LABOUR RIGHTS, CHILD RIGHTS AND GENDER JUSTICE FOR LAO WORKERS IN CHINESE BANANA PLANTATIONS IN BOKEO

A Research Study contributing to the Project entitled

Strengthening civil society to protect and promote social, economic and cultural rights of ethnic communities in Bokeo province

Funded by European Union (EU)

Stuart Ling and Mai Yer Xiong
Independent Consultants
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Labour rights, child rights, and gender justice for Lao workers in Chinese banana plantations in Bokeo

ACRONYMS

ADB Asian Development Bank
CAMKID Community Association for the Management of Knowledge In Development
CEDAW Convention on the Elimination of Discrimination Against Women
CRC Convention on the Rights of the Child
DAFO District Agriculture and Forestry Office
DPI Department of Planning and Investment
FAO Food and Agriculture Organisation
GDP Gross Domestic Product
HH Household
ICMHD International Centre for Migration, Health & Development
ILO International Labour Organisation
LSB Lao Statistics Bureau
LSWO Labour and Social Welfare Office
MHP Maeying Huamjai Phattana (Women Mobilising for Development)
NAFRI National Agriculture and Forestry Research Institute
NCAW National Committee for the Advancement of Women
PAFO Provincial Agriculture and Forestry Office
THB Thai Baht
TOR Terms of Reference
USD United States Dollar
VAW Violence Against Women
WB World Bank
EXECUTIVE SUMMARY

Background
In recent years, Chinese banana plantations have expanded to cover over 11,000 hectares in Bokeo, and they employ thousands of workers and their families, particularly from ethnic minorities. The realisation of labour rights, child rights and gender justice for these workers is challenging due to a rapid turnover of the workforce, weak law enforcement and traditional gender norms in ethnic communities. This is an area of particular concern to CAMKID, a local Non-Profit Association (NPA) based in Bokeo, and Plan International. This research gathered the perspectives of these workers through the use of a structured household questionnaire (60 households) and semi-structured interviews using local languages.

Key findings in accordance with the four research objectives

Objective 1: Extent to which labour rights are realized
Labour rights, as described in the Labour Law, are not fully realised. Firstly, the workers are sub-contracted on a household basis, rather than being individual employees, meaning that the Labour Law does not fully apply to them. In any case, there is evidence that some workers prefer the higher returns of piecework over a standard wage, and the companies have no difficulty in attracting workers. Secondly, those tending bananas are the poorest segment of society, meaning that they are largely illiterate and lack the capacity to negotiate for improved working conditions: this is particularly true for migrants, who come on only a short term basis and who lack both local knowledge and representation at a village level. Thirdly, the contracts require the use of dangerous chemicals, and most workers do not take sufficient steps to protect themselves adequately, leaving them vulnerable to poisoning. Finally, due to limited resources and conflicting priorities, government agencies are not capable of prioritising worker rights issues in a long term at present.

Objective 2: Impact of employment with respect to child rights and gender equity
Women, who represent a slight majority in those tending plantations fulltime, report that are working harder in the plantations compared to before: however, they feel satisfied because they are earning the money necessary to survive in a modern market economy. Pregnant and lactating women continued to work in many cases, just as they would also have done in their village. Worker testaments on child rights were varied, with bananas having both contributed to sending kids to school, and also contributed to kids leaving school. They have contributed to better nutrition for children, and worse nutrition.

There were cases found in which children are unable to claim their rights under the Convention on Child Rights (CRC). Firstly, children in the company supplied banana camps live in unsanitary conditions and often without access to clean water. Secondly, only about one third of children overall aged 6-10 were able to attend primary school, with the proportion much, much lower amongst migrant workers. Thirdly, some children under 18 were married, including some to Chinese supervisors. Finally, there was some child labour, particularly between the ages of 14 and 17, including instances of parents permitting children to undertake clearly hazardous work, such as spraying dangerous chemicals.
Objective 3: Future aspirations and areas of primary concern to workers
The majority of workers surveyed were satisfied, and prepared to put up with poor working/living conditions in the short term because it would eventually be worth the money they received. Several households more hoped their children would finish school and transition out of farming, but only one household reported that they planned to invest in a business or on their farms. For most however, it was simply a matter of earning to cater for their needs in a market economy.

Workers were concerned about aspects of both their living and working conditions. The lack of clean water and sanitation was a particular concern in some camps. Workers in their first season expressed greater unhappiness about their working conditions, particularly over working hours and the requirement to continue working in hot weather and when feeling sick.

