the underlying national data generally refers to the working age population as persons 15 years and older, leaving out child domestic workers below that age. Second, in most cases the available data refers to main jobs. However, some domestic workers are engaged in domestic work only on their secondary jobs. Third, there is also the issue of response errors in conventional censuses and surveys. Some domestic workers may not know that their activity is in fact a form of employment, especially if no cash payment is involved. In such cases, they tend to be reported as outside the labour force and therefore excluded from the count of domestic workers. Experience has shown that unless special probing questions are incorporated in the questionnaire, substantial numbers of domestic workers may be missed from the survey. For example, when Tanzania ran a dedicated domestic work survey, almost one-third of the domestic workers were detected based on especially designed questions (Kahayarara, 2013). Finally, national surveys have their own challenges when it comes to incorporating migrant workers, who are predominant in this sector.

Domestic workers may be measured using conventional labour force survey questionnaires or dedicated, especially-designed questionnaires for stand-alone

surveys, or a combination of the two. The use of a conventional labour force survey questionnaire for identifying and collecting data on domestic workers has several advantages. It is based on a sound and time-tested framework. Where it addresses both the main and secondary jobs, the questionnaire can in principle cover the full scope of domestic workers. Finally, because it is designed for measuring all employed persons, the results enable a consistent comparison of domestic workers with other categories of workers.

However, it also has drawbacks. The general questionnaire may be error prone in the particular case of domestic workers. Domestic workers who are conducting domestic tasks of the household without pay but in exchange of other benefits, may not correctly understand and therefore respond to the general questions on work for pay or profit of the conventional questionnaire. Also, coders may miscode the branch of economic activity of domestic workers, especially, if the interviewer does not properly recognize or badly describes the business activity of the household employer of the domestic worker. There is also the risk that some domestic workers do not get listed in the household roster as members of the household in the first place and as a result they do not get administrated the labour force questions at all. Finally, there is the problem of distinguishing between live-in and live-out domestic workers and the coverage of domestic workers not members of the household.

Source: Mehran, 2014. ILO Survey on Domestic Workers: Preliminary Guidelines. ILO, Geneva.

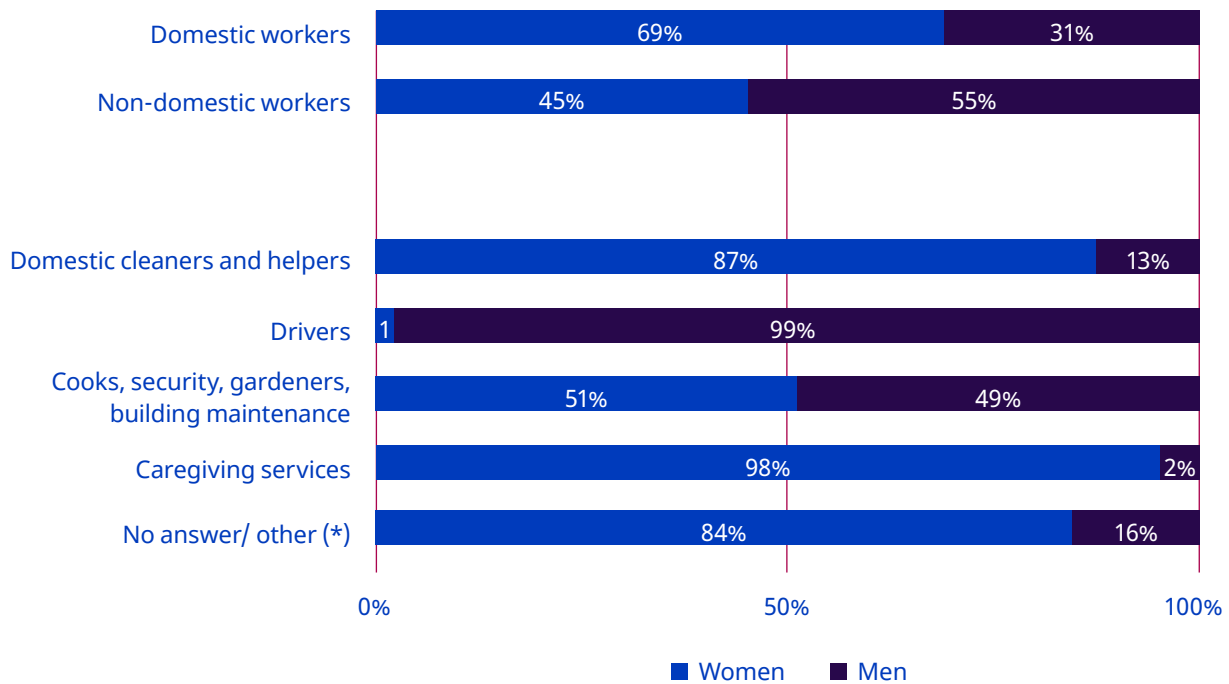
**In Thailand, domestic work is lifelong employment that can facilitate qualification for social insurance benefits.** The IES data shows there is a relatively even distribution of domestic workers by age with a slight increase as workers grow older. This contrasts with the overall trend in the labour market that sees female labour market participation drop with age (ILO, 2021b) and importantly, to the distribution of the population insured by SSO schemes. For both males and females, the share of the population contributing is highest from age 25 to 39, and is lower for more advanced ages (Knox-Vydmanov et al., forthcoming). On the other hand, according to IES data, almost half of all domestic workers are older than 45 (48 per cent). This is echoed by the results of the UN Women survey, where 43 per cent of domestic workers interviewed were 40 years old or older (UN Women, 2022). From the perspective of the social insurance system, the data shows that this is a sector with the possibility of meeting qualifying conditions for benefits such as old-age pensions and is thus an opportunity to boost the numbers of women obtaining pensions in Thailand.

However, migrant domestic workers might be an exception to this trend. According to the UN Women survey, a majority of migrant domestic workers (46 per cent) are aged between 18 and 29 years and only 17 per cent are aged 40 or older. This might indicate that migrant workers are moving on to other industries or alternatively, back to their home countries as they enter their 30s. Again, this survey is not representative so this is a subject for further research.

## ► Occupations

**Domestic workers perform a wide range of tasks in Thailand, and these are shifting.** A majority of domestic workers in Thailand (60 per cent) provide households with indirect care services such as cleaning (60 per cent), cooking, driving and other maintenance tasks (16 per cent). These services contribute to a safe and healthy home environment. A smaller proportion of domestic workers (7.1 per cent) provide direct care services. This is the vital work of tending to children and providing daily living and health assistance to people who are elderly, are convalescing from illness, or have disabilities (Figure 7). However, it is important to consider that care work provided by domestic workers is likely to also involve indirect care services, such as preparing food and cleaning after the person under care.

► **Figure 7 Domestic workers by sub-occupation and gender, 2018**

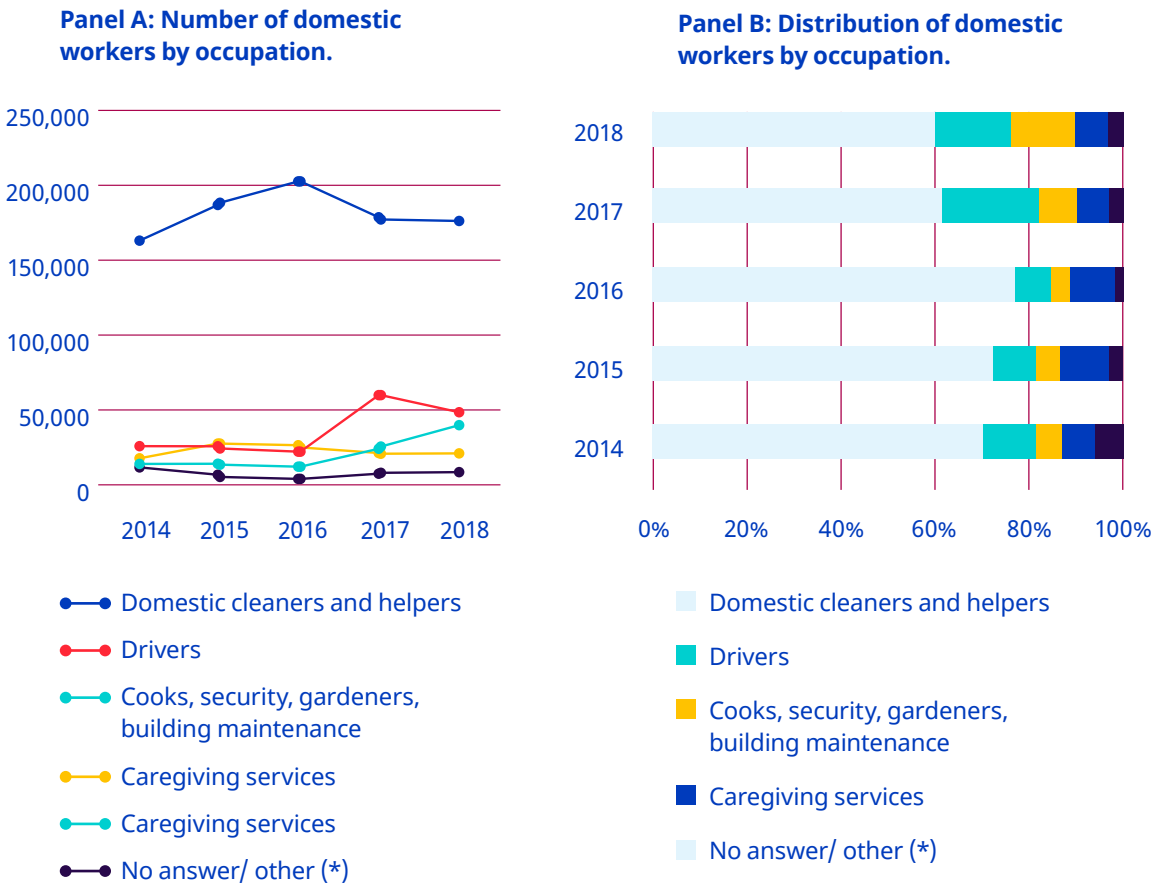


Source: Thailand, NSO, IES, 2014-18.

Note: (\*) Denotes small sample cases of less than 30 where statistical numbers should be used with caution.

**Male-dominated occupations are experiencing significant growth.** While all occupations have seen some growth in since 2014, some strong trends are visible (Figure 8). The number of direct care givers increased by 27 per cent. It is thus important to understand domestic work within the larger industry of care services and its own trends. However, by far the largest growth took place among cooks, security, gardeners, and other building maintenance workers (220 per cent) and drivers (82 per cent). Coincidentally, the latter are male dominated occupations, which helps to explain the significant increase in the share of men in domestic work.

► Figure 8 Domestic workers by sub-occupations, 2018



Source: Thailand, NSO, IES, 2014-18.

Note: (\*) Denotes small sample cases of less than 30, where statistical numbers should be used with caution.

**Still, gender distribution among different occupations is unbalanced** – a gender imbalance that is even more pronounced for house cleaners (87 per cent women), and direct care providers (98 per cent women). By comparison, women make up just under half (45 per cent) of the rest of the workforce. On the other hand, cooks, security and gardeners (51 per cent male) and driving (99 per cent male) are male dominated (Figure 9). This gender segregation between domestic work occupations was also visible in the UN Women survey, which additionally showed that a majority of migrant workers (46 per cent) worked as house cleaners (UN Women, 2022). The UN Women survey also emphasized that women domestic workers are, on average, given a broader variety of tasks to do compared to men (UN Women, 2022). The qualitative survey also supports this finding and further emphasized that this is valid for workers involved in both direct and indirect care. On the other hand, the description of the tasks associated with male-dominated occupations are more succinct.

*My main job is to keep the house clean. My boss has asked me to cook for him and his family if they come. [Myanmar, Woman, Domestic Worker].*

*I worked as a housekeeper and did everything, including taking care of the child. I had to start cleaning, sweeping, mopping, and then preparing tea for my female employer. I made food for the child;*

and breakfast and dinner for the adult employers. [Myanmar, Woman, Domestic Worker in Elderly Care].

I am taking care of [a child] who is four years old. I participate in **bathing him, dressing him, washing clothes, feeding**, that's all because he is already in kindergarten. [Myanmar, Woman, Domestic Worker].

I am in charge of **all patient-related matters**. I prepare and deliver her meals and clean her room and clothes. [Can the patient care for herself] Not at all. She is a bedridden patient. [Thai, Woman, Caregiver].

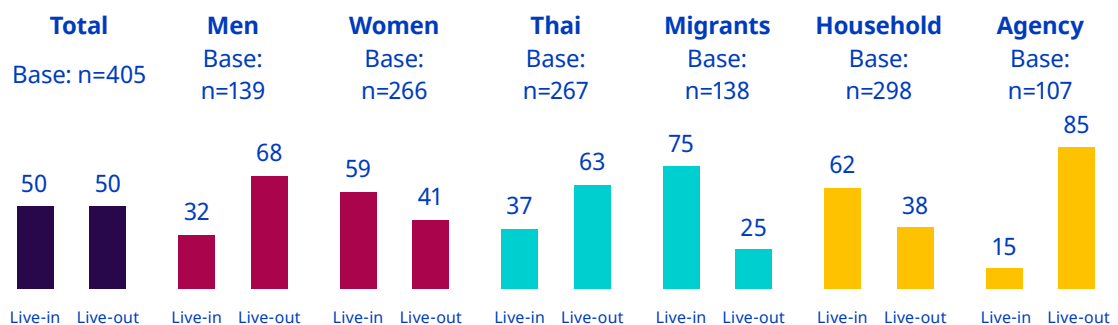
**I inspect all vehicles entering the compound** where only residents are permitted to enter the compound. Other visitors need to seek permission. [Thai, Woman, Security Guard].

**I mow the lawn and water the trees**. [Myanmar, Man, Gardener].

**When trying to define domestic work, it is best not to use task-based definitions.** Overall, the high diversity among tasks and the evolving scope of occupations means that task-based definitions of domestic work are likely to exclude workers, particularly female workers. Thus, when trying to define the scope of the sector for policy purposes, it is best to focus on other common characteristics. For example, international practice based on Convention No, 189 focuses on their place of work. This also means that efforts to expand coverage should avoid task-based categorization for targeting (i.e., expanding coverage to cleaners only), as this is likely to be a common task across a large section of domestic workers, ranging only in the time they devote to this task compared to others.

As shown in Figure 10, for the overall sample of the UN Women survey, the split between workers living at their place of work and those living outside is equally split. Unsurprisingly, those employed by an agency are much more likely to live out (85 per cent) and those employed directly by a household are more likely to live in (62 per cent). Notably, migrants are more likely to live in as opposed to Thais (75 per cent compared to 37 per cent), as are women compared to men (59 per cent and 32 per cent, respectively). The latter is consistent with the fact that women are overrepresented in occupations typically associated with living in, such as cleaning and providing direct care. These results highlight the relevance of reaching live-in workers for the adequate protection of vulnerable groups such as women and migrant workers.

► Figure 9 Live-in vs. live-out workers, 2022



Source: UN Women, 2022.

## ► Employment status and model

### **Domestic workers see themselves as employees, that is, as dependent workers hired for labour.**

In 2018, less than one per cent of domestic workers in the IES, self-reported as own-account workers. All other respondents identified as employees, which in Thai legal terms would mean they are hired for labour. There has been no change to this trend observed over the years (Table 6). In the typology of domestic work presented in Section Error: Reference source not found, this could draw us to the conclusion that while over 99 per cent of domestic workers are dependent, around 0.6 per cent are independent. However, it must be noted that when responding to the IES 2018, domestic workers did not have the more nuanced sub-categories to select from (such as domestic employees, domestic workers employed by service providers, dependent contractors, self-employed). Moreover, when we look at the domestic workers who identified as own-account workers, we find that they are actually employed through or by service providers.

► **Table 6 Domestic workers by employment status, 2014-18**

	2014	2015	2016	2017	2018
<b>Employees</b>	227 319	255 901	261 809	285 415	287 968
<b>Own-account workers</b>	1 245 (*)	1 649 (*)	86 (*)	2 796 (*)	1 792 (*)
<b>Share of own-account workers</b>	0.5%	0.6%	< 0.1%	1.0%	0.6%

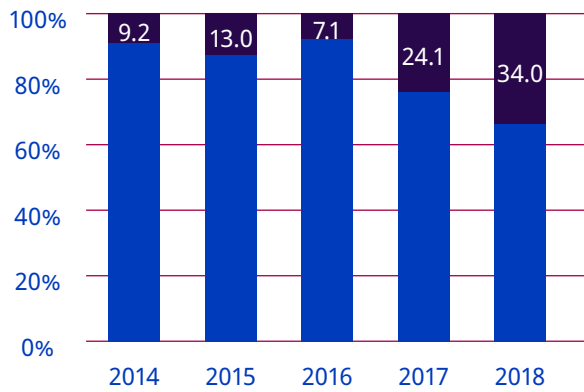
Source: Thailand, NSO, IES, 2018.

Note: (\*) Denotes small sample cases of less than 30, where statistical numbers shall be used with cautious.

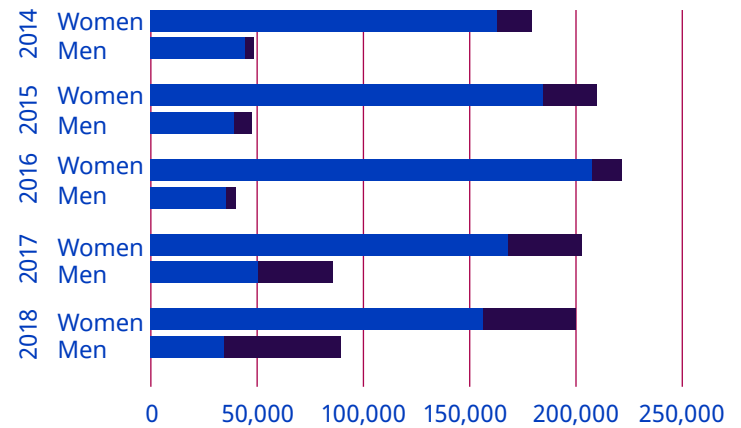
It is interesting to contrast the results of domestic workers' self-reported status, to their actual employment model – be it directly by a household or by/through a service provider.

► Figure 10 Domestic workers by employment model 2014-18

**Panel A: Panel A: Distribution of domestic workers employed directly by households or employed through or by service providers (in percentage)**



**Panel B: Number of domestic workers by employment channels and gender**



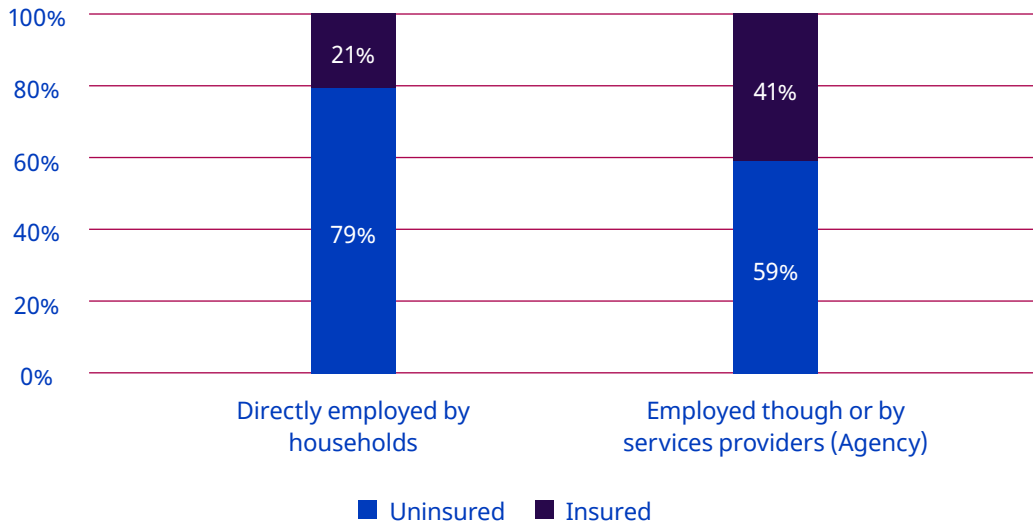
■ Directly employed by households  
 ■ Employed through or by services providers (Agency)

■ Directly employed by households  
 ■ Employed through or by services providers (Agency)

Source: Thailand, NSO, IES, 2014-18.

**Around one out of three domestic workers in Thailand are in a multi-party relationship.** In Thailand, as elsewhere, domestic workers may be employed directly by households or by/through third parties. The IES indicates that in Thailand, 34 per cent of domestic workers were not employed directly by households. In relation to the above, this means that even when they are working through a third party, a vast majority of domestic workers see themselves as employees. This implies the perception of a relationship of dependency. Unfortunately, we do not have detailed information on the nature of service providers or the type of employment relation they offer workers in Thailand. We do know, however, that the role of third parties in this sector has grown rapidly since 2014, when the share was just 9.2 per cent. This is an important development that requires further research, in particular with regards to the type of employment model between service providers and workers, as this has important implications on the degree of legal protection available to this growing number of workers.

►Figure 11 Domestic workers by insurance status and employment model, 2018



Source: Thailand, NSO, IES, 2018.

**Not all service providers are equal.** The most optimistic view of this trend would be that it is positive, as the entrance of a service provider could satisfy the requirement of work being performed for a “business operation”. In turn, this would represent the possibility of establishing an employment relationship recognized by the law and thus having access to full labour and social protection rights. Indeed, domestic workers employed through or by a service provider in 2018 were more likely to be insured with the SSF (41 per cent), than those working directly for a household (21 per cent) (Figure 12). However, the reality is likely to be more complex. For example, recruitment agencies are an important aspect of the domestic work sector in Thailand (Anderson, 2016). These agencies usually do not hire domestic workers directly, but focus on providing varying levels of matching services between workers and employers. It is for these groups of domestic workers for whom it is most difficult to determine where the employer obligations reside. The recent expansion of the digital economy into the domestic work sector has compounded this problem.

► **Box 5. Digital platforms for domestic services**

A recent study of digital platforms for domestic work in South and Southeast Asia has revealed that the models of platforms, processes of placement and configuration of the supply chain are more diverse than the uberization model, which dominates discussions on the platform economy (Tandon and Rathi, 2021). The study suggests three types of platforms:

On-demand platforms place workers in short-term gigs, similar to the uberization model of organizing services. To be onboarded, workers must register and accept standard terms and conditions of companies, with no scope for negotiation. Platforms have standard fees per task, and they apportion as part of this as their own commission, with the rest paid to the workers. Companies often monitor the work of workers through digital tools, such as ratings, facial recognition, and pictures of the worksite.

Digital placement agencies find workers full-time, part-time or live-in jobs. Platforms charge a one-time fee to employers to place workers with them. Platforms negotiate wages and other conditions of work with the employers on behalf of workers. After placement, platforms are not involved in the day-to-day operations of the job unless there is a complaint from either party. In this scenario, workers may end up being contracted as direct domestic employees or as self-employed workers.

Marketplaces are online job boards, wherein workers create profiles and add their skills, and employers pay a fee to access workers' profiles. Platforms do not intervene in setting the terms of work, including wages, and are typically not responsible for dealing with complaints from either party. In this scenario, workers may end up being contracted as direct domestic employees or as self-employed workers.

Source: ILO, 2022.

**The expanded role of third parties can lead to a growing number of workers whose employment status is unclear and thus, who fall outside the scope of the protections of labour legislation.**

This variety of platforms encompass a range of different employment models and relationships. Digital placement agencies and marketplaces are most similar to the traditional recruitment agencies that provide matching between employers and workers but do not continue to be part of the daily employment relationship afterwards. More information is needed to establish the extent of their actual authority over the terms and conditions of work in Thailand, and whether the placings they provide leads to employment relationships or independent employment. When it comes to on-demand platforms, the situation is even more complex. These kinds of workers are often treated as self-employed by national legislations, even in cases where their work is supervised and under a dependency relationship (Behrendt, Nguyen and Rani, 2019). Being part of the digital economy can make them even more vulnerable, as legislation around this sector is still far from comprehensive.

**National research suggests that digital platform workers in Thailand act as independent contractors, own-account workers or freelancers.**

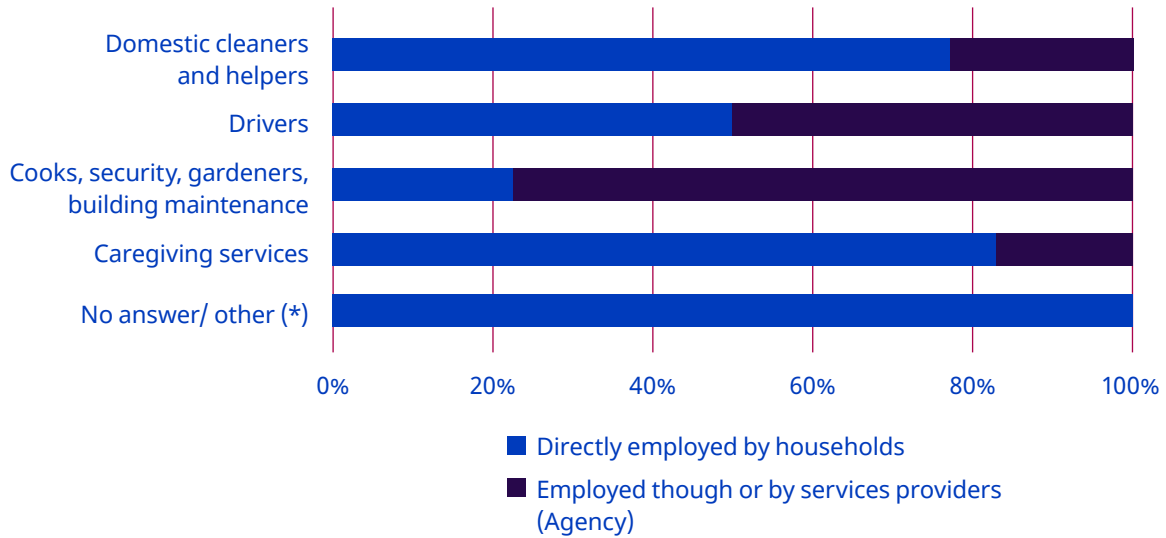
For example, in the case of the maids app BeNeat, the business pays workers an hourly rate of 180 Thai baht, but the platform pushes all the expenses to the platform workers, from transport and equipment to detergents (Tassanakunlapan, 2019). Such employment modalities are currently not covered under labour legislations but there are several ongoing discussions around the regulation of the digital economy and platforms. For example, the Ministry of Labour has a draft Act on the Promotion and Development of Informal Workers and the Ministry of Digital Economy and Society is working on a draft Royal Ordinance concerning the control of digital platform companies. There are concerns, however, that these efforts do not represent an integrated approach to tackling the evolution of the concept of the employment relationship and the implications of this with regards to social security. Civil society groups have called for a law to regulate these new forms of employment relationships, where workers rights are protected (Wantanasombut, 2018).

**Understanding the composition of the sector will be key in devising policy solutions that respond to the situations and needs of all kinds of domestic workers and their employers.**

Further research is required to establish the prevalence of these different types of service providers (and thus employment models) compared to traditional recruitment agencies, and overall domestic employees. The remainder of this section goes over the information available at the moment.



► **Figure 12 Distribution of domestic workers by occupation and employment model, 2018**



Source: Thailand, NSO, IES, 2018.

Note: (\*) Denotes small sample cases of less than 30, where statistical numbers should be used with caution.

**The growth in the role of service providers has been mostly driven by the recruitment of male domestic workers.** Some occupations seem to have shifted more dramatically towards multi-party employment relationships, as is the case of cooks, security guards, gardeners and building maintenance staff, where 78 per cent of all workers are engaged through third parties.<sup>50</sup> The share is also high among drivers, at over 50 per cent. However, even among cleaners, the share has almost doubled from 13 per cent in 2014 to 23 per cent in 2018. Overall, the proportion of men employed directly by households has dropped from 91 per cent in 2014 to just 38.7 per cent in 2018. On the other side, their employment through service providers has increased from just 8.9 per cent to 61.3 per cent in the same period. Even among domestic cleaners and helpers, 85 per cent of men are engaged through multi-party employment relationships, compared to just 14 per cent of women.

**The nature of the sector is changing, but it is unclear in what direction.** As men are entering the domestic work sector, they are doing so with different employment modalities than women. Without a better understanding of whether these men are being recruited through traditional agencies or digital platforms, and under what kind of employment relationships, it is not possible to tell whether the new jobs created in this sector are more or less standard than the typical employment directly with a household. If the balance is tilted towards a formalization of the industry, whereby service providers are offering “hire employment” with corresponding contracts, the current trend is more positive but also likely to mainly benefit male domestic workers. In turn, this means that the status quo of legal exclusions will mainly affect female domestic workers. On the other hand, if its employment models more akin to the gig economy which are flourishing, this means the sector is moving even further away from the employment relationship recognized by the LPA, and thus making all workers more vulnerable.

In any instance, what remains true is that the recognition of the household as a place of work, and thus of domestic workers as employees, remains most important for women. It is also interesting to think about what this trend will mean for migrant domestic workers. In theory, migrant domestic workers would only be able to work through placement agencies, digital or not, who facilitate the process of migration

<sup>50</sup> This could be due to a shift among one of these occupations, such as security guards who are commonly hired through specialized firms, however, it's not possible to disaggregate such information from the IES.

through MOUs. However, administrative data shows that a majority of migrant domestic workers are actually regularized through the NV process (IOM, 2021), which means they could also be in other types of relationships, be it with multi-party or not. For example, the results of the UN Women survey showed that within their sample, only around half of the migrant workers in the sample had a work permit and that all these migrant workers were exclusively employed by private households (UN Women, 2022).

**Domestic workers might view these trends in a positive light.** Qualitative data provides an interesting perspective on the increase of multi-party employment relationships. Interviews with domestic workers who are working for multiple households, either through an agency or an online platform, reflect that workers find multiple benefits to this arrangement. These include higher wages, more control over their own time, earning extra for work well done or extra work, and greater freedom. The contrast between the analysis on the implications of multi-party employment relationships, which indicates an eroding position vis-à-vis legal protections and the more positive view from workers, might be explained by the fact that the first is a largely theoretical concern for these workers, who are currently excluded from protections that would be the most meaningful to their day to day lives, like a minimum wage, right to resting periods and paid holidays and of course, access to social protection services and benefits. This highlights the importance of including domestic worker' representatives in policy discussions around their inclusion to both labour and social protection regulations so as to ensure that policy changes translate into positive and tangible responses to their lives.

*I started as an independent part-time worker for roughly 6-7 years. Since then, I have been working every day and have no day off unless I have urgent matters. I usually begin work at 9 a.m. and end around 5 p.m., but this is not always the case. I have to manage my time to do the work for several houses. **Every month, I make around 30,000 baht.** I charge from 800 baht (normally for a two-room condo, working less than 3 hours) to 1,000-1,200 baht for a larger house. For some houses, I charge 5,000-6,000 baht per month. **Some clients also give extra money if they are satisfied with the quality of work done.** [Thai, Woman, Domestic Worker].*

*There are a total of nineteen rooms. Every week, I spend about an hour in each room. I can clean roughly six rooms in a day. I usually start working at 8 a.m. and end at 5 p.m. I work six days a week and get Sunday off. I earn 13,600 baht a month for 19 rooms which belong to one employer. I have the ability to take time off whenever I need it. I merely need to notify my employer ahead of time. **I believe part time work provides me more freedom. When I'm done, I'll be able to leave the job. I don't need to be on standby for any work. I can better manage my own time. In addition, I can get more part-time work in my spare time if I need it. I'm sure I can make more money.** Normally, all of the extra work is done on Sunday, and I charge roughly 300-400 baht per room. [Thai, Woman, Domestic Worker].*

*I work part-time in various compounds and buildings... I work six days a week from 9 a.m. to 4.30 p.m., with one day off every Sunday. **I am paid 700 baht per day.** However, **if the house is quite large and there are numerous tasks to complete, I will charge around 1,000 baht per day.** I only receive the wages, not the meals. [Laos, Woman, Domestic Worker].*

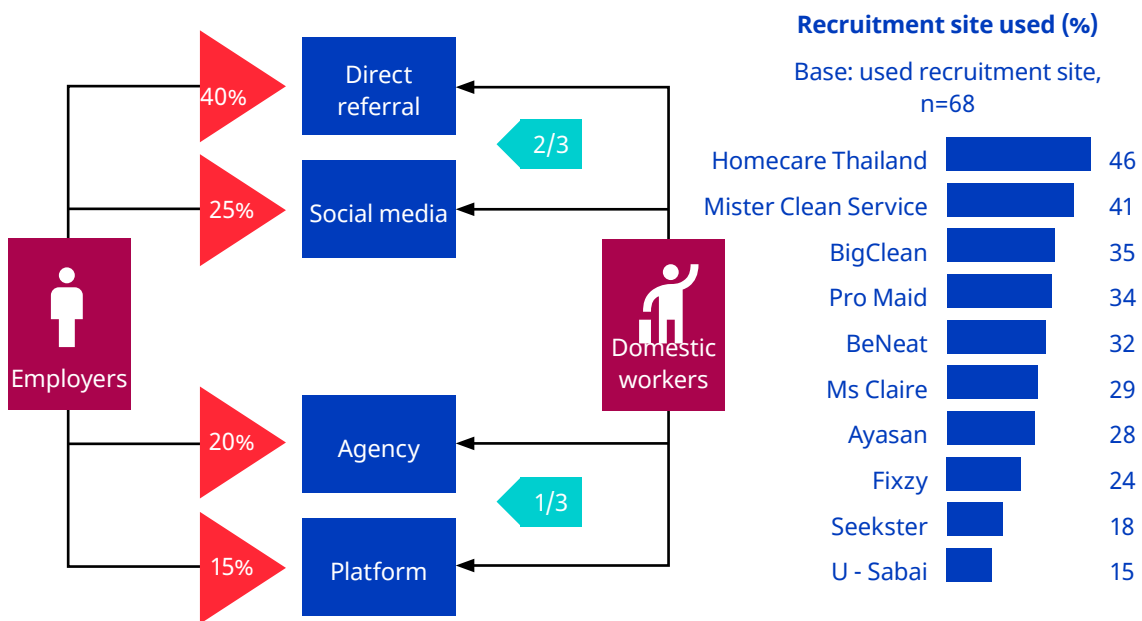
**Effectively incorporating domestic workers into the social protection system requires legislation to acknowledge all types of employment statuses and arrangements.** These interviews not only speak to the perception of working conditions under traditional arrangements (including the degree of authority compared to compensation), but also to the fact that employment statuses are not mutually exclusive from each other and indeed workers may have as many statuses as they have jobs. A worker might well be in a regular employment relationship with a single household, while also using service providers to find additional work in their available time. The most important implication of this is that legal extension strategies cannot be limited to the inclusion of certain employment statuses – which in the case of the existing Thai legal framework would mean employees in relationships of dependency. The effective inclusion of a sector like domestic work requires accommodating all types of employment statuses, occupations and arrangements. For the social security system, this means accounting for all the worker's income, regardless of whether it comes from a private household, a business or commissions from a third party. Accordingly, this means designing and implementing the administrative arrangements to make this possible.

## ► Recruitment practices

**Social media is a key medium for recruitment in Thailand.** The UN Women survey looked into how domestic workers found their current job. Of the total sample, 40 per cent said they used social media. Migrants were less likely to use social media (32 per cent), likely owing to language barriers or knowledge of where to find opportunities via social media. Conversely, only a small minority of domestic workers (five per cent) used online platforms (marketplaces) to find their current job. While domestic workers seem to rely heavily on social media to find work, relatively few employers use this channel for that purpose. The most common method used by employers in the sample is referrals through relatives and friends (40 per cent). Researchers proposed that while employers rely on their direct network to make a match, domestic workers are connected to this network via social media. This points to social media as a potentially effective way to reach domestic workers with other messages related to their work, such as the rights available to them and the benefits of participating in the social security system.

A quarter of all employers interviewed also used digital platforms. According to the survey report, many digital placement agencies are linked to traditional recruitment agencies and even on-demand platforms, with the two channels often working in parallel. There is a large number of agencies in the Thai market that employers are making use of, the most common of which are Homecare Thailand, Mister Clean Service, BigClean, and Pro Maid.

► **Figure 13 Recruitment practices used by employers in Thailand**



Source: UN Women, 2022.

**A minority of domestic workers have written contracts with their employers.** Some 35 per cent of workers in the sample had a written contract, while the rest had oral (60 per cent) or no contracts (five per cent). Oral contracts were more common among women (67 per cent) compared to men (46 per cent), migrant workers (80 per cent) compared to Thai nationals (50 per cent), and those employed directly by households (80 per cent), compared to those employed by service providers (six per cent). The latter, in particular, indicates the substantially larger degree of protection available to those who work within recognized “business operations” and thus employment relationships. Still, the researchers note that despite the lack of accountability that is inherent in an oral contract, an overwhelming majority of workers under such arrangements had agreed on a salary (88 per cent) and work hours (79 per cent),

and to a lesser degree, on minimum work hours (67 per cent). However, these contracts rarely included the terms of engagement, in particular with regards to whether the contract was valid for a specific period (18 per cent), until the task was completed (15 per cent), or if it was permanent (four per cent) (UN Women, 2022, p. 11 Table 6). The majority of these oral contracts (59 per cent) were ongoing and had no specified expiration date. From a legal perspective, this makes it difficult to distinguish whether these are hires of employment or hires of service contracts – the implication of which are access to the provisions of the LPA or not. The fact that just 41 per cent of these contracts have a specified duration, also means that there is an inherent insecurity to these employment arrangements. It is thus curious that severance pay is not one of the provisions in the current version of the revised Ministerial Regulation No. 14.

Interestingly, employers report a much higher use of written contracts (54 per cent) compared to workers (35 per cent). The authors of the UN Women survey theorize that this could be related to the fact that domestic workers are not always given a copy of the contract, and thus might not remember having signed it. For migrant workers in particular, as the contract might not be in their native language, they might not be aware of what they actually signed. Employers on the other hand, would be aware if they provided a written contract and would have kept a copy for themselves. Regardless of the different perspectives, the survey report notes that these results highlight that written contracts are not used consistently and there is evidence to suggest under half of all domestic workers in the sample have one (UN Women, 2022). Legally, a contract is only binding if both parties are clear on the terms of the agreement and each party has a copy of it.

## ► Income, working hours and social security coverage

### 3.5.1 Income

**There is a wide and persistent gap between domestic worker wages and wages of all other workers.** Domestic workers in Thailand are not yet subject to minimum wage guarantees and, as a result, are among the most poorly remunerated workers in the country. Unfortunately, the IES only records earnings for workers classified as employees, so the following analysis is limited to domestic employees and thus does not provide insights into differentials between dependent and independent workers, or in the legal terminology, workers hired for employment or service. Among employees, just under half (49 per cent) of all domestic employees earn below the minimum wage and three in four domestic workers earning below the minimum wage are women (76 per cent).<sup>51</sup> In 2018, the average monthly wage of domestic employees in Thailand was 10,145 baht, which is 33 per cent less than a non-domestic wage worker, who earned 15,069 baht on average per month.

**There is also an observable gender pay gap in domestic work.** Male domestic employees had a higher monthly wage of THB 11,322, which is higher than the average female domestic employee at 9,616 baht. Still, the monthly wage of male domestic employees was well below their non-domestic peers, who earned an average of 15,014 baht a month in 2018. This highlights the importance of the extension of minimum wage provisions under the LPA as is currently being discussed. Likewise, it points to the need to also extend equal pay for equal work provisions, which are not part of these discussions. Qualitative data also supported the finding that wages for women domestic workers were around, or lower than the minimum wage once deductions were accounted for.

<sup>51</sup> In 2018 the minimum wage was 325 baht a day for Bangkok and the surrounding area. The average paid days/month are 26.08 days, so the legal minimum wage was 325 baht x 26.08 = 8,476 baht monthly.