Objective 4: Relevant stakeholders and their rights, responsibilities and relationships, in theory and in practice
Provincial and district government officials have not had the capability over the past few years to deal with the rapid expansion of bananas in Bokeo and the issues that it raises. Due to complicated ownership arrangements and speculation, the government was still unable to finalise a list of the companies and the areas planted at the time of this research. While a Committee of relevant agencies has been recently established to address the negative impacts of banana plantations, it is not possible to tackle all the issues at once. The practical implementation of the Labour Law is delegated to the district authorities, and especially the local police, who are responsible for registering plantation workers who migrate from other districts and provinces.

*Recommendations which are achievable within the Project timeframe and budget.*
1. **Use a flexible working approach for each camp to build awareness.**
   Each banana camp has differences in terms of ethnicity, migration status and facilities, which leads to different issues arising within each camp. A flexible approach is needed that uses group meetings to identify and discuss these issues, and then provide follow-up support to resolve them. Since regular visits are required it may be necessary to prioritise the camps to be targeted.

2. **Establish a helpline to provide support services in ethnic languages**
   Plantation workers, and migrants in particular, lack social services within their own language. A helpline in Hmong and Khmu language, needs to be established and advertised, which allows workers to call and ask questions about the issues that affect them in the plantations.

3. **Build working relationships with the plantation companies**
   Seeking solutions often involves the companies and government agencies. CAMKID should take a co-operating, rather than threatening position with companies, in order to seek solutions to those issues raised by farmers. Issues raised at the meetings (Recommendation 1) should be documented and feedback provided to the companies so that joint solutions can be sought.
4. Advocate for standardised contracts that reduce potential grievances and reduce hazardous child labour

Since Chinese contracts do not cover all the requirements as stated in the Labour Law, workers are vulnerable to not being able to access their labour rights, particularly in the event of a dispute. CAMKID should work with the relevant provincial agencies to review the current contracts for workers, initially within CAMKID’s target villages, with the aim of ensuring that they meet minimum standards according to the Law.

5. Consider the feasibility of providing mobile health and family planning services to migrant workers and their families

Since they are not attached to any village, migrant workers and their families do not have access to the mobile health services provided by the government (especially mother and child health, immunisations, family planning). Plan and CAMKID need to prioritise the most vulnerable camps, and identify how much it would cost to service these camps with mobile health services with the Department of Health.

6. Provide information to migrating parents about the local schooling options

The children of migrant workers rarely attend school, because of the need to look after younger siblings, the isolation of the camps and lack of transport, and an absence of proper documentation. Plan and CAMKID need to prioritise the most vulnerable camps with large numbers of children, and provide parents with information about sending their children to local schools and alternatives to early marriage.

7. Document cases in which Lao PDR does not meet its obligations under the Child Rights Convention (CRC)

During the research, evidence was gathered of instances in which Lao PDR does not meet its obligations under the CRC. These instances need to be detailed and documented into Lao language, so that they can be used by Plan in its advocacy work at the central government level.
1. CHAPTER 1: INTRODUCTION

1.1 Background to this research

The development of commercial crops in northern Lao PDR for the Chinese market has been encouraged by both the Lao and Chinese governments. China ‘Going Out’ policy to ensure its food security and develop trade links with its South-east Asian neighbours of the early 2000’s, has now been enhanced by the One Belt, One Road policy of the current premier Xi Jinping. For its part, Lao PDR has actively encouraged Chinese capital and technology, both as a counter to the influence of Thailand and Vietnam, and as a means to develop the isolated and ethnically diverse north of the country which borders China. As the Vientiane Times (2013) writes: “Deputy Prime Minister Somsavat Lengsavad has called for local authorities in nine northern provinces to develop commercial agriculture, with a view to exporting more produce to China.”

The construction of an all-weather road to China, accompanied by the rapid expansion of bananas in the north-western Lao province of Bokeo (Figure 1) typifies these policies in action.

![Figure 1: Bokeo province is situated adjacent to Myanmar and Thailand](image-url)

Over the past six years, bananas have expanded to cover 11,266 hectares in the province, with all planted on land which has been rented to them by local farmers. They are now worth $100 million in export value, and represent 95% of Bokeo’s total exports (KPL. 2016). Employment income, totalling US28 million/year, is generated for thousands of rural households, many of whom are from ethnic minorities (Ling 2015b:44). The importance of this income to rural livelihoods is reflected in the statistic that 97% of respondents Ling’s study reported that contract labouring in bananas represented either all or most of their total income.
household monthly income (p.63). These economic benefits, however, have brought with them negative impacts. These include workers being exposed to harmful agrochemicals without access to protective work equipment, and children, particularly those of migrants, staying out of school (MHPa, 2015; Vientiane Times, 2016).