*I come in at 8 a.m. and stay until 5 p.m., with two days off every month. My employer provides me with three meals per day. If there is any food left over, I am permitted to take some home. My monthly salary is 10,000 baht [approximately **344 baht/day**].<sup>52</sup> [Thai, Woman, Domestic Worker].*

*I start at 7 a.m., take a one-hour lunch break, and work until 5 p.m. I work by cleaning the bathroom, washing the clothing, and sweeping the floor. Each month, there will be two days off. They can be any day of the month. I earn 10,000 baht per month. I am given all three meals for free [approximately **344 baht/day**]. [Myanmar, Woman, Domestic Worker].*

*I work for 7–8 hours if the boss is present. I work 3–4 hours every day if the boss is not at home. Yes, I work longer hours if my boss has a party at his house. He occasionally offers me some extra cash, but it is all depending on him. Every month, I earn THB 10,000. I am provided free lodging, but I must purchase my own food [approximately **344 baht/day**]. [Myanmar, Woman, Domestic Worker].*

*Starting work at six o'clock, until half-past five. I have Sunday off, but it is unnecessary to take the day off. My daily wage is 400 baht. If I do not work that day, I will not be paid. I am paid for that [food and lodging]. The employer rents space in the adjacent building. The rent is reasonable, at around 2,000 baht per month, including water and electricity bills, which are typically between 400 and 600 baht. If we have a day off, we won't get paid. If it is New Year, the employer will give a bonus of about 2,000 – 3,000 baht [approximately **307 baht/day after deductions**]. [Myanmar, Woman, Child Care].*

#### **The adequacy of salaries is further compromised by a widespread practice of salary deductions.**

Interestingly, employers interviewed for the UN Women survey reported paying an even lower average monthly wage of 9,200 baht in 2022 than the IES data above indicates for 2018. Employers in the survey also reported a much smaller gender and nationality pay gap than other sources. The results, however, do provide interesting insight into the use of salary deductions among employers. About 63 per cent of employers interviewed reported making deductions to domestic workers' salaries. This is in contrast to just 33 per cent of domestic workers who were aware about any salary deductions. Among them, men were substantially more aware of deductions (44 per cent) than women (27 per cent) and Thai nationals (43 per cent) than migrant workers (12 per cent). The last point is interesting, when compared to employer's reporting that they made deductions to 80 per cent of migrant workers. The main reason employers report for deductions are social security (31 per cent), absence from work (21 per cent), food (18 per cent), damages (17 per cent), clothing or equipment (14 per cent), accommodation (14 per cent), payment of debt (11 per cent) and recruitment fees (11 per cent). On the other side, workers who were aware of salary deductions mostly identified social security (81 per cent) and recruitment fees (23 per cent). Although 59 per cent of migrant workers were not able to identify the specific types of deductions made to their own salaries.

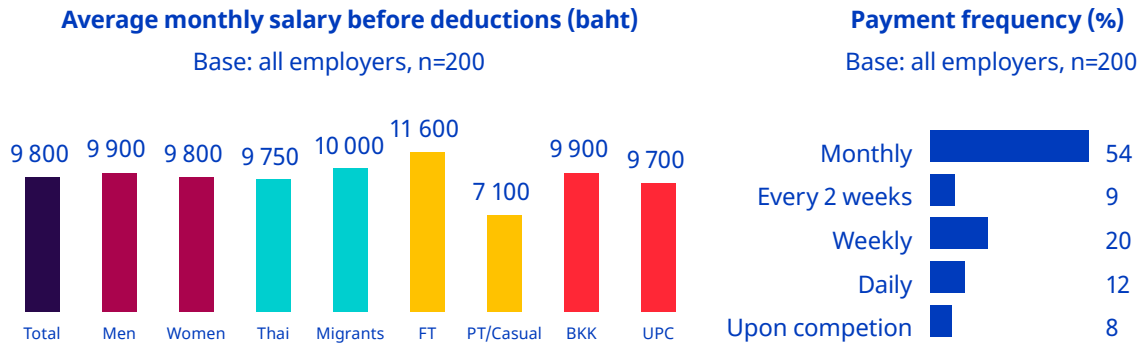
#### **The results point to the practical limitations to the gradual expansion of rights employed by the revisions of Ministerial Regulation No. 14.**

In the context of the revision of Ministerial Regulation No. 14, these numbers support the decision to expand LPA provisions on wage deductions. However, given the nature of these deductions, it also points at the need to address other gaps which are currently not part of this revision. For example, there could be an overlap between deductions due to an absence from work and the lack of entitlement to special leave – which is not set to be expanded. For example, in the UN Women survey, 53 per cent of workers believed that they would lose pay if they were unable to work due to being sick. Moreover, there is a need to regulate the number of deductions that are made for live-in working arrangements, such as food and accommodation. The fact that 17 per cent of employers report making deductions for damages is also concerning and links back to the vulnerability created by not fully recognizing domestic workers as workers. In any other employment of hire, responsibility for any damages performed during the work rests with the employer. The same applies to deductions made for clothing and equipment, which contractors, but not employees are liable for covering.

<sup>52</sup> Where wages are given on a monthly basis, the daily rate is calculated on the basis of a 31-day month, minus any regular weekly or monthly days off.

**Information provided by employers points at the existence of de facto employment relationships that are compatible with social security contribution payment.** When asked about the frequency of payments, a majority of employers said they pay their workers monthly (54 per cent). Overall, 92 per cent of workers are paid by period of employment (monthly, fortnightly, weekly or daily) and not upon the completion of the job. This is consistent with a hire of employment relationship, as defined by national legal experts in Section Error: Reference source not found of this report (See *Error: Reference source not found*). It is also a positive indication for the administration of contributions made to the SSF, which are collected monthly. It does, however, raise the possibility that the system would need to offer alternatives to accommodate the arrangements of the industry, such as weekly contributions at the appropriately adjusted rate.

► **Figure 14 Employers’ reports on salary and payment method**



Source: UN Women, 2022.

**The effective expansion of social security coverage will require several administrative efforts.**

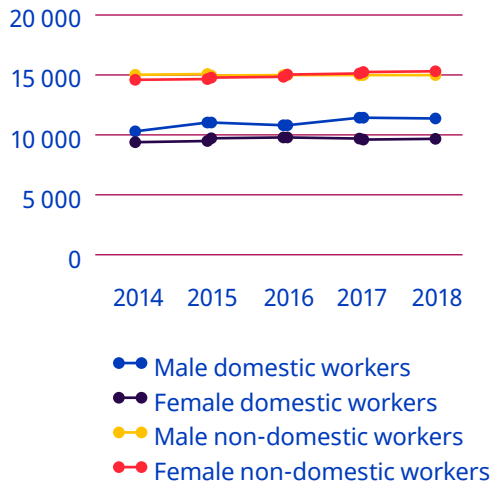
Around 77 per cent of employers reported salaries are paid in cash which would mean that participating in the SSF would require employers to make social security deductions to these cash payments and handle the payment of contributions to SSF by themselves. This might be administratively burdensome for some and also limit the degree of follow-up that workers can have over the fulfillment of these obligations. The lack of pay slips or transaction records also limit the authorities’ ability to follow-up on these income payments both for tax and social security purposes.

An efficient system would need to work towards both implementing written contracts, as well as salary slips that note all deductions made month by month. Other survey results point at the importance of such measures. Although given the low levels of awareness among workers, effective implementation will require measures to ensure effective follow-up, including information campaigns addressed at workers, with specific focus on women and migrant domestic workers.

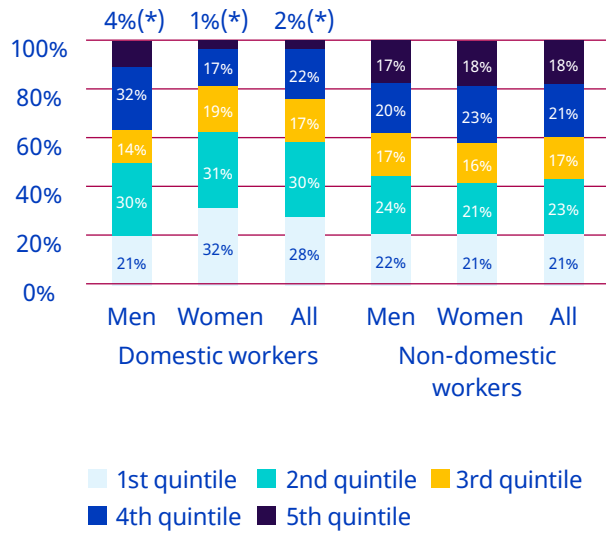
**Wage employment is not a guarantee against poverty for domestic employees.** Around 28 per cent of domestic employees are in the bottom income quintile, compared to 21 per cent of other wage earners. Female domestic workers were especially more prone to lower wages – 32 per cent of them fall into the first income quintile, while this percentage is between 21 and 22 per cent for other groups of wage workers (Figure 16, Panel B). Furthermore, the ILO estimates that 90 per cent of migrant domestic workers in Thailand earn less than the minimum wage (Anderson, 2016).

►Figure 15 Average monthly earnings of domestic employees and other employees 2014-18

**Panel A: Average monthly earnings of domestic workers and other workers by gender**



**Panel B: Distribution of average monthly earnings of domestic workers and other workers by gender**



Source: Thailand, NSO, IES, 2014-18.

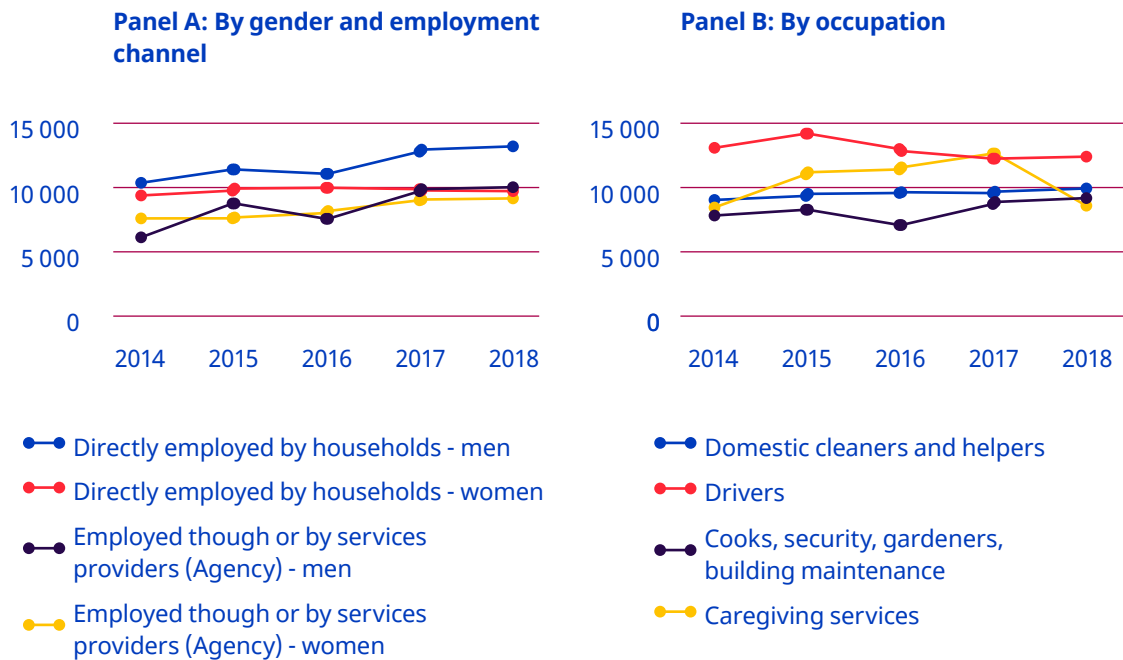
Note: (\*) Denotes small sample cases of less than 30, where statistical numbers should be used with caution.

**Domestic workers who are female, have less than a basic education and who are older, have the biggest wage gaps, relative to their peers in other professions.** Within occupations there is clearly wage segregation, favoring male-dominated occupations, such as driving (Figure 17, Panel B). In 2018, the average monthly wage of drivers was 12,337 baht compared to 9,951 baht for cleaners and THB 9,087 among cooks, security, gardeners and building maintenance staff.<sup>53</sup> That represents a 26 per cent pay gap between the highest-earning and lowest earning domestic employees.

<sup>53</sup> Despite a marked increase in the previous years, the average wage for direct care providers drops sharply in 2018 from 12,467 baht to 8,587 baht. Given that there is no obvious reason for this sudden decline, this data should be treated with caution.



► Figure 16 Average monthly wage of domestic employees 2014-18

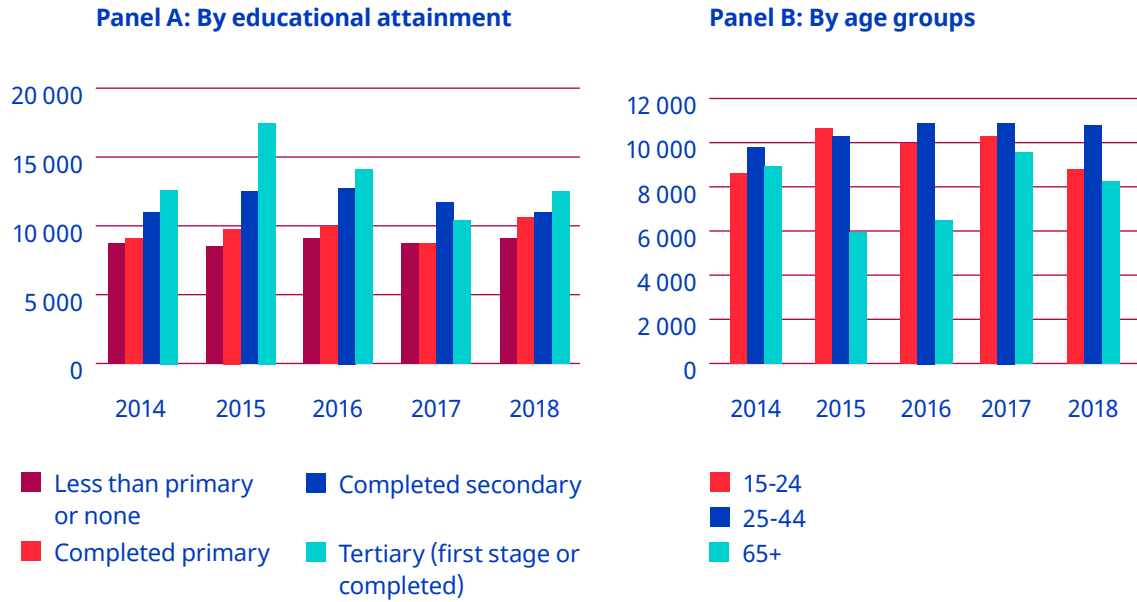


Source: Thailand, NSO, IES, 2014-18.

**Wages reduce with age.** Domestic employees aged 25 to 44 had the highest monthly wages. Wages declined with age thereafter and those aged 65 and older had the lowest monthly wages of all. This dynamic reflects the fact that 80 per cent of domestic employees older than 65 were engaged as cleaners, cooks, security, gardening and building maintenance – the occupations with the lowest average earnings among all domestic workers. Likewise, higher earnings were linked to educational attainment. In 2018, the monthly wage of domestic employees with less than primary or no education was 9,072 baht, compared to 12,462 baht for those who had tertiary education.



►Figure 17 Average monthly wages of domestic employees by educational attainment and age group in baht, 2014-18



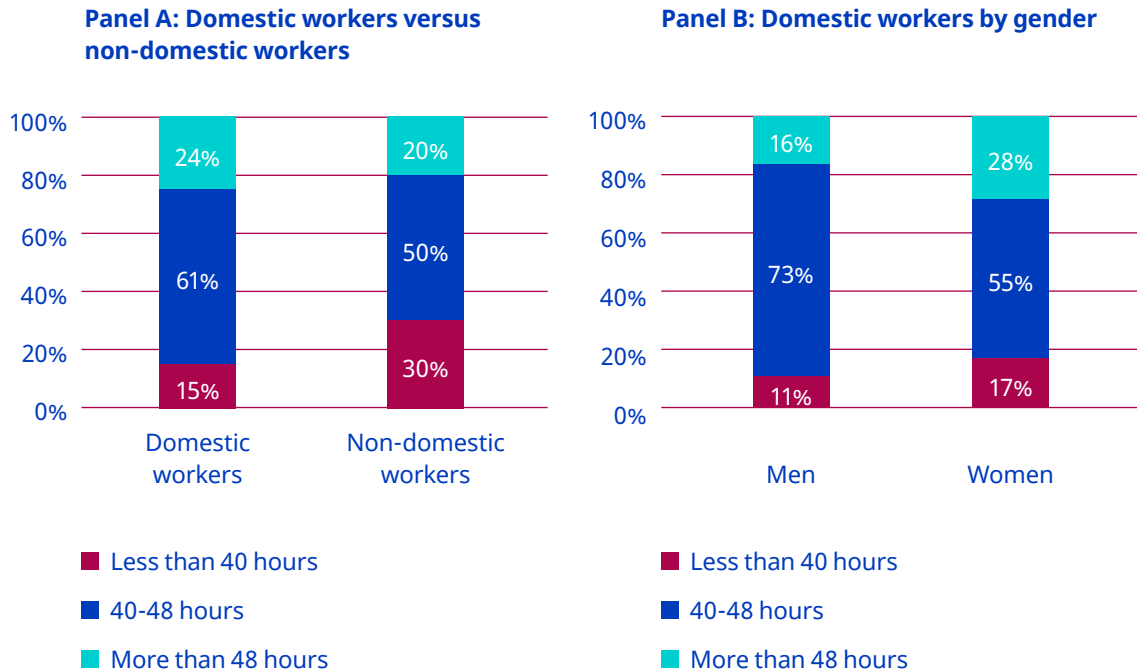
Source: Thailand, NSO, IES, 2014-18.

### 3.5.2 Working hours

**Despite lower earnings, domestic workers are more likely to work excessive hours in relation to other workers.** Long working hours are considered as a deficit to decent work as they undermine physical and mental health. In Thailand, domestic workers were more likely to work long hours compared to other workers. Specifically, 24 per cent of domestic employees worked more than 48 hours per week, compared to 20 per cent of non-domestic workers (Figure 19). According to the IES data, domestic employees perform an average of 46.7 hours of work per week, compared to 42.6 by other workers. This means that there is an even higher hourly wage gap between domestic wage workers (50 baht) and non-domestic wage workers (82 baht), at 39 per cent.<sup>54</sup> Moreover, according to IES data, 28 per cent of female domestic employees worked more than 48 hours a week in 2018, while the share for men was 16 per cent (Figure 19, Panel B). There may also be other stark differences among domestic workers. A 2016 study of migrant domestic workers found that migrant domestic workers work excessive hours per day (11.9) in relation to other workers (eight hours), particularly if they have care duties (13.2 hours) (Anderson, 2016).

<sup>54</sup> The hourly wage is calculated by first multiplying the monthly wage figure by 12 (based on 12 monthly per year) and dividing by 52 (based on 52 weeks per year), and then dividing by the actual hours of work during the reference week.

► Figure 18 Distribution of actual hours worked per week, 2018



Source: Thailand, NSO, IES, 2018.

According to survey results, the average number of days worked in a week across all groups was 6.3 days, with negligible variation between Thai and migrant workers, and those employed by households and service providers, women and men. There was similar consistency for the number of hours worked in a day and the number of hours worked in a week. All groups on average worked approximately ten hours per day and around 65 hours per week (UN Women, 2022, p. 12 Table 7). Qualitative results also supported the notion that the lower wages of domestic workers are compounded by high working hours.

*I work every day, and I've recently been unable to take a day off because I've been asked to work overtime. I can request leave, but this is subject to negotiation with the household employer. **I work all day, almost 24 hours a day.** I can only take a break if the patient is sleeping. [Thai, Woman, Domestic Worker].*

*Currently, I earn over 10,000 baht a month. **I work twenty-four hours a day**, with one day's break. I am entirely accountable for one patient. I have a day off every Sunday. If I do not take the day off, I will get OT. [I get] About 18,600 baht [a month]. I have to pay 120 baht per day [for meals]. [Laos, Woman, Domestic Worker].*

*There are two shifts available, but I only work the night shift. **My shift begins at 7 p.m. and ends at 7 a.m. the next day.** I'm paid 500 baht per day. I will not be paid for my day off or holiday leave. [Thai, Woman, Security Guard].*

***I start working at 7 a.m. and finish at 9 p.m.** Somedays, I finish earlier. I get two days off every month. If I work on the days off, my payment will be doubled. I make 15,000 baht per month in cash from the employer. I began with a salary of 10,000 baht, which was gradually increased at 500 baht per year. It does not include meal benefits, which cost 1,500 baht per month. [Laos, Woman, Domestic Worker].*

### **Planned measures to address overtime in domestic work might not fully address the issue.**

Altogether, evidence from various sources points at the widespread nature of long working hours in domestic work. While the revision of Ministerial Regulation No. 14 is set to expand LPA limits on normal working hours, it will not include other key provisions, such as the computation of paid working hours or compensation for overtime hours. This means the measure is unlikely to address the issue, as any hours beyond set limits might simply become unpaid overtime hours.

## **3.5.3 Social security coverage**

**Domestic employees have higher social insurance coverage rates than expected.** Some 27 per cent of domestic workers are insured with SSF, a coverage rate just slightly lower than that of the proportion of other employees (29 per cent). This coverage rate is noteworthy given the fact that 66 per cent of domestic employees are employed by households, which is not an employment relationship recognized by the Thai legal framework and thus falls outside the scope of protection of the LPA and SSA (See Section Error: Reference source not found). When looking at insurance rates according to employment modality, we find that in 2018, 21 per cent of domestic workers who were directly employed by households were insured, compared to 41 per cent of those who were employed by service providers. This gap is not strange, given the legal barriers mentioned earlier in this report. The fact that one out of five domestic employees working directly for households is insured is more unexpected. A possible explanation is that these workers are insured through Sections 39 or 40 of the SSA, meaning that they are voluntarily insured and covering the costs of participation by themselves. It is also important to consider that migrant domestic workers are not eligible to register through Section 40, which would constrain this possibility for a portion of workers. This is a subject of further research but qualitative data provides some insights.

*Yes [I have a social security card]. However, **I am currently covered under Section 39.** The employer is now attempting to register me under Section 33. I'm not sure [when I will be registered under Section 33 again]. All paperwork has already been delivered to the employer to process the registration. [Thai, Woman, Domestic Worker].*

*Yes, I am. **I continue to pay social security contributions under Section 39.** [Thai, Woman, Domestic Worker].*

*Yes [I am still contributing to the social security fund], but **I'm now under section 39,** because I no longer work for the company. I also request that the employer pay half of my total contributions. We each pay roughly 200 baht [to social security]. [Thai, Woman, Domestic Worker].*

*Right now, **I'm using section 40.** In the past, I used to use section 33. [Thai, Man, Driver].*

***I'm enrolled in Section 40, which is a voluntary scheme.** Even if it is voluntary, I believe it at least ensures that I receive the minimal benefits to which I am entitled. However, I think that domestic workers should be treated the same as other types of workers, as well. Currently, when it comes to retirement, all formal workers are eligible for a pension, but domestic workers are not. So, I strive to save more since I don't want to be a burden to anyone. [Thai, Woman, Domestic Worker].*

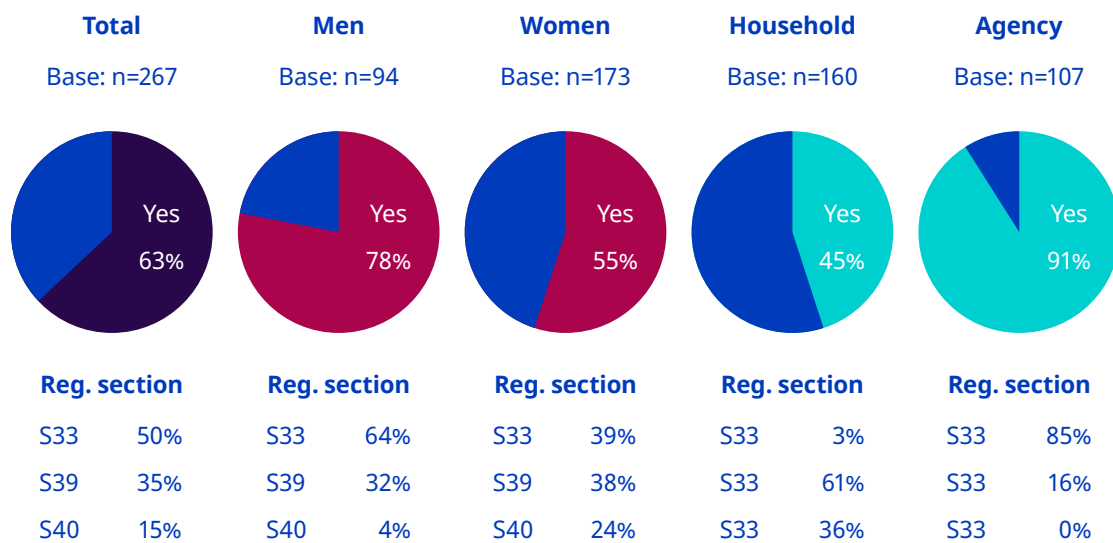
### **Despite registration, the degree to which these workers are protected from lifecycle risks is uncertain.**

It is not possible to get a statistically significant breakdown between registration in Section 39 vs Section 40 from IES data, nor in which sub-option of Section 40 they might be registered in. This means we cannot estimate the number of benefits that this group is insured against except for the fact that none would have unemployment protection – which could have been a particularly high risk during the pandemic. According to the ILO, while domestic workers have suffered many kinds of impacts resulting from the pandemic, one of the main consequences of the COVID-19 response has been a reduction of working hours and, in some cases, a loss of jobs, resulting from fear and restricted mobility associated with confinement measures (ILO, 2020). In Thailand, throughout the pandemic, domestic worker leaders have described difficulties finding work, even for highly experienced and multilingual workers, and diminished bargaining power for salaries and working conditions (WIEGO, 2022). At the same time, a

recent study on the economic impacts of the pandemic on informal workers in Bangkok, found that domestic workers were the group least likely to receive government cash relief (21 per cent) due to the number of migrant workers in this group (90 per cent) (Ibid, 2022).

**Workers employed directly by households might be the most vulnerable to lifecycle risks.** While the UN Survey sample is not representative of the situation nationwide, it does provide some insights as to the nature of current coverage. According to the survey’s results, amongst domestic workers in the sample who reported participating in the SSF, 50 per cent are registered under Section 33, 35 per cent under Section 39 and 15 per cent under Section 40. However, these averages hide great variance between domestic workers working directly for households and those employed through service providers. Among the latter, 85 per cent are registered under Section 33 and the remaining under Section 39. On the other hand, just three per cent of workers employed by private households are registered through Section 33, with a majority in Section 39 (61 per cent) and Section 40 (36 per cent). This means that the great majority of domestic workers employed directly by households are covering contributions by themselves, with some subsidy from the Government, but no co-contribution from their employers – except in the cases when they might do this voluntarily. None have access to unemployment benefits, or work-related accident benefits. Moreover, Section 40 workers are not entitled to healthcare under the SSF and are instead covered through the non-contributory UHC programme. These workers are covered for non-work-related injury or illness, invalidity and death, but their old-age and family benefits will vary. Those enrolled in Option 1 do not participate in the old-age pensions scheme, while the rest will receive a lump-sum, rather than a pension.

►Figure 19 Registration of domestic workers in the SSF by section of the SSA



Total = Total number of sampled domestic workers in the UN Survey

Men = Domestic workers who are men.

Women = Domestic workers who are women.

Household = Domestic workers who are employed directly by households.

Agency = Domestic workers who are employed through agencies.

Source: UN Women, 2022.

Yes = Domestic workers who register in the SSF.

Blue colour = Domestic workers who do not register in the SSF.

Reg. section = Registered section of SSF

S33 = Social Security Section 33

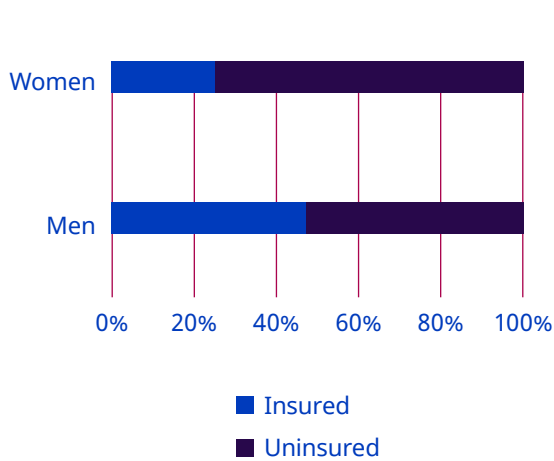
S39 = Social Security Section 39

S40 = Social Security Section 40

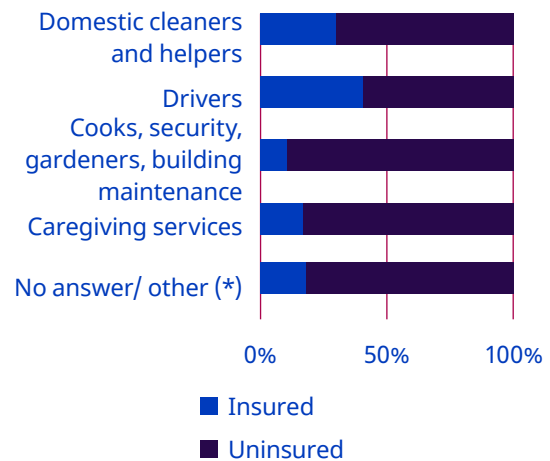
**There is a gender imbalance to coverage rates.** Among domestic workers, the coverage rate of men was 47 per cent, and was considerably higher than of the rate for women, that is 25 per cent (Figure 21, Panel A). This is partly explained by coverage variations by occupation. The rates are highest among drivers (41 per cent), followed by cleaners (30 per cent) and in comparison, considerably lower among direct care providers (16 per cent) and cooks, security guards, gardeners and maintenance personnel (11 per cent) (Figure 21, Panel B). The relatively high coverage among drivers, who are almost exclusively male, is the reason why the total share of insured male domestic workers is as high as 47 per cent, even though they make up just a third of the sector. Overall, this means there are far more uninsured female domestic workers: 157,768, compared to 52,365 men.

►Figure 20 Social security coverage of domestic workers, 2018

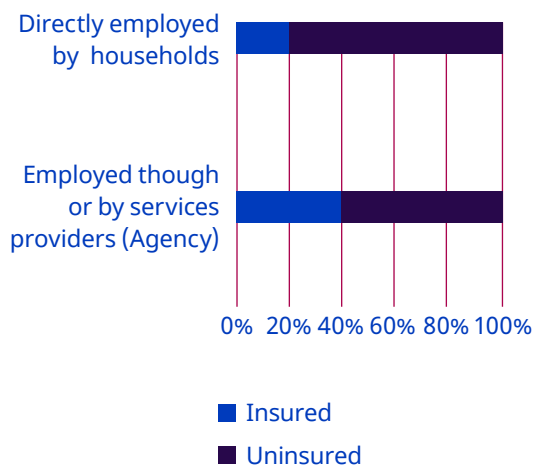
Panel A: By gender



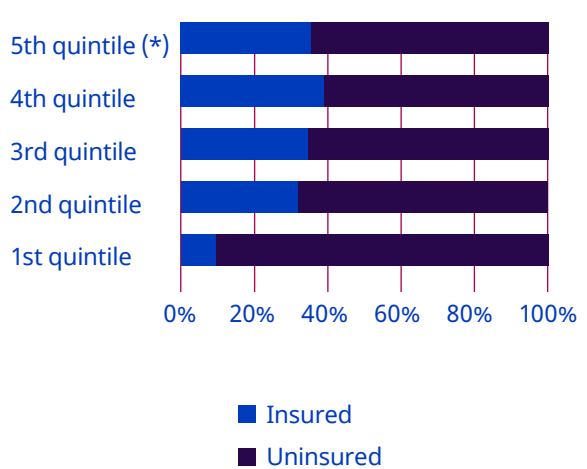
Panel B: By occupation



Panel C: By gender



Panel D: By occupation

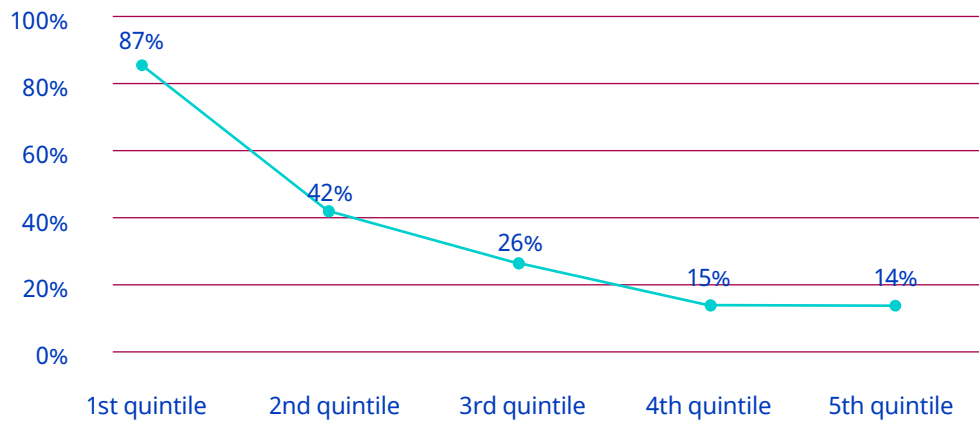


Source: Thailand, NSO, IES, 2018.

Note: (\*) Denotes small sample cases of less than 30, where statistical numbers should be used with caution.

**Workers with the lowest incomes were considerably less likely to be insured.** Domestic workers at the bottom of the income brackets had significantly lower coverage (nine per cent) compared to other income groups, whose coverage was between 32 and 39 per cent (Figure 21, Panel D). This significantly lower coverage rate could reflect the 1<sup>st</sup> quintile workers limited capacity to take on the full contributory burden that registration through Sections 39 and 40 represent. Overall, the data seems to suggest an issue raised by stakeholders during consultations: an important contradictory reality of the Thai social security system is that lower-earnings groups, such as domestic workers, cannot rely on their employers’ co-contributions to participate in the system, as opposed to the higher-earning workers, who share the cost of participation equally with their employers. This irony is particularly stark when considering the profile of employers painted by the UN Women survey, which indicated that employers of domestic workers are predominantly (79 per cent) middle-class and higher and that over half of the employers in the sample (53 per cent) hired two or more domestic workers simultaneously (UN Women, 2022), indicating a certain level of spending power.

► **Figure 21 Uninsured workers as a share of wage workers by income distribution, 2018.**



Source: Author’s elaboration based on the National Statistical Office, IES, 2018.

**Coverage by the SSF is clearly related to income but ability to pay is not the only factor affecting the willingness to enroll.** IES data on income is limited to wage earners but considering this group (which includes most domestic workers), we see that poorer wage earners are much less likely to be covered than those higher up the income distribution (Figure 22). This is especially the case for the very poorest wage earners. While these figures show that access to the SSF is clearly related to income, a recent analysis demonstrated that ability to pay may not be the main barrier to access for most people (ILO et al., 2021b). The recent ILO report notes that the average household cash income is 26,168 baht per month and the average household cash expenditure is 19,907 baht per month.<sup>55</sup> According to this measure, 67 per cent of the uninsured active-aged population could potentially afford to contribute under Section 40. On the other hand, the qualitative data indicates that domestic workers and employers are largely positive about making contributions towards social security.

*I think (SSF contribution) is worth it, I can get cured for free as I am covered under social security. I am often sick as I have depression as a result of the death of my mother ten years ago. The cost of medicine is also covered. [Thai, Man, Domestic Worker].*

<sup>55</sup> The report uses 2019 socio economic survey data to calculate the ability to save. It notes that this survey is not representative of the population as such but uses a sampling strategy to provide representative estimates for households.

*Of course, I will [be willing to pay a small contribution in the event of medical treatment, accidents, unemployment etc.]. [Myanmar, Man, Domestic Worker].*

*I am willing to pay. Most of my friends have been covered under the social security scheme. I am told the scheme is very useful. My boss is kind. I believe he is willing to pay the contribution, but he has employed many workers. He may be unable to pay. [Myanmar, Woman, Domestic Worker/Cleaner].*

*Like other types of workers, there should be social protection. **The platform, the employer, or the client should all be involved in paying social security contributions to domestic workers.** The Government should set the wage rate in stages to figure out how much the contributions should be made. [Thai, Woman, Domestic Worker].*

*Yes, definitely [I am willing to pay social security contributions]. **I think if a domestic worker becomes ill or has an accident, these also affect me.** [Thai, Woman, Employer].*

*I believe that individuals who employ housekeepers must earn a certain amount of money, as cleaning is a secondary task that we might perform on our own but choose not to for the sake of comfort. **This indicates a willingness to pay, which, in my opinion, should be adequate to finance social security.** [Thai, Man, Employer].*

Still, in the UN Women survey, cost was the most cited reason why they were not registered (37 per cent). The next reason was simply not being interested (19 per cent) and not understanding the benefits (19 per cent). Finally, 14 per cent of respondents mentioned they did not know they were entitled to participate. Curiously, while legal eligibility is objectively the main barrier to access social security for domestic workers in Thailand, only four per cent of respondents cited this reason. Behind these answers could be a low perception of value compared to the cost of enrolment, which in turn might be due to a lack of knowledge about the benefits provided and lack of trust in the system to deliver them.

**Some of the most well-known social security benefits are those to which domestic workers have the most limited access.** Overall, the results of the UN Women survey show that there are varying degrees of awareness about different social security benefits. In general, awareness is higher among men than women, and among Thai nationals than migrant workers, reiterating once again the need to target these groups in communication efforts. Awareness was also considerably higher among workers with service providers than those employed directly by households (Table 7). The most widely-known benefit is for work-related accidents and death, which in Thailand is managed by the WCF. This is curious since as stated above, together with unemployment benefits, this would be the benefit least available to domestic workers. In this case, this level of awareness might indicate the relevance of this risk in their working lives. Qualitative data also found that the level of knowledge and understanding around contributions and benefits was mixed, with many Thai domestic workers relying on alternative methods to support themselves through times of need.

*I believe it is beneficial [to provide social security to employees]. **However, it isn't easy to get medical treatment because the hospital you registered with [under social security] isn't going to let you change.** My job requires me to travel from place to place, and there is no way I could travel to the hospital where I registered in Nonthaburi. **In the event of illness [and treatment at a different hospital], I am required to pay for medical treatment out of my own pocket.** The reimbursement process is very discouraging, and I'm not sure I'll be able to reimburse all of my medical treatment expenses. [Thai, Woman, Domestic Worker].*

*I haven't made any plans yet. **There are still a lot of things I don't understand about social security's pension benefits. I don't believe the money I'll get from the fund will be adequate.** So, I started saving. I'd rather have the pension than the lump sum because it will provide me with a consistent monthly income for the rest of my life. [Thai, Woman, Domestic Worker/Cook].*

***All I know is that I will receive treatment for free. But otherwise, I'm not sure [what the benefits are].** [Thai, Woman, Domestic Worker].*

**Most workers do not expect to rely on any pension during old age.** About half of all workers are aware about old-age pensions, but the discrepancy is large between Thai (62 per cent) and migrant workers (23 per cent). This might possibly reflect the patterns of employment in the sector, which as earlier discussed, include Thai domestic workers staying in domestic work throughout their lives, while migrant domestic workers might exit the sector around their 30s, possibly to return to their home countries. Generally, it could also point at a general challenge of pension systems around the world, which struggle to create awareness about the importance of contributions for a benefit that will only be available in a perceived distant future. The low level of coverage of the pension system is reflected in workers' responses regarding their plans for old age. When asked what their planned source of income was when they got older, most workers responded that they would go home and do farming (32 per cent), followed by relying on savings or assets (15 per cent), continuing to work (15 per cent) and relying on government support (11 per cent).

Interestingly, just five per cent of respondents said they planned to rely on family support, pointing at the degree to which workers perceive they cannot rely on family networks. But the low levels of awareness might also affect current preferences. When asked what their preferred source of income would be during old-age, a majority indicated a new economic activity (45 per cent), while one quarter pointed at government support and just over a fifth would live off savings. Whether this reflects their true, informed preferences, we cannot say. The formulation of social security as "government support" in the survey might also skew perceptions amongst respondents who would perceive this as hand-outs instead of contributory payments.

► **Table 7 Awareness of social security benefits among domestic workers, 2022**

Aware if benefits Base: all respondents	Total n=405 (%)	Men n=139 (%)	Women n=266 (%)	Thai n=267 (%)	Migrant n=138 (%)	House- hold n=298 (%)	Agency n=107 (%)
Work accident or death	69	67	56	68	44	49	90
Injury or sickness	58	64	55	67	40	45	94
Death	56	66	52	70	29	43	93
Invalidity	47	55	43	57	26	34	81
Old-age	49	53	46	62	23	34	89
Unemployment	43	52	39	53	25	29	84
Child	32	35	31	40	17	21	63
Maternity	21	7	29	26	13	14	42
None	34	29	37	23	54	45	4
<b>Avg. SS benefits aware</b>	<b>3.7</b>	<b>4.0</b>	<b>3.5</b>	<b>4.4</b>	<b>2.2</b>	<b>2.7</b>	<b>6.4</b>

Source: UN Women, 2022.