The rights of women and children working in plantations are of particular concern to CAMKID, a local Non-Profit Association (NPA) based in Bokeo, and Plan International, which also has a program in Bokeo. Little is understood, however, about the perspectives of plantation workers and their families on their labour rights, priorities and future aspirations. With support from the European Union, Plan has partnered with CAMKID to implement a project entitled ‘Strengthening civil society to protect and promote social, economic and cultural rights of ethnic communities in Bokeo province.’ One of the actions of this project is to support families on plantations within CAMKID’s target villages by providing knowledge and understanding of their legal rights, gender equality, environmental health and risks of migration and protection from abuse and exploitation. This research will provide practical recommendations to clarify the focus for Plan and CAMKID’s work in banana plantations and identify a pathway towards aimed-for changes.

The Terms of Reference (TOR) for this research (Appendix 1) listed four objectives, as follows:

1. Assess the extent to which labour rights, as defined by the Lao Labour Law, are realized for male and female workers in 3 banana plantations.
2. Assess impact of employment with banana plantations on workers’ families, particularly women (including pregnant women) and children (in different stages of development—in early childhood, school age, and in adolescence), with respect to child rights, child protection and gender equality.
3. Explore workers and their families’ awareness, current practice and priorities, and future aspirations in relation to labour rights, child rights and gender justice, and identify areas of primary concern to them.
4. Identify relevant stakeholders with regard to the areas of primary concern identified above and analyze their rights, responsibilities and relationships as per the current policies and laws (including relevant provincial decrees or orders) as well as in practice.

1.2 Classification of plantation workers employed by Chinese companies

While the plantation management is Chinese¹, plantation labourers in Bokeo are Lao nationals. They may be classified into two different types, according to their job classification. The first type are fulltime labourers with contracts, either verbal or written, who are employed on a seasonal basis for between seven and ten months. They take responsibility for tending the plot from the young banana shoot until the fruit harvest, which includes such tasks as weeding, fertilising, applying insecticides and other chemicals, and performing other maintenance tasks under the direction of the Company supervisors.

¹ Including some ethnic Chinese with Lao citizenship
Typically, such labourers are a married couple (or worker-couple), who bring their children and/or other extended family, to work on plots of about 3 hectares in size\(^2\). It is important to note that these worker-couples are not paid wages, but rather receive a lump-sum payment based on the number of kilograms of bananas harvested at the end of the season on their particular plot (rather than being paid individually). To cover their subsistence needs over the season each worker-couple receives a fortnightly advance, which is then deducted from the lump-sum payment at the end of the harvest. The majority of contracted households are migrants, with 69% having migrating from other districts or provinces (Ling 2015b:47). All contract workers, regardless of their origin, must live in the basic camps provided by the Company, and which are scattered throughout the plantations close to the plots of each family. Each camp, which is also on rented land, is provided with electricity and water for washing and cooking and houses between six and twelve families of typically mixed ethnicity.

The second group are day labourers without contracts, who are paid daily to perform specific tasks which are not included in the standard contracts for fulltime workers, such as nursery work, planting, portage and washing/packing. Wherever possible, the Chinese companies pay piecework rates that provide an incentive to complete the work quickly. Porters, for example, are paid a fixed rate for each bunch, so that stronger workers (generally men) have a higher daily wage than weaker workers (generally women). They may be paid collectively (such as for washing or planting tasks), so that fast teamwork brings a higher income. Unlike contract labourers, most day labourers are sourced from the surrounding villages, and travel to the plantation on a daily basis, although there are some migrants attracted by the relatively high wages in Boke\(^3\). Ling (2014) reported that in contrast to the worker couples, day labour migrants were young and single, and only stayed for a short time.

The relative incomes of these two groups of workers provide a guide to their relative importance in the Chinese operations (Table 1).

Table 1: Relative income between day labourers and contract labourers.

<table>
<thead>
<tr>
<th>Labour Type</th>
<th>Proportion according to labour days worked (%)</th>
<th>Proportion according to income (%)</th>
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<tr>
<td>Day labourers</td>
<td>20</td>
<td>31</td>
</tr>
<tr>
<td>Contract labourers</td>
<td>80</td>
<td>69</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: PAFO (2014), Ling (2014)

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\(^2\) Plots may be greater than 3 hectares if additional labourers are bought by the worker-couple (commonly an unmarried younger sibling).