**There was a general low level of awareness around child and maternity benefits.** This was true even among those working with service providers, who are more likely to be registered under Section 33 and thus have access to these benefits. This might be a missed opportunity for the system, as many are likely to be interested in this benefit in such a women-dominated industry. Consistent with these results, when respondents were asked what they believed would happen to their salaries if they became parents, only a quarter of the sample said they could take leave with pay (22 per cent of men, and 27 per cent of women). Out of the respondents who were parents (35 per cent), only 35 per cent had taken any leave and of those only seven per cent were paid during the leave. The average number of leave days taken was 13 among women and three among men. This is in contrast to the 98 days available to women in recognized employment relationships. Among those who did not take any leave, the most common reason was that they had family to take care of the child (78 per cent) which reinforces the idea that workers are not aware that they should have a personal entitlement regardless. The next most common responses were that they did not want to lose their income or jobs (15 per cent) and that the employer did not allow them to take the leave (nine per cent).

**There is a high level of expectation placed on employers to cover costs in the case workers are too sick to work.** When asked what support they would be entitled to if they became too ill to work, the most common response (80 per cent) among those working with service providers was that they would receive government support in the form of social security benefits. On the other hand, a majority of workers employed by households (32 per cent) pointed at support from their employer instead, and 23 per cent of these workers also believed they would receive a lump sum from their employer. A quarter of these workers also mentioned social security. None of the migrant workers in the sample mentioned social security or family, which reflects the support systems they have no access to in their situation. Instead, migrant domestic workers also relied mostly on general employers' support (39 per cent) and lump sums (32 per cent). There was also a generally low level (13 per cent) of reliance on own savings, indicating that if employer support were not to materialize, many workers would be ill-equipped to manage the costs themselves through their own savings. This high expectation placed on employer's support is also surprising considering that among those who had experience being absent from work due to sickness, just 14 per cent had received their full wages with a majority (49 per cent) receiving no wages during that period. Such results point to the need to extend paid sick leave provisions to this industry, which is currently not being considered in the revision of Ministerial Regulation No. 14.

## ► Migration

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**Understanding the incidence of migration in domestic work is key to designing effective policies for coverage expansion.** The literature suggests that domestic work is one of the key destination sectors for migrant workers in Thailand (Anderson, 2016; IOM, 2021). However, there is no national survey or administrative data that allows us to determine the actual share of migrant workers in the sector, regular or irregular. The implication of this is that the potential reach of policies aimed at expanding social security coverage is uncertain, and thus this is an important data gap to fill. Policies should be based on regular and comprehensive data collection and analysis, which help better inform policy makers of the impact of immigration on the Thai economy. For example, there is a need to include data on nationality and place of birth in national surveys and to regularly tabulate information accordingly. Nonetheless, Thailand is one of the few middle-income countries which has an extensive literature on the impact of immigration. This literature suggests immigrants make a considerable contribution to Thailand's economy (OECD/ILO, 2017; Pholpirul et al., 2008).

**Attitudes to migrant workers might contribute to attitudes towards domestic work.** Despite their important contribution to the economy, public attitudes to migration continue to be largely negative. Ali

(2015) claims the negative public perceptions toward migrants are influenced by negative messages in the media. Sunpuwan and Nyomsilpa (2012) found the newsprint media often use pejorative language and describe migrants in terms of threats to social order, carriers of diseases, and burdens and drains on the labour market and health services. The attitudes of employers in Thailand often reflect that immigrants do not deserve the same rights as Thai workers, leading to discrimination and exploitation (Pholpirul et al., 2008). Other studies have noted that the distinction between regular and irregular migrants mapped onto ideas of who was deserving and undeserving of certain rights (Tunon and Bruah, 2012 in Anderson, 2016). In this case, the exclusion of both migrant and domestic workers from the protections of labour and social protection laws could contribute to public perception that these groups are undeserving of those rights. Indeed, studies have found that most employers in domestic work, agriculture and other sectors in Thailand, prefer young immigrant workers as they are “easier to control” or willing to work in “difficult, dangerous, low-paid and largely unprotected work” (Pearson et al., 2006 in OECD/ILO, 2017). At the same time, Martin (2007) notes that employers in some provinces complained that Thai workers did not work as “diligently” as immigrants. This is also visible in the qualitative data.

***Thai workers in my opinion have some characteristics that I dislike. They are not considerate and behave inappropriately. In my case, a Thai worker ate my food without asking me. Thai workers, when compared to migrant workers, are not working hard to complete the tasks assigned. Migrant workers are honest and work hard.*** [Thai, Woman, Employer of Part-Time Elderly Carer].

*I prefer a Lao worker because **the vast majority of Thai workers are lazy** and unable to reach their full potential. **Workers from Laos, on other hand, come with intention.** They come to make money, whereas Thai children, for example, in Klong Toei, have a boyfriend.* [Thai, Woman, Employer of Migrant Domestic Worker].

**The large presence of female migrants in domestic work contributes to Thai female labour market participation.** A 2017 study by the OECD and ILO on the contribution of immigrants to Thailand’s economy found that migrant workers are overrepresented in service sectors like domestic work and that there is a large presence of female migrant workers in this sector (OECD/ILO, 2017). According to the authors, this reflects the need for domestic services, while the educational attainment for young Thai women is increasing and they are no longer looking for work in private households. This trend has enabled more Thai women to work in more productive positions. This is reinforced by the results of the UN Women survey. The biggest share of migrant workers in the sample worked as house cleaners (46 per cent). The second largest group were gardeners, which at 19 per cent, were nearly double that of Thai domestic workers in that occupation (ten per cent).

The same is true for the third largest occupation among migrant domestic workers, which is child care (nannies) at 15 per cent, compared to eight per cent among Thais. First, this signals that Thai workers are not so interested in these occupations. It is also consistent with the separate findings which showed a majority of employers in the sample are married (60 per cent) and have children living in the household (68 per cent). This points at where the demand for domestic work is coming from and to the contribution that domestic workers make to families in Thailand and particularly for working parents to balance their private and work lives. Two of the biggest tasks migrant domestic workers are occupied in are tasks that are usually performed by women in Thai society, the work of domestic workers thus contributes to those women’s capacity to participate in the labour market.

**At the same time domestic work has become a particularly vulnerable place of work for immigrants,** where women and now increasingly men, need to deal with the lack of legal and social protection. Some migrant domestic workers enter Thailand following arrangements set out in a Memorandum of Understanding, but more often arrangements follow ad hoc alternatives. According to a recent UNJP publication led by the IOM, most regular domestic workers (79 per cent) entered the country irregularly and later regularized themselves through the national verification process, but this system is employer-driven and administratively complex (IOM, 2021). For example, if workers regularized through this

process were eventually admitted into the SSF, their dependents would not be covered either by the SSF nor the WCF.<sup>56</sup> According to the UN Women survey, 100 per cent of migrant workers in the sample worked for a private household (UN Women, 2022). This might be a reflection of their regularization status – as private households are less likely to be concerned about irregular statuses than service providers working as businesses. Based on the results above, this means migrant workers are less protected by labour and social security provisions, and thus more exposed to lifecycle risks. Altogether, this would suggest that any efforts to expand social protection coverage to this sector must address the specific challenges that migrant workers face when accessing social protection. These barriers include lack of compliance, cumbersome, lengthy, and costly processes, and incoherence in the policy framework (IOM, 2021).

**A lack of awareness of social security among this population might also be a big barrier for coverage extension.** Because Section 40 of the SSA is only available to Thai nationals, there is currently no path to social security for migrant domestic workers. The exception is social health protection, as regular migrant workers are eligible to purchase insurance from the Migrant Workers Health Insurance Scheme. However, the qualitative data indicated that there is a high level of misunderstanding or confusion around health insurance among migrant workers.

*[Does the agency pay the social insurance on behalf of the employer?] Yes. [Have you ever used social security?] No. **I don't know [about the social security rights I am covered for], I just know that it was deducted (from my salary) again. If I do need it, I will ask the agency.** [Laos, Woman, Domestic Worker].*

*I'm not sure [if it is possible to seek free medical treatment if ill]. When I acquire my passport and work permit, **I understand that I must purchase migrant health insurance coverage that I can utilise if I become ill. I've already paid for the card, but I haven't yet received it.** [Myanmar, Woman, Domestic Worker].*

*Yes [I am familiar with the benefits of social security]. I believe the benefits are health and maternity benefits. I am the mother of an eight-year-old son. He was born in Thailand. However, **I had not been eligible for maternity benefits under the social security scheme when I gave birth. I then paid for the labour and delivery cost of 2,000 baht.** My son is currently in Cambodia with my mother-in-law. [Cambodian, Woman, Domestic Worker].*

*[Do you have a plan for taking care of yourself?] Nopparat Hospital. This is because I already have social security.<sup>57</sup> But **I have never been to the hospital, so I still don't know if I will have to spend money or not.** [Myanmar, Woman, Child Caregiver].*

**Mainstreaming migration into labour and social protection policies is necessary to effectively regulate domestic work.** Overall, there is a need to strengthen the data availability on migrant workers in domestic work in order to formulate policies that respond to the realities of a potentially important section of the sector. General policies that help migrant workers better integrate into the Thai society and economy are important in this respect. Mainstreaming immigration into sectoral policies, in particular labour market and social protection, is necessary to effectively regulate both those policy areas and sectors like domestic work. Attitudes towards migrant workers mirror some of the attitudes towards domestic work. In this sense raising awareness of immigrant's rights through information campaigns is also important, together with monitoring labour standards in practice, for example in terms to access to social protection benefits.

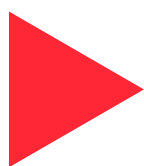
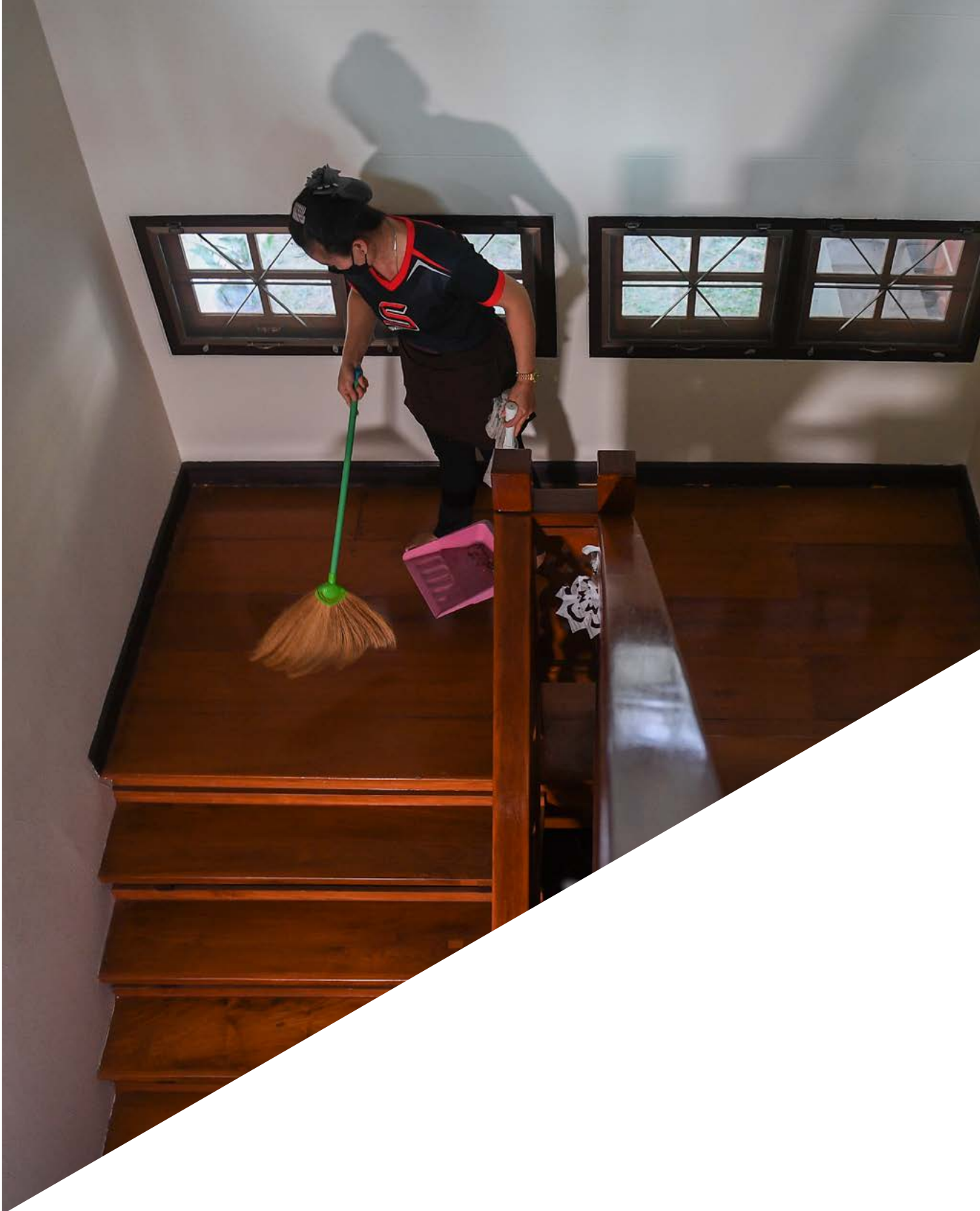
<sup>56</sup> Migrant workers with a regularized status through the national verification process can register their dependents. However, dependents will not be covered by the SSF and WCF. The parent migrant who is enrolled in the SSF can receive a child allowance and dependents up to the age of 18 can enroll in the MHI scheme.

<sup>57</sup> Note: It was indicated by the interviewer that the respondent here was likely referring to migrants' health insurance even though they said "social security."

## ► Key messages

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- The number of domestic workers in Thailand has increased by almost a third in recent years. The sector is an increasingly important source of employment for women, and increasingly for men too. The number of men in domestic work has increased by 85 per cent in recent years thanks to a growth in male-dominated occupations, like driving.
- Domestic work is lifelong employment, particularly for women. For the SP system this means this is employment that can facilitate qualification for social insurance benefits such as old-age pensions and is thus an opportunity to boost the numbers of women obtaining SSF pensions in Thailand.
- Domestic workers overwhelmingly identify themselves as dependent workers (99 per cent). Domestic workers who identify as own-account workers are employed through or by service providers, meaning that they are still dependent workers but in a multi-party rather than a bilateral relationship.
- The role of third parties in the sector has increased rapidly since 2014. A third of domestic workers, predominantly men, are now hired by or through service providers. This is an important development that requires further research, in particular with regards to the employment model between these agencies and the workers, which might involve liability for social security registration.
- Different employment statuses are not mutually exclusive - workers may have as many statuses as they have jobs. The effective inclusion of a sector like domestic work into the social protection system requires accommodating all types of employment statuses, occupations and arrangements.
- Domestic workers perform a wide range of tasks in Thailand, and these are shifting. Male-dominated occupations like security and maintenance, and driving, are experiencing significant growth.
- There is a significant wage gap between domestic employees and other employees in Thailand, as well as between female and male domestic employees. About half of all domestic workers earn below the minimum wage and three in four of these are women. If appropriate provisions for the minimum wage are not extended to domestic workers, this gap is only likely to widen with future increases on minimum wage. Despite lower wages, domestic employees are more likely to work long hours.
- Social security coverage among domestic workers is lower than that of the general population. Given the legal barriers for their participation, it is likely that most insured workers are participating voluntarily and thus have no access to essential benefits like paid maternity leave. The predominance of migrant workers in the sector as well as overall low wages means this is a limited avenue for obtaining protection. It also means domestic workers have no access to unemployment protection.
- The lack of reliable information on the share of migrant workers in the sector means the potential reach of policies aimed at expanding coverage of social security is uncertain. Mainstreaming immigration and gender into labour and social protection policies is necessary to effectively regulate sectors like domestic work. In the case of migrant domestic workers, special efforts should be made to ensure they are not excluded from labour and social security law based on their migration status.



4

# Summary of challenges for domestic workers to access social protection and possible means to address them

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As highlighted in Section Error: Reference source not found, only half of all workers in Thailand have a legal right to social protection benefits under Section 33 of the SSA and the WCA, and just one in three domestic workers can effectively access this protection. Domestic workers in Thailand face multiple barriers in accessing legal and effective social protection coverage. In Thailand, the key barriers are legal, but even if those were addressed, there would remain other barriers related to the characteristics of domestic work, such as the growing prevalence of multi-party and multi-employer employment relationships. This section summarizes these barriers as a means to identify key policy points of action that those responsible must consider when working towards social protection extension goals.

## ► Legal exclusion

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### 4.1.1 Exclusion from the scope of the law

In order to benefit from social protection, domestic workers must first be covered by social security and labour laws and their employment status must be clearly identified (ILO, 2022c). In Thailand, domestic workers' legal exclusion from the SSA and the WCA needs to be read in the light of the LPA to understand the scope of terms such as "employees" and "business operations". Thai legislation explicitly excludes many domestic workers from its scope – specifically domestic employees engaged directly by households – by defining them as workers who perform domestic work which does not involve business operations.<sup>58</sup> The 2017 Royal Decree of the SSA and the WCA use the same terminology to limit their own scope.<sup>59</sup> Behind this discourse lie notions of family and "non-productive" work which ultimately divert attention from the existence of an employment relationship. In this context, the first driver of this legal exclusion stems from public attitudes and behaviors towards domestic workers. Thus, a crucial component of achieving decent work for domestic workers lies in the recognition that domestic workers are workers, whether they work in a family, are placed in a private household by an agency or are employed in a public or private institution. Amongst other things, this means recognizing the home as a place of work.

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<sup>58</sup> See Ministerial Regulation No.14 B.E. 2555 in accordance with the Labour Protection Act B.E. 2541.

<sup>59</sup> See Royal Decree prescribing businesses or employees who are not Covered by the Social Security Act B.E. 2560 (2017), issued under the Social Security Act B.E. 2533.



Secondly, sector-based exclusions are the strategy employed by policy makers to deal with the discrepancy between the scope of the LPA and the existence of other forms of work in the labour market. It is not uncommon for national legislations to struggle with controlling working conditions in homes. Not least because this means labour legislation needs to reach the private sphere of a household. In turn, this means many countries seek to distinguish domestic work from other commercial activities that may be performed within the home, as well as from “home-work”<sup>60</sup>. In Thailand, the undefined term of “business operations” is being used to draw this line in a way that responds more to traditional public attitudes towards domestic work, than to the economic and labour realities of the sector. In this sense, it is important for policy makers to reevaluate their interpretation of this term in light of more updated definitions of economic value. Generating evidence on the role of the domestic work industry in the Thai economy, and specifically in the care industry, could help in this respect. Bundlender has developed an innovative conceptual and methodological framework for this task which can be applied to national contexts (Bundlender, D, 2011).

Other national legislations have already moved in this direction, and rather than attempting to draw a line between the private and the public, they focus on the gains achieved by the work, regardless of location. In Uruguay, for example, the legislation focuses on tasks that lead to “direct economic gain” by the employer.<sup>61</sup> This language does not attempt to define the boundary between the private sphere of the household and the public sphere of a business, but it recognizes that domestic work can provide material benefits to families and to the broader economy (ILO, 2010a). In Ecuador, the Social Security Law, as amended in 2019, covers all persons who receive income from the performance of work or the provision of a physical or intellectual service.<sup>62</sup> In these and most cases, national labour and social protection legal frameworks extend the scope of coverage to domestic workers implicitly, in other words, domestic workers are simply included under the legal category of “employees” in a dependent relationship and, unless otherwise specified, protected against the same range of contingencies (ILO, 2022c).

In Thailand, domestic workers could be implicitly subsumed under the general definition of employees by repealing Ministerial Regulation No. 14, which sets them and their employers apart from the full range of duties and rights as any other employer and employee enjoy through the Act. For consistency, the provisions that exclude them from the general definition of employees in the 2017 Royal Decree of the SSA, and the definition of “employee” used by the WCA would also need to be aligned. The removal of these clauses is a necessary and concrete step to address legal exclusion. In this sense, focus on the WCA should be equal or greater than that placed on the SSA, as the protections it offers to address more immediate risks facing domestic workers. Indeed, the WCA has already expanded coverage to other types of workers who have been excluded elsewhere, such as agricultural workers. This should serve as a precedent and offer practical examples of how a fund can manage the administrative inclusion of non-standard sectors. For example, the fact that WFC contributions are due yearly instead of monthly is likely an advantage for some of these workers with irregular incomes.