\(^3\) Demand for workers as a result of Chinese plantations have boosted local wage rates: a strong porter may earn up to 250,000 kip/day, which compares to the standard daily wage of 50,000 kip/day in other rural areas of Laos.
Table 1 suggests that those on a daily wage receive a higher proportion of total wages paid by the Chinese companies. This makes sense given the high numbers of porters (who earn higher than average wages, and the fact that contracted workers are prepared to trade a wage premium in return for the long term security of tending bananas on a fulltime basis.

1.3 Review of labour rights issues in Lao PDR

Legal framework
The main legal instrument for the management of labour in Lao PDR is the revised Labour Law of 2014 (No. 43/NA), which aims to manage labour so that the rights of employers and employees are protected, while at the same time safeguarding investment and socio-economic development (Article 1). The chief administrative body for the administration of the Labour Law is the Ministry of Labour and Social Welfare (Article 155).

Workers on the Chinese plantations would appear to fall under Section 107 of this Law, which enables employers to pay their employees either daily wages (corresponding to the day labourers) or according to the unit of production (contract labourers). This Section also states that “the level of daily wages or wages by unit of production in one month may not be lower than minimum wage.” The minimum wage in Lao PDR currently stands at 900,000 kip/month (Vientiane Times, 2015), which, for a 25 day working month (Lao PDR permits a six day working week under Article 51 of the Labour Law), equates to about 36,000 kip/day.

While the Labour Law assumes that workers are paid on an individual basis as employees, the Chinese companies engage entire households on a sub-contract basis based on the weight of the banana fruit. (Farquhar, 2012; Ling 2015b). The farming model used by the Chinese investors therefore has more in common with a contract farming agreement, rather than between an agreement between an employer and an employee. Similar arrangements are common throughout northern Lao PDR, whereby the Chinese will contribute the technical and capital inputs, in return for the farmer contributing his/her labour. This co-investment by the Chinese company enables poor farmers to access the market, but does require them to work at specific times for the company. There is no specific legislation in Lao PDR to cover contract farming agreements, but NAFES (2012:34) has issued guidelines to assist government offices to broker fair agreements between farmers and investors based on 17 existing laws (including the Labour Law).

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4 Article 3 of the Labour Law defines an employee as “a person working under the supervision of an employer while receiving compensation for work through salary or wages, including benefits as determined by law, regulations and the employment contract”. The workforce is defined as “persons aged fourteen years to sixty years who are able to work”, youth employees are defined as those aged between 12 and 18 years of age, and child labour is defined as being under 12 years of age. Sub-contractors are not defined in the Labour Law.

5 The Chinese model contrasts with other contract farming models in which inputs are provided on credit, sometimes at inflated prices, or with interest charged, which has resulted in many farmers getting into debt (NERI, 2014; Fullbrook 2014).
Compared to a wage labour agreement with regular wage payments, contract workers can’t leave voluntarily without making a considerable sacrifice, since they would then not receive a final payment once the bananas are harvested. The Labour Law allows for both written and verbal contracts (Article 77), but their labour rights are compromised further by the lack of a written contract which would clarify their roles and entitlements (Fullbrook, 2014), since most contracts for plantation workers are reported to be verbal (NERI, 2014).

Molina (2011) also observed that workers on coffee and rubber plantations in the south of Lao PDR also lacked work contracts, and writes (p. 30-31):

The absence of work contracts excludes workers from the protection of the Labour Law. Two key advantages of having a labour contract is that the agreement is recognised by the law so workers could have recourse to the protection of the labour code, and a contract would clarify the employer’s (the gang master and/or the plantation company) obligations to the worker. However, the vast majority of villagers in the target areas do not read or write so it may be equally important to bear in mind that if workers are expected to negotiate a written contract, they should also have access to the services of persons (preferably without interest, otherwise, declared interests) who can effectively communicate the contents of the contract, the workers’ requests, and alternate channels for dispute resolution.

Local officials interviewed by Ling (2014) claimed that even where written contracts exist between workers and the Chinese companies, it is difficult for them to intervene on the worker's behalf in accordance with Section VIII of the Labour Law on dispute resolution. This is firstly because the Department of Labour and Social Welfare delegates this task to the village authorities and/or field based district officials such as police (Ling, 2014), who lack experience in such matters. Secondly, contracts are signed only between the company and the contract worker, without an external government witness.