This points to the fact that further action is likely to be necessary to ensure that the extension of legal coverage translates into effective coverage. In the case of achieving effective participation in the SSF Section 33 and the WCF, it is important to consider the nature of the insurance mechanisms they operate. Such mechanisms require, for example, a certain level of contributions calculated on the basis of an insurable base. If adopted, the extension of minimum wage provisions through the upcoming reform of Ministerial Regulation No. 14 will provide that insurable base – facilitating the payment of minimally adequate benefits. It is thus important to continue to support the completion of that separate process. Next, the financing of these benefits currently relies on co-contributions from workers and employers. This arrangement is based on the recognition of an employment relationship of dependency,

<sup>60</sup> Home-work is work carried out by workers in their own home, rather than at the workplace of an employer. At the level of international labour standards, it is covered by the Home Work Convention, 1996 (No. 177).

<sup>61</sup> See Section 1 of Uruguay’s Act No. 18.065 of November, 2006.

<sup>62</sup> Artículo 2, [Ley de Seguridad Social](#).

which imposes a responsibility on employers for partially financing contributions. Given the focus that authorities have historically placed on the distinct nature of employers of domestic workers, it is unclear whether the removal of the 2017 Royal Decree, on its own, would be sufficient to enroll the participation of employers of domestic workers. This is particularly the case if domestic workers continue to be excluded from the scope of the LPA.

As the example of the extension of maternity leave showed, effective coverage will require a clearer regulation of the employment relationship between domestic workers and their “non-business” employers, and thus the liability of private households to pay contributions on behalf of their workers. Ultimately, the national legal framework needs to ensure the employment status of domestic workers, and its characteristics, can be clearly established. As noted by the ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR), “workers should have a clear idea of whether they are employees or self-employed so that they can determine clearly which part of their labour and social protection is their responsibility and which is the employers’” (ILO, 2022d). Preventing the misclassification of employment is essential to ensure that neither the Government nor employers transfer risks and responsibilities to workers that should usually sit with them as part of a hire of employment. In the case of domestic work, it is necessary to ensure the full scope of LPA standards are applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due. In the case of Thailand, administrators like the SSO should be prepared to draft the necessary administrative regulations to make implementation possible.

#### 4.1.2 Limited scope of the law

The actions presented in the previous sub-section would address the exclusion of domestic workers in a distinct employment status, namely domestic employees. Representing up to 64 per cent of all domestic workers, such reforms are the most attainable and relevant options to extend legal coverage in the short-term. Still, as noted in Section Error: Reference source not found of this report, the data reflects a changing sector, where the increased role of multi-party and multi-employer employment relationships—partly through the digital economy—are making it increasingly hard to identify the employment status of workers. Workers might in fact increasingly combine different types of work arrangements and employers that accommodate their personal needs best. Qualitative data showed there was positive demand for the flexibility that new employment modalities could afford them. The result of this shift is that workers might have as many statuses as they have jobs.

This is important to keep in mind because the data shows the number of these types of domestic workers is increasing rapidly. A first step towards tackling this issue, should be to perform more research to better understand the diversity among third parties with regards to the working arrangements they offer workers. This would be a good foundation for assessing what additional policy efforts are required to reach all domestic workers. Moving forward, it also means that overly narrow approaches to expansion, which focus either on specific employment statuses (i.e., employees of households) or on task-based definitions of domestic work (i.e., cleaners), are not likely to keep up with the changing nature of the sector.

The bigger picture here is that there are structural limitations in the Thai legislative framework that hinder the expansion of its scope to complex sectors like domestic work. The fact that the legislation does not yet recognize different types of employment models can lead to a growing number of workers whose employment status is unclear and who, consequently, fall outside the scope of the employment relationship and the protections of labour legislation. Moreover, the sector-based exclusion approach could become increasingly challenging if other sectors of the labour market also see more diversity in employment statuses, for example through the rise of the gig economy. If such forms of work gain importance in the overall labour market, so will the challenges to the adequacy of existing legal regulations. The most adequate policy response to this larger challenge would be a comprehensive reform of the LPA and other labour legislations, like the SSA and WCA, to embrace a more inclusive



definition of *employee* and *employer* that is consistent across all legal texts. Such a reform would need to consider especial provisions for non-standard forms of employment, including for own-account workers and dependent contractors, but also working arrangements such as part-time and multi-party work. While eventually necessary, this is a very ambitious task that goes well beyond the scope of the immediate focus of this report. Understanding these structural limitations, however, shapes the evaluation of the best way forward with regards to the needs of the full range of domestic workers.

The issue here is finding a way to address the need of a complex and dynamic sector such as domestic work, within the context of labour frameworks that are slower to adapt. In these cases, where the reform of labour legislations are long-term goals, a more explicit and dedicated effort could be necessary to include certain sectors. For example, in a number of countries the social protection legislation makes explicit provision for domestic workers, in other words it specifically refers to this category of workers in the provisions of the law, either to include them unambiguously under the general definition of employee or to adapt the manner in which they will be protected by setting simplified mechanisms for registration and contribution collection (ILO, 2022c).

Section 141 of the Labour Code of the Philippines, for example, applies to “all persons rendering services in households for compensation” and defines “domestic or household service” as “service in the employer’s home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employer’s household, including services of family drivers”.<sup>63</sup> In Cambodia and Nicaragua, the social security law explicitly mentions domestic workers within the mandatory scope of coverage of the system.<sup>64</sup> A few legislative texts, such as section 31 of South Africa’s Sectoral Determination 7, extend protection explicitly both to domestic workers, defined as employees, and to independent contractors who perform domestic work in a private household and who receive, or are entitled to receive, pay. In the case of Thailand, this strategy would imply making such amendments not just to the SSA and WCA, but to the LPA so that social security implementation is supported by all basic labour rights, such as minimum wage.

An alternative strategy which might be more easily attainable in the Thai context, is the use of secondary legislation, such as a revised version of Ministerial Regulation No.14, to specifically include domestic work through a definition that covers all domestic workers, regardless of their employment status. In this regard, other countries provide examples too. In Indonesia, for example, the 2015 regulation concerning the Protection of Domestic Workers underlines that employers have the obligation of registering domestic workers in social security schemes. In 2019, Cabo Verde adopted a decree with the aim of extending coverage of the social protection system, to domestic workers, even those working informally, entitling them in this way to protection against most lifecycle risks.<sup>65</sup> In Morocco, a 2019 decree sets out the conditions of the application of the social security system to domestic workers.<sup>66</sup> In particular, the decree governs the conditions for employers to register domestic workers with the national social security fund, the measures at the disposal of the fund in case the employer has not registered their domestic worker and the basis for calculating contributions. Through this type of approach, Ministerial Regulation No.14 could be revised to go from an instrument of exclusion, to one of inclusion. This would be a decisive and significant action to improve the conditions of domestic workers.

A third strategy available to policy makers is the development of specialized labour legislation for domestic workers. A number of countries have set examples in this regard too. In those instances, the scope of the legislation tends to go beyond social protection, often providing a definition for domestic workers and governing labour conditions (ILO, 2022c). In the Philippines, the Domestic Workers Act or Batas Kasambahay established policies for the protection and welfare of domestic workers. It establishes

<sup>63</sup> Art. 139. [141] of the [Labour Code](#).

<sup>64</sup> Article 3(2) of the [Royal Kram NS/RKM/1119/018](#), 18 October, 2019 and Article 5(b) de la [Ley de Seguridad Social \(No. 539\)](#).

<sup>65</sup> [Decreto-Lei No. 49/2009](#), 23 November, 2009.

<sup>66</sup> [Décret 2.18.686](#), 30 May, 2019

labour standards for domestic workers in particular, including social protection.<sup>67</sup> In Uruguay, Law No. 18.065 adopted in 2006 sets out that the existing social security legal framework shall apply to this sector.<sup>68</sup> This represents a more permanent and secure alternative to that of repurposing Ministerial Regulation No. 14. As the gold standard for securing domestic worker's legal rights, it is also a more ambitious strategy that would take time and political will to achieve.

All in all, there are various ways in which national legal frameworks may ensure the coverage of all domestic workers under social protection systems. The most appropriate approach for Thailand must be found through wide social dialogue including government, workers' and employers' representatives. In any of these strategies, domestic workers would need to be explicitly included both as a unique sector as well as through the recognition of the multiple employment statuses they might take. It is also key that coordination with the labour law framework is ensured and definitions are commonly set. While there are alternatives on the strategy used to ensure the legal coverage of domestic workers, there are also some important considerations to bear in mind when it comes to the extension strategy.

### 4.1.3 Formalizing the employment relationship

Sections Error: Reference source not found and Error: Reference source not found lay out why effective social protection hinges on recognising the employment relationship in domestic work. International standards recognise this employment relationship through instruments like ILO Convention No. 189. At the national level, the evidence presented in this report suggests that domestic workers in Thailand also fit the criteria set out by the Supreme Court to identify a dependent employee (See Error: Reference source not found). Domestic employees perform work at the place and within the working time agreed with the employer and receive a fixed wage for that working time, irrespective of the results of the work done. The MOL intention to amend Ministerial Regulation No. 14 to extend LPA provisions on limits on normal working hours and rest periods, also shows an implicit recognition of the Supreme Court's attention to the fact that the normal working hours of an employee cannot exceed eight hours per day and 48 hours per week. Finally, as best illustrated in the qualitative data, employers of domestic workers have the type of authority over employees that is not present with service relationships.

The purpose of the LPA is to regulate employment relationships so that the parties cannot decide on the working conditions themselves and in doing so, provide a minimum level of protection for both employers and employees. Consequently, misclassifying domestic work relationships as hire of service leaves both employers and workers vulnerable to risks and liabilities. Recognizing the dependent status of domestic workers is thus a precondition for making progress on extending rights. As established above, however, this might be a long-term goal in Thailand. In the meantime, however, practical efforts can be made to support the establishment of an employment relationship in alignment with the terms set out by the LPA. One of these could be to promote the use of model contracts, even if these are not formally recognized by the MOL. To be clear, this does not mean the relationship would be formalized under the law, but it can aid to prove the employment relationship in front of customary law. Moreover, by guiding a negotiation between employers and employees around defined options, it would promote the establishment of terms and conditions of work that meet LPA minimum standards.

This is a practical strategy employed in other countries where formal employment contracts might be out of reach or deemed impractical for the sector. For example, in South Africa, the legislation requires an employer to supply a detailed, written list of particulars to domestic workers when they start work.<sup>69</sup> An annex to the legislation contains a sample of written particulars provided by the Department of Labour. Section 9.2 is particularly original, as it requires an employer to ensure that the domestic worker understands the written particulars by explaining them in a language the worker knows. While this

<sup>67</sup> Republic Act No. 10361, January 18, 2013.

<sup>68</sup> Art. 9 and 10. No. 18.065, 2006. *Regulación del trabajo doméstico*.

<sup>69</sup> Section 9(1) of Sectoral Determination 7.

places an important responsibility on employers to ensure clarity of contractual terms, a legislative provision designed to promote worker autonomy and empowerment might more appropriately situate the responsibility for explaining the contract with the labour authorities (Gugulethu Mbatha, 2003, in ILO, 2010a). Placing a written requirement on employers is a legislative practice that could facilitate the formalisation of the domestic work relationship, while clearly putting the onus of responsibility on the party with greater bargaining power.

Several countries actually provide model contracts. In Peru, for example, the model contract clarifies that a regular work-day should not exceed eight working hours and leaving room only to indicate the start and end times. There are also model contracts designed specifically for live-in, live-out and part-time live-out domestic workers, as well as a sample pay slip.<sup>70</sup> In Singapore, the Standard Employment Contract between Foreign Domestic Workers and Employers, serves as the regulatory framework even when there is no reference to basic standards in the legislation applicable to domestic workers. For example, with respect to the number of rest days per month, the Standard Employment Contract allows the parties to choose whether the domestic worker is entitled to one, two, three or four rest days per month, and specifies that if the rest day is not taken it is to be compensated in cash. In Thailand, the ILO and the Foundation for Labour and Employment Protection have already developed a standard contract available in multiple languages which could be used for this purpose.

Model contracts issued by government authorities can also help simplify the administrative burden on the parties, thereby facilitating the formalization of work. The key is that model contracts should be drafted in such a way as to recognise domestic worker's fundamental human and labour rights (ILO, 2010a). As seen in the case of Singapore, they can even go further to promote the parties' agreement on working conditions which are currently not regulated. The development of a model contract in Thailand can thus be a meaningful and achievable step to take in conjunction with the revision of Ministerial Regulation No. 14. The model contract could assist domestic employers and employees in moving towards formalizing the work relationship in a manner that conforms to relevant LPA labour standards. Items which seem particularly important to consider in Thailand are remuneration, listing the minimum fixed wage hourly, daily, weekly or monthly as well as the periodicity of payments, but also listing deductions agreed by both parties. Including a list of possible deductions in the contract is also an indirect way of showing which deductions are legal (i.e., social security) and which are not (i.e., damages). Finally, this would provide authorities with the chance to reflect on the legality of some types of deductions (i.e., recruitment fees) and thus the need to regulate these issues (i.e., the portion of the salary which can be paid in kind to cover food and accommodation).

#### 4.1.4 Enforcement of legislation

It is essential that social security systems possess a solid legal framework that adequately defines violations and applicable fines in the case of employer non-compliance of obligations. Inspection services in the domestic work sector are crucial for guaranteeing compliance with social security law. They provide direct institutional support for compliance with labour law through mechanisms for prevention and information activities and issuance of fines (ILO, 2016c), as well as complaints and appeal mechanisms. Together, these mechanisms can ensure compliance with the registration of domestic workers with social security institutions, the regular payment of contributions on their behalf and the delivery of due social protection benefits. According to Article 17 of Convention 189, ratifying Member States should take measures to ensure compliance, including ones that specify the conditions under which access to household premises may be granted, having due respect for privacy. In most national legislations, access to private homes is contingent on the consent of the owner. However, inspectors can ask to speak to both employer and employee and if particularly concerned, ask the judicial system for special permission to enter the premises to complete a full inspection.

<sup>70</sup> Available at: <https://www.gob.pe/institucion/mtpe/campa%C3%B1as/8198-modelo-de-contrato-para-los-trabajadore-a-s-del-hogar>.

The implementation of inspection services may require the specific capacity-building and tools of labour and social security inspectors for conducting house visits (ILO 2016a in ILO, 2022c). It is also important to note the role of key labour inspections in raising awareness and promoting compliance through prevention measures. For example, in countries such as Costa Rica, the Philippines and Uruguay, awareness raising activities have been demonstrated to be integral elements of effective labour inspections. Other measures may support social security inspections for domestic workers. For example, in Ecuador, the Government collaborated with a domestic workers' organization to facilitate inspections. Other countries have implemented nation-wide regularization campaigns to incentivize employers to register their domestic workers.

Legislation can also provide for sanctions and penalties to deter non-compliance. In most cases, social security schemes do not establish definitions and specific penalties for employers of domestic workers; rather, they apply the same penalties used for other workers. However, the adequate design of such measures is particularly important in sectors with a high incidence of informal employment (ILO, 2021d). Most countries implement fines, but for these to be effective they need to be proportional to the severity of the offense. Non-compliant behaviour is also unlikely to change if there is a low probability of "getting caught" and facing the consequences of violations (ILO 202b in ILO, 2022c). More and more countries are increasingly relying on more holistic approaches to securing compliance, including promotional mechanisms to complement punitive strategies. Importantly, the non-compliance of social protection law, and in particular the obligation to pay contributions on their behalf, should not result in a prejudice for domestic workers in terms of accessing their rights. It is considered good practice, in line with international standards, in such cases to allow domestic workers to access benefits and for the social security institution instead to turn against employers for undue payment of benefits.

### 4.1.5 Extension strategy design

Whether domestic workers are included in the scope of the LPA and SSA through direct amendments or through separate regulations that provides the necessary specifications, the extension of legal coverage to domestic workers should prioritize mandatory affiliation. This is the case especially where this is the approach adopted for other employees, like in Thailand. There, this would mean extending mandatory coverage of Section 33 of the SSA and all benefits of the WCF. International experience shows that once legal coverage exists, making enrolment mandatory is essential to extending coverage to challenging groups like domestic workers. Indeed, since Thai domestic workers already have access to Section 40 of the SSA, the extension of legal rights would not be very meaningful for social protection coverage unless regulations specify the obligatory nature of participation in Section 33, thereby establishing the co-responsibility for contribution payment.

However, it is important to design the modalities of participation so that they are adapted to the specificities of domestic work and successfully address the obstacles to effective coverage. Such simplified modalities include administrative processes, in particular registration, contribution payment and collection (See Section 4.2). One issue to particularly address in the Thai context is the need to revisit the implicit minimum threshold of full-time work contained in the LPA. Because the LPA does not recognise part-time work beyond students, full-time work becomes a threshold that can result in excluding domestic workers from the de facto ambit of the law. In this instance, it is important to make provision for part-time work so that workers are given the opportunity for social security coverage despite working only some hours a week or days a month. This requires the development of modalities to recognize multi-employer and part-time work arrangements.

Although we do not have the data on the actual prevalence of multi-employer and part-time work in Thailand, this is a trend in domestic work worldwide. As seen in Section Error: Reference source not found, qualitative data indicates that there is an emerging preference among domestic workers for these kinds of arrangements, which they perceive as allowing them more control and freedom. While beneficial from the point of view of workers, these conditions pose a challenge for extending social

security. To overcome this, some countries have implemented provisions to facilitate the registration of such workers. Some of the measures applied to implement the multi-employer or part-time work provision include: the use of service vouchers in France and Belgium; differentiated contributions in Italy; collection by pay periods in Mauritius; or the application of employer identification systems in Colombia and Ecuador. In practice, all of these measures require administrative modifications, including IT solutions. When Thailand is at the stage of discussing the right fit for its context, the decision will be aided by better data on the actual incidence of the issue, the capacity of social security institutions to implement solutions, and the preference of workers and employers.

In the meantime, international experiences can serve to feed the discussion. Mauritius provides an interesting example of modalities for insuring part-time domestic work. There, authorities established several minimum contributory wages, which vary by wage payment periods: daily, weekly, bi-monthly or monthly. This makes it possible for employers and workers to contribute according to the contract period established within the month. In view of the upcoming revision of Ministerial Regulation No. 14., this is something that could also be possible in Thailand.

## ► Removing administrative barriers

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Even where domestic workers are included under legislation and social insurance is mandatory, many employers and workers do not comply with the obligation to register with a social insurance fund. This is particularly the case when registration processes are difficult and ill-adapted to the reality of domestic work. In Thailand, at least 66 per cent of domestic workers are employed by private households who could have limited administrative capacity and time to deal with complex and lengthy registration procedures. Thai policy makers have repeatedly identified the different nature of private households and businesses as one of the main barriers to extending coverage to this sector. This is indeed an important consideration, as under contributory social protection systems, administrative procedures are under the responsibility of the employer. If not adapted to the sector, the time and resources invested in administrative procedures for registration and periodic payment of contributions can generate disincentives to participation (ILO, 2021d). At the same time, it is important to maintain the employers' primary responsibility for these procedures, if nothing else, given that employers in Thailand have a much higher educational level and more resources than workers, making it less burdensome for them to file paperwork.

Still, in view of the specific characteristics of domestic workers and their employers outlined above (see Section Error: Reference source not found), several countries have tried to simplify relevant administrative procedures. In Thailand, the fact that contribution collection is divided between the SSF and the WCF is not ideal. There is broad consensus on the need to establish single centralized collection mechanisms to facilitate registration and contribution collection (ILO, 2022c). This kind of centralisation has been implemented successfully in a number of countries. For example, in Uruguay, the Social Security Bank and the State Insurance Bank signed an agreement that simplifies the procedure for accessing Work Injury and Occupational Diseases Insurance by facilitating employers' compliance with the relevant law.<sup>71</sup> Consequently, since 2014, the cost of employment injury insurance has been automatically included as part of the obligations under the BPS and does not require any additional procedure on the employer's part. A similar arrangement between the SSF and WCF could be envisioned in Thailand. This kind of arrangement also facilitates the implementation of fiscal incentives (see Section Error: Reference source not found).

<sup>71</sup> Ley No. 16074 Regulación de los seguros sobre accidentes de trabajo y enfermedades profesionales.

On the other side of collection, social security institutions should also adopt strategies to reduce the costs and facilitate the payment of contributions by employers and workers. The use of technology and digital solutions can also be very beneficial to simplify and streamline registration and payment procedures. International experience has identified a number of strategies that are common to countries with higher rates of coverage of the sector (ILO, 2016c). Even if many of these are already in place in Thailand, it would be good practice to ensure that they work for the particularities of the domestic work sector. The most common strategies are:

- ▶ The use of institutional web platforms or mobile applications to facilitate enrolment and payment of contributions;
- ▶ Agreements with commercial banks for payment of contributions in person or through institutional web platforms;
- ▶ Automatic debit services;
- ▶ Use of call centre services, processing of payments through bank account debits;
- ▶ Agreements with post offices or commercial entities, such as supermarkets or pharmacies, for payment of contributions and their locations; and
- ▶ Use of service vouchers.

Finally, as a means of facilitating the identification and registration of households employing domestic workers, some countries have implemented a so-called presumptive provision based on the presumptive income of households. The institution administering social security presumes that a household is an employer of a domestic worker (or several) when the household income declared on tax-statements is above a certain threshold. In this case, the administration notifies the respective household that it presumes that the household employs a domestic worker, thus it will charge the household the respective social security contribution. If the household is not in fact employing a domestic worker, the administrative burden of proving otherwise is on them. Based on the widespread practice of employing domestic workers and the indication of their prevalence in high-income households, at least in the limited qualitative data, this could be an interesting strategy for Thailand to consider.

Having said that, to implement this provision, the respective institution must have strong legal backing to send notifications and to make presumptive charges. This points, for example, at the need to move towards explicit recognitions of the domestic work sector within the labour framework. Furthermore, close coordination between social security institutes and the tax authority is essential in order to obtain information on income declared by individuals and households. In Argentina where a presumptive measure was implemented in 2013, the tax authorities have the authorization to visit households that are presumed to have undeclared domestic workers.<sup>72</sup>

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<sup>72</sup> Ley No. 26844, 12 April, 2013, Régimen Especial de Contrato de Trabajo para el personal de Casas Particulares.



## ► Developing adequate financing mechanisms

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### 4.3.1 Differentiated contributions

In addition to creating mechanisms that facilitate the payment of contributions, it is also important to adapt the manner in which contributions are determined, as well as consider offering fiscal incentives and subsidies, especially in the case of countries where workers have very low incomes. For example, in Thailand where almost half (49 per cent) of all domestic employees earn below the minimum wage (see Section Error: Reference source not found). A possible solution is the use of differentiated contributions (ILO, 2022c).

Some countries determine contributions according to working time. This enables increased flexibility in the application of modalities for part-time or multi-employer employment so that income from more than one job can be added together and domestic workers undertaking work for various employers can be covered on the basis of their full earnings. In Italy, for example, the National Social Security Institute (INPS) established a contributory provision based on intervals of the hourly wage. Contributions are absolute amounts and expressed in euros. According to this provision, the higher the domestic worker's hourly wage, the higher the contribution rate. In Italy this creates a progressive scale for financing social security. However, in a country like Thailand where overtime work, which is not necessarily compensated is an issue, it could also act as further disincentive to report and compensate overtime work. Likely in recognition of this possible limitation, the INPS has also established an additional contributory category for domestic workers working more than 24 hours weekly, which offers even lower contribution rates. Since domestic work employers might consider hiring workers by the hour or part-time to save costs, this practice can help create incentives for employers to hire domestic workers for longer periods. This example shows the need for evidence-based and carefully considered policy design to ensure effective results for the local context.

In addition to adjusting contribution rates to the hourly base, contributions can also be differentiated according to age (ILO, 2022c). Some social security systems implement contributory provisions with different contribution rates depending on the worker's age, which favour older workers, giving employers a contributory advantage when they maintain employment relationships as the workers age, or when they newly hire older workers. This is an interesting strategy for Thailand, where the data suggests that domestic work is often an important source of paid work for workers in older age groups, especially for women. Creating more favourable conditions for older workers could help not just to increase general coverage among domestic workers, especially helping to meet minimum qualifying conditions for long-term benefits such as old-age pensions, but to incentivise the employment of older workers.

Other systems where the contributory capacity of workers is a concern, exempt workers from their share of contributions under certain circumstances. In some cases, the contribution provision mandates employers to assume the full social security contributions. Costa Rica, for example, has a contributory provision based on a minimum contributory wage. Under this system, if the reported wage is below the minimum contributory wage, the employer is responsible for paying the difference between the reported wage and the minimum contributory wage in effect. This kind of measure could be applied in Thailand as a means of ensuring both that employers are complying with minimum remuneration provisions (once they are in place) as well as compensating for the negative welfare impact of social security deductions for workers who can fall under the threshold of the minimum wage. However, in the absence of strong monitoring and enforcement mechanisms, it could also become a disincentive to registration. Moreover, the ILO notes that it is important that this contributory strategy should be adapted to the contributory capacity of domestic work employers, assessed on the basis of available household income data (ILO, 2022c).

Some high-income countries have also established contributor exemptions for employers who fulfill certain pre-requisites, for example, being above a certain age (i.e., 70 years of age), and being defined as socioeconomically vulnerable, among others. This facilitates the provision of services to vulnerable populations and helps to reduce gaps in the care service delivered by the State.

### 4.3.2 Fiscal incentives

As Thai legislation asserts, domestic work is distinct because the employer is a private household, so the employer does not have an economic gain or commercial interest associated with the tasks performed by the worker. Far from this being a reason to exclude employers from the protections of labour and social security provisions, it can be a reason to offer employers fiscal incentives to favour enrolment. The most common forms of fiscal incentives around the world include (ILO, 2016c):

- Implementation of employer contributions as income tax-deductible expenses.
- Reduction of the tax rate for employers when the domestic work contract is for full-time employment.
- Reduction of a percentage of contributions for employers who have made timely payments for a specified period.

### 4.3.3 Government subsidies

The adaptation of contribution collection and payment may go a long way in facilitating the coverage of workers but may not in itself be sufficient, especially in the case of workers and employers with limited contributory capacity. The effective extension of social protection also requires political will and financial commitment (ILO, 2022c). Government subsidies can be an important mechanism for addressing low contributory capacity in the domestic work sector. In Thailand, the State has already made a commitment to subsidise part of the contributions of any and all workers who choose to enroll under Section 40 of the SSA – with the notable exception of migrant workers (see Error: Reference source not found). When seeking to expand coverage to a particular sector like domestic work, these government transfers could be re-designed to subsidize the contributions of domestic employers and/or employees under Section 33.

Subsidies are usually designed to create more incentives for social security enrolment by reducing the contributory burden. For example, subsidies could thus be designed so that they increase the one per cent contribution rate that the Government already makes to all employees, while simultaneously reducing the rates placed on workers and employers. However, and most importantly, such measures should be designed on the basis of the contributory capacity of domestic work employers and employees, assessed on the basis of available household income data. The various sources quoted in Section Error: Reference source not found of this report point to a wide gap between the incomes of employers and workers, that could indicate a necessity to focus subsidies on workers' contributions.



## ► Raising awareness

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### 4.4.1 The value of domestic work

As explained throughout the report, in the case of domestic work in Thailand, attitudes and behaviours towards the sector may be linked to this exclusion. There is evidence that domestic workers' perceived role as both family members and workers affects their working conditions – from working hours to wages, freedom of movement and association, and access to social protection (Anderson, 2016). Despite the critical contribution that these workers make to society and the economy, the establishment of a fictive kin relationship erodes the recognition of domestic work as work. Moreover, this perspective is shared by policy makers, and civil society actors see this as one of the key challenges to extending legal rights to domestic workers. In this context there is a need to generate evidence on the economic and societal value of domestic work (see Box 1). Actions should be developed to educate both employers and policy makers on the rights and contributions of domestic workers, emphasising that treating someone as “part of the family” should include respecting their human and labour rights. Similar attitudes towards migrant workers mean that public campaigns to raise awareness about the economic contribution of migrant workers are also necessary.

► **Box 6. The value of domestic work**

There are a range of different ways in which domestic work can be “valuable”, and also a range of different individuals and groups, at a range of different levels, who can benefit from this value. This includes both economic and social value, and often a mix of the two. For example, the number of households prevented from falling into poverty by having access to the wage of a domestic worker carries both economic and social value. The contribution made by paid domestic work to lowering the unemployment rate, similarly, represents a substantial contribution. This is particularly true among special groups like elderly women. The contribution would, however, be even greater if the employment was remunerated at a rate that recognised this contribution (Bundlender, D, 2011).

Similarly, the value of earnings of women who are able to take on other employment through employing a domestic worker in their homes can be seen as contributing to the social goal of gender equality. As more and more women enter the labour force, their tasks are delegated to domestic employees on whose care the well-being of entire generations depend. As domestic work allows other women workers with family responsibilities to achieve equilibrium between work and family life, it plays a key role in the smooth functioning of the economy.

In Thailand, at least 290,000 individuals are benefiting from wages derived from domestic work. This is a direct contribution to overall spending power which itself is likely to stimulate increased demand. While these are the direct economic beneficiaries of this labour, one must also consider the number of individuals living in the households of these domestic workers, or indirect beneficiaries. This indirect benefit might be lesser or greater, depending on the proportion of earnings that domestic work earnings represent for the household. As mentioned earlier, for many households this income might represent the difference between being above or below the poverty line. Finally, there is also a value for employers of domestic workers. It was not possible to derive this measure from the IES in Thailand because there is not a one-on-one relationship between workers and households. However, according to estimates from the SSO, there were up to 1,220,000 households nationwide who employed domestic workers in 2018 (Social Security Office, 2018).

For the country as a whole, domestic work accounts for 1.1 per cent of female employment and 2.4 per cent of female employees. Despite advances in gender equality goals and an increased participation of men in the sector, domestic work still remains a women-dominated occupation. In Thailand, 69 per cent of domestic workers are women. This is because the home is generally considered a secure place for women to

work in and the tasks assigned to them are said not to require any particular skills or training. As such, domestic work is an avenue of employment to poor, rural women who have had little access to education, often from marginalized ethnic groups – those with otherwise low employability. Traditionally, domestic work is one of the most widespread forms of transfer of resources from the rich to the poor, and could, if performed under fair working conditions, make a vital contribution to poverty alleviation (ILO, 2010b).

For many women, domestic work is a unique opportunity to earn in a socially acceptable manner and gain some control over economic resources. The sector attracts women that enter the labour market for the first time, but also those who are trying to reintegrate after career interruptions such as maternity. If properly regulated, domestic work can offer a source of empowerment for workers. In countries that have initiated certified skills training and the professionalisation of domestic work, the empowering role of it is further enhanced by the resulting occupational mobility within the hospitality sector – an important industry for Thailand (Ibid, 2010b).

Moreover, the domestic work sector has a high capacity for labour absorption. By several indications, the demand for direct and indirect care services in Thailand will grow steadily in future decades (World Bank, 2021). This high demand is fueled by the absence of adequate institutional care of the young and elderly, particularly the latter in a context of rapid aging. The ILO estimates that the formal sector in Thailand already has a deficit of more than 225,000 long-term workers (Scheil-Adlung, 2015). Domestic workers could be an important part of meeting this demand, particularly in the short-term. In the long-term, however, there is certainly a need for greater public investment in the care economy so that families can choose between institutional care and provision of the necessary services through qualified household employees.

In countries like Thailand, domestic work is also one of the rare sectors of the labour market that is open to migrant workers, drawing large numbers of women migrants from countries with an oversupply of labour and high unemployment. The remittances of these migrant women have created pockets of relative prosperity in otherwise resource starved communities (ILO, 2010b). The demand for domestic workers is a key factor in opening up legal channels of temporary migration to Thailand for large numbers of women with few employment options at home. Thus, if performed under fair working conditions including social protection, domestic work has tremendous potential for reducing poverty and empowering women. On the whole, both the sending and receiving countries benefit largely from this migrant workforce.

Source: ILO, 2022.

In addition, when the revision to Ministerial Regulation No. 14 is formalised, it will be essential to raise awareness among domestic workers and their employers about their new rights and obligations. When workers and employers are aware of the benefits of formalisation, they will be more willing to comply. In the same line, if access to Section 33 of the SSA and the provisions of the WCF are extended, information campaigns should be launched to make stakeholders aware of the benefits of social protection. This includes explanations regarding administrative procedures, particularly if new modalities are created to facilitate the incorporation of this group, as recommended above. International experiences on information and awareness raising efforts to extend social security to workers in the informal economy have been recorded in detail elsewhere (ILO, 2021d, 2016c) (ILO, 2022c). A general lesson drawn from the literature, is that a variation of communication strategies, tailored at the targeted population, is the most effective route.

Within the Asia-Pacific region, the Philippines provides a good example for Thailand. When the Domestic Workers Act was first implemented in 2013, it was accompanied by an information campaign conducted by civil society organizations. The objective of the campaign was to change attitudes towards domestic workers, which among other things established the official Philippine term for domestic worker as “*kasambahay*” (household helper). The campaign was not only targeted at domestic workers and their employers, but also at the general population. The Government also declared a National Domestic Workers Day to be held every 30 April. Media outreach is also conducted regularly and a National Domestic Workers’ Summit is organized periodically. These awareness raising tools, together with strong political commitment at the national and local levels, have contributed significantly to the successful implementation of the law (ILO, 2021d). Qualitative data collected for this report pointed at social media as a potentially useful way to reach workers, if not employers. Hong Kong (China) uses Instagram to increase awareness regarding rights and obligations.

#### 4.4.2 Protecting migrant domestic workers

In many cases, domestic work in Thailand is carried out by migrant workers from neighboring countries. These workers face various additional difficulties accessing social protection, beginning with challenges to regularise their status and their exclusion from the scope of application of the SSA. Migrant domestic workers in Thailand currently have no route to access social protection benefits other than health insurance, even through voluntary affiliation. These barriers tend to make the challenges faced by migrant domestic workers more acute than for other domestic workers, and the need for social protection all the greater. Some countries have consequently created mechanisms to facilitate the social security coverage of migrant workers. The measures implemented include, online enrolment and payment of contributions, the portability of benefits and other incentives to encourage workers to register with social security administrations, as well as the possibility of voluntary registration in social security. These measures, together with bilateral and multi-lateral social security agreements, are indispensable not only for guaranteeing short-term social security benefits in the host country, but also for ensuring that workers do not lose accredited contributions to pension systems when they return to their home countries (ILO, 2022c).

As such, the first step towards addressing the needs of these workers in Thailand would be to expand coverage under the SSA Section 40 to include migrant workers. This is consistent with the scope of the LPA. Secondly, their access to rights should be the same, regardless of the regularisation process they followed – MOU or national verification. Some countries have even included migrant domestic workers under non-contributory schemes, based on the principle of equality of treatment between national residents and non-national residents set out in international security standards. This is the case of Chile, Italy, Bolivia and Malaysia, among others. One particular good practice implemented in many of these places, is allowing migrant workers to register in the social security system through their embassies, where staff are more likely to speak their language and explain duties and benefits in a way workers can relate to better. This is the case of the Philippines, where domestic workers abroad may complete most of the necessary procedures in the embassies in the countries of destination with the largest migratory flows.

Migration authorities can contribute to creating mechanisms to promote the enrolment of migrant workers. Workers who obtain their regular status through the Ministry of Labour could be assisted to register with the SSF and WCF. Qualitative data also shows that awareness of social protection rights and benefits, and thus willingness to participate, is substantially lower among migrant domestic workers than their national counterparts. Working in a foreign country can be particularly challenging for domestic workers, including grasping important information about labour rights and how to go about administrative processes. Awareness-raising campaigns, translation of essential information on social security schemes and the establishment of adequate grievance mechanisms are important for ensuring effective enrolment and participation. Some countries, for example, offer training courses for migrant workers as part of their regularisation process. In view of the continued prejudices against migrant workers, efforts to generate awareness about their rights and contribution to the Thai economy could also aid to further this necessary reforms.



# Final policy recommendations

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It is important to bear in mind that policies and strategies to extend social security coverage in the domestic work sector form part of a broader set of interventions guided by formalisation policies in general. These policies are part of the labour protection system, which includes the domestic work sector but also goes beyond the scope of social security policies and their institutions. The following are recommendations focused on the most practical ways that the right of domestic workers to social protection can be achieved in the short- and medium- term. However, in the long-term, there is a case for a wider labour reform that can accommodate the process of formalisation of this and other sectors.

## ► Immediate actions

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- 1. Establish a forum for tripartite dialogue on the extension of social insurance to domestic workers.** Led by the SSO, the working group could include representatives from the MOL, domestic worker's and employers' representatives. The group could take on two immediate tasks: (i) follow-up on the revision of Ministerial Regulation No.14 and assess how the proposed changes are addressing the protection gaps raised in this and other reports on the conditions of the domestic work sector – paying special attention to the extension of paid maternity and sick leave within the current revision; and, (ii) consider the findings and recommendations of this report and assess the possibility of committing to a joint work plan for moving forward with the support of development partners. This work plan could be based on the list of actions that follows below.
- 2. Spread awareness about the economic and social value of domestic work.** A precondition for generating the support necessary to institute reforms, is tackling public misconceptions of the nature and value of domestic work. Social and development partners should take action to generate evidence on the role of the domestic work industry in the Thai economy, including migrant workers. This evidence should be socialised mainly among policy makers, but also the general public, to help shift existing attitudes and behaviours towards domestic work, as well as the interpretation of terms such as “business operations” in the law. The message should emphasise the continued relevance of labour rights in any employment relationship. This will help lay the groundwork and will necessary to implement necessary legal reforms that focus on the gains achieved by the work, regardless of location or type of employer.
- 3. Expand legal coverage by removing exclusion clauses targeted at domestic workers and consider a more explicit inclusion of the sector for translating this into effective and inclusive coverage.** In the short-term, the most immediate challenge to the legal inclusion of domestic workers in the full scope of social insurance benefits are the exclusions made through the 2017 SSA Royal Decree and Article 5 of the WCA. Removing these exclusionary clauses would amount to implicitly extending legal coverage to domestic employees. In this sense, focus on the WCA should be equal or greater than that placed on the SSA, as the protections it offers will address more immediate risks facing domestic workers. Moreover, follow the practical lessons from the recent expansion of this law to other challenging sectors, such as the use of annual contribution payments.



4. **Begin design work for the implementation of gender-responsive social security providing paid maternity leave, and ideally, paid sick leave.** Assuming the revision of Ministerial Regulation No.14 will include both LPA Articles 41 and 59, there is a need to define how this will be effectively implemented. This may include policy decisions such as liability for contributions, or in other words, whether this will be implemented through a social insurance mechanism within the SSO, specifically under Section's 33 regime. In this case, different financing mechanisms must be evaluated, including differentiated contributions and subsidies, in a way that address evidence on the contributory capacity of workers and employers. It will also include the design of simplified administrative processes, in particular registration, contribution payment and collection, as well as grievance management while inspection continues to be a challenge. All solutions should ideally recognise multi-employer and part-time work arrangements.
5. **Institute the use of model contracts.** Recognising the dependent status of domestic workers is a precondition for making progress on extending rights. Even in the absence of a legal reform, the widespread use of model employment contracts to set out the terms of employment can improve the employment relationship and promote adherence to minimum standards set out in the LPA, even those which are not currently extended to domestic workers. This could be instituted, for example, as part of the regulations drafted for the implementation of maternity leave.
6. **Study further the diversity among third parties in domestic work.** This includes employment agencies, brokers, market places and digital platforms. Given their growing role, understanding the nature of the work arrangements they offer workers will be key to identify employment statuses and corresponding liabilities, so that coverage expansion policies can keep up.

## ► Strategic actions

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1. **Evaluate the need and feasibility of an explicit approach to legal coverage.** Consider also the need to follow-up with a more explicit approach to include the full scope of employment arrangements within domestic work, including by recognising the home as a place of work and more clearly regulating the employment relationship between domestic workers and their employers. This could be achieved by developing specialised regulations, either through a more ambitious reform of Ministerial Regulation No.14 which unequivocally extends the scope of the LPA to all types of domestic workers, or through the development of a dedicated legislation for regulating labour and social security provisions for domestic work.

The difference between an implicit and an explicit approach to include domestic workers into the full scope of rights extended to other employees is likely to be reflected in the facility with which each approach allows the development of enforcement mechanisms tailored to the needs of the domestic work sector. These options should be discussed and weighted by all relevant government institutions and social partners.