Use of agrochemicals on plantations
The Labour Law also makes provision for a safe working environment (Section VIII). The Ministry of Agriculture and Forestry (MAF) issued regulations in 2010 to control the use of agrochemicals, which included a list of pesticides which are officially banned for sale in Lao PDR (MAF, 2010). However, government officials acknowledge that these regulations have not been implemented, and that banned chemicals are widely used in plantations (RFA, 2016). In some instances, the Chinese importers are aware of the regulations in Lao PDR, but nonetheless deliberately try to deceive customs officers by importing mislabelled chemicals (NAFRI 2016).

Several studies have provided anecdotal evidence of Chinese chemicals on banana plantations impacting upon health of farmers (NAFRI, 2016; MHP, 2015a; NERI, 2014), but there is a lack of proper testing facilities which could provide definitive data. In Thailand, testing of 43 workers at a Chinese owned banana farm in Chiangrai province found that although 23 had levels of contamination at either ‘risky’ or ‘unsafe’ levels, it couldn’t be directly attributed to the bananas since workers may have also eaten unwashed vegetables.
Further, the effects of chemicals may take several years to appear – hence the Chinese banana companies reportedly prevent contracted worker-couples for working more than three seasons (RFA, 2016).

The Chinese companies vary on the level of agrochemical training provided to workers, with NERI (2014:11), reporting that only about half of workers had received information on the correct use of pesticides. Some companies do provide safety equipment (such as masks) to their workers, but both companies and government officials reported that the labourers don’t like to use it, since it is hot, uncomfortable, and hinders breathing (Ling, 2014). The practices used by the banana companies working in Lao PDR appear to be similar to that prevailing in China, with Farquhar (2012), noting that Chinese workers lack protective equipment and walked forwards into the chemical mist as they sprayed bananas left and right along the rows.

With such concerns, many development projects have been active in trying to change farmer behaviour. In Bokeo, two organisations, WHH and CAMKID, have undertaken awareness programs using both formal training sessions and theatre in ethnic languages (Malaichit, Phouangvilay, Veu and Lao, 2016; Inthavong, 2015). In both cases however, follow-up evaluations found that there had been little change in farmer behaviour: in the Hmong village of Nam Phet, farmers even reported that they took less precautions than previously, firstly since they didn’t directly witness any ill effects, and secondly because they had access to a herb that reputedly flushes chemicals from their bodies when smoked\(^6\) (Malaichit et al., 2016). As Bartlett (2016) points out, knowledge and awareness doesn’t necessarily influence farmers’ choices, and more research is needed to understand how farmers calculate their benefits and risks when using chemicals.

Migration as a risk factor

The majority of fulltime workers in the Chinese banana plantations in Bokeo are migrants from ethnic minorities (Ling 2015a:55). Such workers are at greater risk of exploitation, since unlike in their own villages, no-one represents them at a village level when they live in the middle of the plantation. Similar findings were pointed out by Molina (2011:31):

> Migrant workers and their families face the risk of both inferior working conditions and poor living conditions due in part to social exclusion from the host village and lack of clarity of the company’s responsibilities toward workers living in the plantation. Migrants are at risk of being cut-off from essential local services whilst living on company land.

She recommends (p.32) firstly that companies provide or facilitate access to essential social services for migrant workers, and secondly that migrant families who travel and live in camps in plantation sites be recognised as being part of the host village community.

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\(^6\) This herb is called ວົວນໍ່ຕົ້ວ in Hmong language, which translates into English as “eat and die.”
This will ensure that their rights (including labour rights) are considered and provided for in village development planning and in the management of the village’s natural resources and social and health related services.

Despite such risks, the continued ability of the Chinese companies to attract fulltime workers is testament to the desire of rural people for increased income opportunities, regardless of other social costs. In his study, Ling (2015b) points out the relationship between migration and rising inequality at village level, with rural people under pressure to purchase consumer goods so as to maintain their social standing relative to others in their community.

While voluntarily migrating to improve one’s living conditions is generally expressed in positive terms in the literature (McKay and Deshingkar 2014), forcible migration simply to survive is something else. Thongmanivong (2009) for example, points out that many farmers in Lao PDR have been unable to adapt to the market economy and have ended up losing their land, forcing them to become dependent on wage labour (p. 345). A new underclass of landless, unskilled households is emerging who are forced to labour in unreasonable working conditions because they have no other alternatives (Baird, 2011; Molina, 2011).

1.4 Review of child rights and gender justice issues in Lao PDR

Legal framework
Lao PDR is a signatory to the Convention on the Rights of the Child (CRC), which defines children as being under the age of 18 years. Within this convention, there are three areas which appear to be at risk as a result of children, and particularly migrant children, working in the plantations. These are:

Article 24: Children have the right to good quality health care, to clean water, nutritious food, and a clean environment, so that they will stay healthy.
Article 28: All children and young people have a right to a primary education, which should be free.
Article 32: The Government should protect children from work that is dangerous, or might harm their health or their education.

The Law on the Protection of the Rights and Interests of Children, No 04/PO, 2006 is intended to ensure that Lao PDR can meet its obligations under this Convention. However, the Labour Law, as noted above (Section 1.3) permits the employment of children over 12 years of age, although limitations are placed on the type of work they are allowed to undertake.

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) has also been ratified by Lao PDR, with the 2004 Law on Development and Protection of Women (No 70/PMO), being enacted to satisfy Lao’s requirements under this convention. While this Law has specific provisions that cover domestic violence against
women (Chapter 2). CARE International (2009) points out some shortcomings, such as excluding unmarried couples and non-partner relationships, and failing to specify marital rape in the context of sexual violence. A new law entitled ‘Law on Resistance and Prevention of Violence against Women and Children’ was passed by the National Assembly in December 2014.

Child rights issues
The majority of fulltime contract workers are poor families from ethnic minorities, who are living with their children in the banana company camps (Ling, 2015b). MHP (2015a) observed that many of the working women are pregnant or breast feeding their babies in unhygienic living conditions and where dangerous chemicals are used without proper safety equipment. Further, many children do not have the opportunity to attend school and some help their parents on the plantations. In Bokeo, Plan International reports that the main cause of school dropout in their target villages is due to the migration of their parents to banana camps (YY, by email, 1st July, 2016). Such conditions therefore create a particular set of risks for the rights of children.

The Labour Law permits the use of children for work as long as they are at least 12 years old (Article 101). However, children under the age of 12 must only be given light duties that will not impact upon the body or obstruct their education. It is also prohibited to use child labour in hazardous sectors (Article 102), which presumably includes the use of agrochemicals in the plantations.

In Lao PDR child labour is not unusual, especially in rural areas where children do not go to school and need to work to ensure the survival of the family. A joint study by the International Labour Organisation (ILO) and the Lao Statistics Bureau (LSB) found that about 15% of children in Lao PDR are participating in economic activities which can be classed as child labour, particularly in agriculture (ILO and LSB, 2012:76). Seventy five thousand of these (out of a total of 265,509) are under 14 years old, with girls outnumbering boys, and with many undertaking hazardous tasks such as lifting heavy loads (ILO and LSB, 2012:xvi).

In coffee and rubber plantations in southern Lao PDR, Molina (2011) observed cases of children working alongside their parents doing tasks such as filling bags with soil, digging holes, and weeding. No cases of children using chemicals were mentioned in her report, although chemicals were widely used for weed control. Crucially, Molina concludes that a complete ban on child labour in the plantations might be counterproductive (p. 31):

Children work for many reasons, and sometimes children are not brought along by parents even to work but so that parents can look after them. It is not necessarily in the better interests of a child if parents leave their children to look after themselves at home or to leave them with extended family.
She suggests that the greatest levers to improve child welfare would be the improvement of living conditions (especially hygiene, sanitation, and potable water)\(^7\), providing mobile health services such as immunisation and making schooling at the local school more available (p. 31).

The link between ethnicity and vulnerability to poor nutrition has been established by the World Food Program in Lao PDR (WFP, 2013). Proper nutrition of children on banana plantations may be compromised by the unavailability of safe natural foods within the plantations (such as fish, mushrooms, vegetables), and by the distance to fresh markets for families without transport. With strict working hours imposed by the Chinese, it may also be that women are time poor when it comes to cooking (Ling, 2015a). Since men haven’t caught up yet to the changing gender roles needed in this new economy, women still end up taking most responsibility for the nutrition of infants and children (Daley, Osoria and Mi Yang Park, 2013).

**Gender Issues**

In their Country Gender Assessment for Lao PDR, the Asian Development Bank (ADB) and the World Bank (WB) reiterated the underlying discrimination against women in terms of wages, workloads, decision-making and access to education in many ethnic households (ADB and WB, 2012). Such discriminatory practices against women at household and village level are likely to be carried over into the banana plantations.

Their report notes that female workers in Lao PDR are paid less than male workers, which is partly due to their increased numbers in temporary and seasonal work. The 2014 Labour Law does not permit pregnant women and those caring for newborns to undertake work that involves carrying loads of more than 10kg or hazardous tasks such as spraying chemicals (Article 97). However, as sub-contractors, rather than employees, the Chinese companies leave the decision for such women to work or not within the family unit. For many households, gender norms mean it is simply not possible for pregnant or lactating women to seek special privileges, since without access to birth control, women are pregnant or lactating throughout their reproductive years. Lindeborg (2012:17), quoting Symonds (2004), describes Hmong women as continuing “to perform their daily duties in pregnancy, since it is seen as a normal physical condition and therefore they are assisted merely with heavy lifting or extensive labour.”