2. **Embrace a sector-wide approach to expansion.** The Thai legislative framework has a limited scope. The data also reflects a sector where its increasingly hard to identify the employment status of workers. Moreover, workers may have as many statuses as they have jobs. There is thus a risk that overly narrow approaches to expansion, which focus either on specific employment statuses (i.e., employees of households) or on task-based definitions of domestic work (i.e., cleaners), will not keep up with the changing nature of the sector. An effective extension strategy requires domestic workers to be explicitly included both as a unique sector as well as through the recognition of the multiple employment statuses they might take.

- 3. Prioritize and facilitate mandatory affiliation.** The extension of legal coverage to domestic workers should prioritise mandatory affiliation. This would mean extending obligatory coverage of Sections 33 of the SSA and all benefits of the WCF. However, it is important to design the modalities of participation so that they are adapted to the needs of the domestic work sector, particularly the prevalence of multi-employer and part-time work. This will require the removal of administrative barriers. This might include the centralisation of collection and payment mechanisms between the SSA and WCF, streamlining registration and payment procedures and implementing other innovative strategies to ensure effective coverage expansion.
- 4. Develop adequate financing mechanisms.** It is also important to adapt the way in which contributions are determined as well as consider offering fiscal incentives and subsidies. Thailand could consider varying forms of differentiated contributions. Policy design should be evidence-based and carefully considered to ensure effective results in the local context. Contributory strategies should be adapted to the contributory capacity of employers and workers, assessed on the basis of available household income data. Fiscal incentives for employers can also play a role incentivizing enrolment. Finally, there is a case for revising existing government subsidies available to domestic workers under Section 40 of the SSA to promote their participation under Section 33. Awareness raising campaigns are also essential to this goal.
- 5. Mainstream the rights of migrant workers.** While we cannot establish the actual share of migrant workers in the Thai domestic work sector for certain, empirical evidence signals that they are an important part of its workforce. Migrant domestic workers face the same challenges as other workers to access social protection benefits. Their exclusion from the scope of the SSA is particularly harmful at the moment, as it limits even their voluntary participation in the system. This makes them one of the most vulnerable groups among an already vulnerable population, thus raising the need for both social protection and general labour rights, to reach them. Generating better data on their situation, and mainstreaming their needs into all efforts targeted at this sector is thus highly recommended.



## ► References

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Anderson, Bridget. 2016. *Worker, Helper, Auntie, Maid? Working Conditions and Attitudes Experienced by Migrant Domestic Workers in Thailand and Malaysia*. ILO.

Bundlender, Debbie. 2011. "Measuring the Economic and Social Value of Domestic Work", ILO Domestic Work Policy Brief No. 3.

International Labour Organization (ILO). 2022a. *Statistical Note on Measuring Domestic Workers in Thailand*.

\_\_\_\_\_. 2022b. *Protection in Practice: Challenge and Perceptions of Domestic Workers Accessing Social Protection in Thailand*.

\_\_\_\_\_. 2022c. *Making the Right to Social Security a Reality for Domestic Workers: A Global Review of Policy Trends, Statistics and Extension Strategies*.

\_\_\_\_\_. 2022d. *Securing Decent Work for Nursing Personnel and Domestic Workers, Key Actors in the Care Economy*, in: *Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19, 22 and 35 of the Constitution) Report III (Part B)*. Presented at the International labour conference, 110th Session, 2022, International Labour Office, Geneva.

\_\_\_\_\_. 2021a. *Making Decent Work a Reality for Domestic Workers: Progress and Prospects Ten Years After the Adoption of the Domestic Workers Convention, 2011 (No.189)*.

\_\_\_\_\_. 2021b. *Thailand Social Protection Diagnostic Review: Expanding Access to Social Security for All Workers in Thailand*.

\_\_\_\_\_. 2021c. *Technical Brief: Opportunities for Extending Social Security to Domestic Workers in Thailand*.

\_\_\_\_\_. 2021d. *Extending Social Security to Workers in the Informal Economy: Lessons from International Experience*.

\_\_\_\_\_. 2020. *Impact of the COVID-19 Crisis on Loss of Jobs and Hours Among Domestic Workers (Fact sheet)*.

\_\_\_\_\_. 2018a. *Care Work and Care Jobs for the Future of Decent Work*.

\_\_\_\_\_. 2018b. *Revision of the 15th ICLS Resolution Concerning Statistics of Employment in the Informal Sector and the 17th ICLS Guidelines Regarding the Statistical Definition of Informal Employment*. Presented at the 20th International Conference of Labour Statisticians, International Labour Office, Geneva.

\_\_\_\_\_. 2018c. *Resolution Concerning Statistics on Work Relationships*, in: *Statisticians Resolution Concerning Statistics on Work Relationships*. Presented at the 20th International Conference of Labour Statisticians, Geneva.

\_\_\_\_\_. 2016a. *Non-standard Employment Around the World: Understanding Challenges, Shaping*.

\_\_\_\_\_. 2016b. *Formalising Domestic Work*.

\_\_\_\_\_. 2016c. *"Social Protection for Domestic Workers: Key Policy Trends and Statistics"*, Social Protection Policy Papers No. 16.

\_\_\_\_\_. 2010a. *Decent Work for Domestic Workers*. Presented at the International Labour Conference, 99th Session, 2010, International Labour Office, Geneva.

\_\_\_\_\_. 2010b. *Moving Toward Decent Work for Domestic Workers: An Overview of the ILO's Work*. Geneva.

- \_\_\_\_\_. 2006. Employment Relationship Recommendation, No. 198, C198.
- \_\_\_\_\_. 1999. *International Labour Conference Report*. Presented at the 87th Session of the International Labour Conference, Geneva.
- \_\_\_\_\_. UNICEF, IOM, UN Women, 2021a. *Thailand Social Protection Diagnostic Review. Social Protection Mapping and Vulnerability Analysis*. Bangkok, Thailand.
- \_\_\_\_\_. UNICEF, IOM, UN Women, 2021b. *Thailand Social Protection Diagnostic Review. Social Protection Mapping and Vulnerability Analysis*. Bangkok, Thailand.
- International Organization for Migration (IOM). 2021. *Thailand Social Protection Diagnostic Review: Background Study on Social Protection for Migrant Workers and their Families*. Bangkok, Thailand.
- Kahayarara, Godius. 2013. *Domestic Workers Survey in Tanzania*. University of Dar es Salaam.
- Knox-Vydmanov, Charles, Brimblecombe, Simon, Cunha, Nuno, forthcoming. *Review of the Pension System in Thailand*, Social Protection Diagnostic Review. ILO Country Office for Thailand, Cambodia and Lao's People's Democratic Republic and Decent Work Team for East and South-East Asia and the Pacific.
- OECD/ILO, 2017. *How Immigrants Contribute to Thailand's Economy*. OECD Publishing, Paris.
- Polphirul, Piriya, Kamlai, Jongkon, Rukumnuaykit, Pungpond. 2008. *Do Immigrants Improve Thailand's Competitiveness?* Washington, D.C.
- Scheil-Adlung, Xenia. 2015. *Long-term Care (LTC) Protection for Older Persons: A Review of Coverage Deficits in 46 Countries* (No. ESS-Working Paper No. 50), Extension of Social Security. International Labour Organization, Geneva.
- Social Security Office. 2018. *Feasibility Study of Extending Social Security Coverage to Domestic Workers*. Bangkok, Thailand.
- Tandon, Ambika, Rathi, Aayush. 2021. *Fault Lines at the Front Lines: Care Work and Digital Platforms in South and Southeast Asia*. Friedrich Ebert Stiftung, Singapore.
- Tassanakunlapan, Tossapon. 2019. *The Development of a Legal System to Reduce Inequality Amongst Freelancers: Addressing the Challenges of the 21st Century*. Thailand Research Fund.
- UN Women. 2022. *Survey on Profile of Domestic Workers, both Thai and Migrant in Thailand*. Bangkok, Thailand.
- Wantanasombut, Akkanut. 2018. *A Question from Thailand: Is the Platform Economy a New Face of Labour Exploitation?*
- WIEGO. 2022. *COVID-19 Crisis and the Informal Economy in Bangkok, Thailand: Lasting Impacts and an Agenda for Recovery*.
- World Bank. 2021. *Aging and the Labour Market in Thailand: Labour Markets and Social Policy in a Rapidly Transforming and Aging Thailand*. World Bank Group, Washington, D.C.

## ► Annex I. List of key informants

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With the exception of development partners, the following interviews were carried out by Kuanruthai Siripattanakosol (independent consultant) in February 2022.

### Government

1. Ministry of Labour
2. Department of Labour Protection and Welfare
3. Department of Employment
4. Social Security Office
5. Office of the National Economic and Social Development Council

### Social partners

1. Workers' representative: Foundation for Labour and Employment Promotion (HomeNet)
2. Labour lawyer at the Solidarity Centre
3. Independent labour lawyer

### Development partners

1. United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)
2. International Labour Organization (ILO)
3. International Organization for Migration (IOM)

## ► Annex II: Occupations of domestic workers

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The following table presents all occupations of domestic workers, based on ISCO-08.

### Domestic cleaners and helpers

5151 Cleaning and Housekeeping Supervisors in Offices, Hotels and Other Establishments

5152 Domestic Housekeepers

9111 Domestic Cleaners and Helpers

9112 Cleaners and Helpers in Offices, Hotels and Other Establishments

9121 Hand Launderers and Pressers

### Drivers

8321 Motorcycle Drivers

8322 Car, Taxi and Van Drivers

8332 Bus and Tram Drivers

### Cooks, security, gardeners, building maintenance

5120 Cooks

5414 Security Guards

6112 Tree and Shrub Crop Growers

6113 Gardeners; Horticultural and Nursery Growers

7127 Air Conditioning and Refrigeration Mechanics

7133 Building Structure Cleaners

7411 Building and Related Electrician

7544 Fumigators and Other Pest and Weed Controllers

9211 Crop Farm Labourers

9214 Garden and Horticultural Labourers

9215 Forestry Labourers

9412 Kitchen Helpers

**Direct care**

5311 Child Care Workers

5321 Health Care Assistants

5322 Home-based Personal Care Workers

**No answer / other**

3343 Administrative and Executive Secretaries

5162 Companions and Valets

8342 Earthmoving and Related Plant Operators

8350 Ships' Deck Crews and Related Workers

9321 Hand Packers

9329 Manufacturing Labourers Not Elsewhere Classified

9333 Freight Handlers

9613 Sweepers and Related Labourers

9622 Odd-job Persons

9623 Meter Readers and Vending-machine Collectors

9629 Elementary Workers Not Elsewhere Classified

## ► Annex III: Thai legislation applicable to domestic work

Legislation (alphabetical order)	Description
<p>พระราชบัญญัติคุ้มครองแรงงาน พ.ศ. ๒๕๔๑ (consolidated version) Labour Protection Act, B.E. 2541 [1998].</p>	<p>The LPA was firstly adopted in 1998 and there were seven amendments in 2008, 2010, 2017, and 2019.</p> <ul style="list-style-type: none"> <li>► 2019-04-04 (THA-2019-L-110794) Labour Protection Act (No. 7) B.E. 2562 (2019).</li> <li>► 2017-08-31 (THA-2017-L-107395) Labour Protection Act (No. 6), B.E. 2560 [2017]</li> <li>► 2017-01-23 (THA-2017-L-103608) Labour Protection Act (No. 5), B.E. 2560 [2017].</li> <li>► 2010-12-27 (THA-2010-L-89336) Labour Protection Act (No. 4), B.E. 2553 (2010).</li> <li>► 2008-02-15 (THA-2008-L-81030) Labour Protection Act (No. 2), B.E. 2551 (2008).</li> <li>► 2008-02-15 (THA-2008-L-81031) Labour Protection Act, (No. 3), B.E. 2551 (2008).</li> </ul> <p>In light of Section 4 and Section 22, there are currently 14 Ministerial Regulations issued under the LPA. The English translation is provided here.</p>
<p>พระราชบัญญัติความปลอดภัย อาชีวอนามัย และสภาพแวดล้อมในการทำงาน พ.ศ. ๒๕๕๔ Occupational Safety, Health and environment Act B.E. 2554 (2011).</p>	<p>The law was adopted in 2011. Prior to the adoption, OSH was in Chapter 8 of the LPA, of which all sections remain in force mutatis mutandis.</p> <p>It is noted that Ministerial Regulations concerning OSH, issued under the LPA remain in force mutatis mutandis.</p>
<p>พระราชบัญญัติเงินทดแทน พ.ศ. ๒๕๓๗ (Consolidated version) Workmen’s Compensation Act B.E. 2537 (1994).</p>	<p>The WCA was firstly adopted in 1994 and amended in 2018. Please note that the English translation of the amendment version is not available. Only the summary of the key changes is provided in English.</p> <p>The Secondary Law concerning domestic work. ประเภท ขนาดของกิจการ ที่้องที่ให้นายจ้างจ่ายเงินสมทบ อัตราเงินสมทบ อัตราเงินฝาก วิธีการประเมินและเรียกเก็บเงินสมทบ พ.ศ. 2562 (The Announcement of the Ministry of Labour and Social Welfare on types, size of enterprise required to contribute to WCF B.E 2562 (2019) (no English translation available).</p>
<p>พระราชบัญญัติแรงงานสัมพันธ์ พ.ศ. ๒๕๑๘ Labour Relations Act, B.E. 2518 (1975)</p>	<p>The law was adopted in 1975, and amended in 1991 and 2001</p>

Legislation (alphabetical order)	Description
<p>พระราชบัญญัติประกันสังคม พ.ศ. ๒๕๓๓ Social Security Act B.E. 2533 (1980).</p>	<p>The law was adopted in 1990 and amended in 1994, 1999, 2015. The English translation is not available for the amendment of 1999 and 2015.</p> <p>พระราชกฤษฎีกา กำหนดหลักเกณฑ์และอัตราการจ่ายเงินสมทบ ประเภทของประโยชน์ทดแทน ตลอดจนหลักเกณฑ์และเงื่อนไขแห่งสิทธิในการรับประโยชน์ทดแทนของบุคคลซึ่งสมัครเป็นผู้ประกันตน (ฉบับที่ ๓) พ.ศ. ๒๕๖๔ Royal Decree concerning the criteria and contribution rate, benefits for Section 40 (No.3) 2021.</p> <p>พระราชกฤษฎีกา กำหนดกิจการหรือลูกจ้างอื่นที่ไม่อยู่ในบังคับตามกฎหมายว่าด้วยการประกันสังคม พ.ศ. ๒๕๖๐ Royal Decree prescribing businesses or employees who are not covered by social security law B.E. 2560.</p>
<p>พระราชกำหนดการบริหารจัดการการทำงานคนต่างด้าว พ.ศ. ๒๕๖๐ (consolidated version)  ROYAL ORDINANCE Concerning the Management of Employment of Foreign Workers, B.E. 2560 (2017), 2018</p>	<p>The law was first enacted in 2017, and revised in 2018 as the most comprehensive law on labour migration.</p>



## ► Annex IV: Full list of LPA exclusions as per current Ministerial Regulation No. 14

Legislation (alphabetical order)	Section	MR14 revision	Summary of provision
1. General provisions	11/1		Regardless of whether an entrepreneur is the supervisor or pays wages, he is deemed as an employer of workers who are part of his business operation and must ensure they enjoy fair benefits and welfare in the same manner as employees under the employment contract.
	12		If an employer is a sub-contractor, he is jointly liable with the first contractor for payment of wages, overtime pay, holiday pay, holiday overtime pay, severance pay, contributions, supplementary contributions or additional money.
	18		Employers required to notify documents to the Director General.
	21		Employers are required to cover any expenses incurred in the implementation of the act.
	22		Home work (and others) may be regulated differently through Ministerial Regulations.
2. Employment of labour in general	23	yes	Eight hours working day and compensation for exceeding working hours. Employer must notify of start and end time of daily work.
	24		Consent for overtime.
	25		Employers cannot require work on a holiday unless the nature of the work requires it.
	26		Number of overtime hours permitted.
	27	yes	Rest period over a working day.
	31		Employers cannot require overtime work or work which may be hazardous to health and safety of employees on overtime or holiday.
	33		Employees are entitled to leave for sterilization.
	34	yes	Employees are entitled to leave for necessary business.
	35		Employees are entitled to leave for military service.

Legislation (alphabetical order)	Section	MR14 revision	Summary of provision
2. Employment of labour in general	36		Employees are entitled to leave for training.
	37		Employers cannot require lifting, pulling or pushing of loads in excess of prescribed weights.
3. Employment of women	38		Prohibition for female employees in certain work (e.g., mining).
	39		Prohibition to require female employees who are pregnant from work deemed hazardous.
	40		Labour inspector approval for female employees to work between 24.00 and 6.00 hours.
	41	yes	A female employee who is pregnant shall be entitled to maternity leave of 90 days for each pregnancy.
	42		Employers are required to change duties of pregnant employees if a physician certifies its necessary.
	43	yes	An employer shall not terminate the employment of a female employee on the grounds of her pregnancy.
4. Employment of young workers	48		Workers under 18 cannot work overtime or on holidays.
	49		workers under 18 cannot perform hazardous work.
	50		Workers under 18 cannot work in slaughterhouse, gambling places and other locations.
	52		Workers under 18 have the right to up to 30 days of paid leave per year for education or training purposes.
5. Wages	Overtime pay		
	53		Equal wages, overtime pay, holiday pay, and holiday overtime pay for male or female workers.
	54		Wages must be paid in Thai currency unless otherwise specified.
	55		Payments are made at the place of work.

Legislation (alphabetical order)	Section	MR14 revision	Summary of provision
5. Wages	70		Applicable only to parts not pertaining to wages and holiday pay.
	57/2		Up to 30 days paid sick leave per year.
	58		Up to 60 days paid military leave per year.
	59	yes	Up to 45 days paid maternity leave per year.
	60		Hourly wages must correspond to daily rate.
	61	yes	Minimum rate for overtime pay.
	63		Minimum rate for overtime holiday pay.
	65		Exceptions to overtime pay.
	66		Exceptions to Section 65.
	68		Calculation of overtime pay, holiday pay, and holiday pay for workers on monthly wages.
	69		Calculation of hours of overtime work.
	71		Compensation for travel during work on holiday.
	72		Compensation for travel during regular work.
	73		Employer liability for travel expenses.
	74		Higher rates of overtime pay, holiday pay, and holiday overtime pay.
	75		Minimum wage rate during forceful suspension of work.
	76	yes	Prohibition of deductions from wages with the exception of income tax, union fees, debts, compensations or contributions to provident fund but not in excess of ten per cent.
77	yes	Written consent is required for any deductions under section 76.	

Legislation (alphabetical order)	Section	MR14 revision	Summary of provision
6. Wage Committee	78-91	yes	Calculation of minimum wage and all other wage-related matters.
7. Welfare	92-99		All provisions related to the Labour Welfare Committee.
8. Supervision	108		Employers of over ten employees must provide work rules in Thai and keep copy at place of work.
	109		Lodgment of grievances.
	110		Amendment to work rules must be announced a week in advance.
	111		Continuation of 109.
	112		Employers of over ten employees must keep records of employees available for inspection.
	113		Contents of records.
	114		Employers of over ten employees must provide payment slips.
	115/1		Employers of over ten employees must submit yearly report on conditions of employment to Labour Inspector.
9. Suspension from work	116		No suspension from work or pay during investigation of alleged offence.
	117		If innocent after investigation, compensation for any days of unpaid suspension.
10. Severance Pay	118		Rules for calculation of severance pay.
	119		Exceptions to severance pay.
	120		Severance pay if employer relocates to place that affects employee.
	121		Termination due to automation must be notified to Labour Inspector 60 days in advance.
	122		Special Severance Pay.
11. Employees Welfare Fund	126-138		All provisions related to the Employee Welfare Fund which covers the risks of unemployment and death.



## **Policy review on social security for domestic workers in Thailand**

In contemporary society, care work at home is vital for the economy outside the household to function. Domestic work, nonetheless, is undervalued and poorly regulated, and many domestic workers remain overworked, underpaid, and unprotected. Notions of family and “non-productive” work divert attention from the existence of an employment relationship. This renders domestic workers vulnerable to unequal treatment and means they are usually excluded from employment-based social protection mechanisms. Thus, a crucial component of achieving decent work for domestic workers lies in the recognition that domestic workers are workers, whether they work in a family, are placed in a private household by an agency or are employed in a public or private institution.

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