Daley et al. (2013) included a case study of a British operated banana plantation in Savannakhet (which has now ceased operations) as part of their research on the impact upon women of agricultural investments in Lao PDR. Their research found that the banana company was well regarded by local women, since they paid good wages. Regardless, their study found that the introduction of commercial agriculture has changed the role of women:

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\(^7\)Presumably this would be done by the plantation companies, but this is not specified in Molina’s report.
Pressures on women’s time because of their heavy domestic burdens, as well as greater cash income poverty among the minority of female headed households, combine to make it less likely that land-related agricultural investments will be of as much benefit to rural women as to rural men. For example, many investments seem to have increased women’s workloads regardless of whether they have benefited them in terms of cash income and food security (2013, p. 48).

This quotation raises an anomaly, which is why women would still choose to work without additional benefit. Daley et al. state that the extra labour for women is due to cassava and tobacco, which presumably brings cash income (p. 32-33). However, it was also noted that cash crops have led to a decline in the availability of traditional food sources, has in turn forced the household (both men and women) to work harder simply to maintain their standard of living (p. 31).

According to the National Commission for the Advancement of Women, or NCAW (2015:132), Violence against Women (VAW) in Lao PDR is culturally tolerated and enforces gender hierarchy, patriarchy and women’s subordination. A distinctive feature of gender attitudes in terms of physical partner violence is that nearly half of women agreed that a husband could hit a wife if she was unfaithful, regardless of differences in age and regions (p. 132). As is the case with other gender norms, domestic violence is likely to be an underlying problem in banana plantations, just as it is in the home village8. The difference with the home village, however, comes with the lack of a support network of friends and relatives, to whom these issues can be discussed, and the lack of a village mediation mechanism, which might be able to sanction offenders: this may make women “emotionally, socially, psychologically, and financially more reliant on their partners” (ICMHD, 2016: webpage). Without such mechanisms to constrain social behaviour, husbands may take greater liberties with domestic violence in plantations. ICMHD (2016), states:

In addition to the usual reasons men abuse women, it is fairly acknowledged that migration is a stressful process for migrants and it heightens the risk of women to experience domestic violence. In many cases, men in migrant communities mistreat their partners or spouses as a way to regain control and power in their lives, particularly when their migrant status has deprived them of this social standing.

Despite these concerns, there is a lack of research in Lao PDR on the relationship between domestic violence and labour migration: both Molina (2011), and NCAW (2015) did not address these issues in their research.

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8 At least two organisations working in Bokeo report that in some villages, up to 50% of men are addicted to amphetamines, with implications for health, poverty and domestic violence within their families. NCAW (2015:63) supports this view, stating:

In urban settings other drugs, such as “yaa baa” (methamphetamine), may trigger violence in families according to key informants and focus groups. Drug addiction and the constant need to fund such a habit led to stealing from the family and interactions with a drug addicts could result in violent arguments. Serious and life-threatening violence, in general, was associated with methamphetamine users
1.5 Research Questions

In line with the objectives defined above (Section 1.1), and building on the existing research on these issues in Lao PDR (Sections 1.3 and 1.4), the research will specifically address the following questions:

1. Who are plantation workers and their families? What is the demographic outlook of the population in the 3 target banana camps, by ethnicity, gender, age, marital status, family size, land ownership, oral Lao communication skills, education and economic status? What are the pattern of settlement and migration in and out of the banana camps?

2. What does the Lao Labour Law say about rights of workers? To what extent are those labour rights realized in practice for workers with or without contracts, and how? Which rights are not realized, and why so? Is there any disparity in realization of labour rights for male and female workers of different ethnic/social/age groups, and why so? Is there any positive discrimination to proactively protect and promote rights of women, including pregnant or lactating women, and other vulnerable groups?

3. What is the current practice of use of agro-chemicals in banana plantations? Is it employers, workers or land owners who make a decision as to use of agro-chemicals? What are their incentives to use agro-chemicals? To what extent are they all aware of negative health and environmental impact especially for women and children, in the short and long run?

4. What are the gender division of labour in banana plantations and at home? What are the types of work men and women do at work and at home? Are men and women’s work equally recognized by families and by employers? Does the division of labour expose male or female workers to negative impacts or risks of chemical use, exploitation or drug or substance abuse? Is the workload equitably shared between male and female workers? Do women have more or less say in household decision making, and why so?

5. To what extent are 4 areas of child rights (survival, participation, protection and development) realized in practice for boys and girls in different ethnic/social/age groups in banana camps, and how? Which child rights are not realized, for whom, and why so? How widespread is the practice of child labour among boys and girls, and what are the causes? What are the roles and responsibilities of parents and employers in preventing child labour?

6. Has workers’ relocation to banana camps had positive or negative impact on their children and families’ health, education, protection from drug and substance abuse, trafficking, violence against women & children, and livelihoods? Are the families better off as a result of employment in banana plantations? What did the families gain or lose by migrating to banana camps?

7. What do male and female workers know about their rights? Where, and how, did they gain rights awareness? Any significant disparity in rights awareness across male and female workers of different ethnic/social/age groups? Why so?
8. What hope do male and female workers have for their families, particularly children’s future? How do male and female workers and their families perceive benefits, costs, and risks of migration to banana plantations? How did the families weigh different factors and come to a decision to migrate to/stay on banana plantations?

9. How do workers resolve any issues or grievances with employers? What are the level of solidarity and collaboration among workers from different ethnic groups? Are there any existing workers’ groups? If so, how do they function?

10. What do the Labour Law say about the duties of employers? What do employers do or not do to protect their rights? Why so? What practical mechanisms exist for the Lao government to influence employers’ incentives and regulate employers?

11. Which government offices at the local and national levels have a role in enforcing the Labour Law, child rights and gender justice for workers and families in banana plantations? To what extent do these offices fulfil their roles? What are their constraints?

12. What are the interest of different stakeholders in banana plantations? Any conflicts among them? Are there any civil society networks addressing issues of concern to workers?

1.6 Structure of this report

The remainder of this report is organised as follows. Chapter 2 describes the methodologies used in detail, and justifies their choice. Chapter 3 presents the results and discusses their implications, with conclusions in Chapter 4. Chapter 5 provides practical recommendations to Plan and CAMKID which will enable them to develop an impact pathway for positive change for plantation households.

References, the TOR, copies of questionnaires and the research schedule are given in the Appendices.
CHAPTER 2. METHODOLOGY

2.1 Guiding assumptions

Answering the 12 research questions (Section 1.2) required the collection of both qualitative and quantitative data. Many questions required a nuanced response, such as:

- How did the families weigh different factors and come to a decision to migrate to/stay on banana plantations?
- How do male and female workers and their families perceive benefits, costs, and risks of migration to banana plantations?
- How have relationships between men and women changed since you have started work in the plantations?
- What hope do male and female workers have for their families, particularly children’s future?

This approach can be described as using multiple methods. The use of both quantitative and qualitative data (termed multiple methods), has been described by Cooksey and McDonald (2011: 199) as becoming an increasingly desirable feature of research, to “improve the chances of converging on a convincing research story”.

2.2 Researcher positioning

The background of the lead researchers (the authors of this report) was also influential in choosing the methodology. Mr Stuart Ling has spent the last 16 years in Bokeo, and has observed the rise of the banana plantations over the past few years. He recently completed a dissertation on the use of remittances by migrants to the Bokeo banana plantations, which included the use of a questionnaire. Ms Mai Yer Xiong is ethnic Hmong, and has a background in qualitative research in her position with the National University of Lao PDR. The positioning of the research team is advantaged through the use of ethnic languages to ensure that data is collected and analysed with due regard for different cultural perspectives as described by Ghauri and Grønhaug (2010).

2.3 Research Design

Definition of the target group
The lead researchers made a decision at the outset to focus this research was on contract workers, rather than day workers. Apart from the need to balance time constraints, this decision may be justified by the fact that it is fulltime contract workers who, by bringing their families to live within the plantations, face a greater risk of chemical exposure, isolation, lack of schooling opportunities and financial loss. This contrasts to day labourers who largely remain within their home villages, can send their children to school, can choose the tasks they wish to perform and are paid a reasonable wage by Lao standards. Of the two groups therefore, it is fulltime contract workers and their families who are most at risk of not realising their work, child and gender rights. Further, CAMKID will have the opportunity
to target day labourers under other components of this Project, including an awareness program in 22 local villages which are known to supply day labourers.

In terms of location, the three plantation zones (or ‘kumban’ in Lao language) to be targeted by the Project had already been defined in the Project document, with all being located close to the CAMKID offices in Houayxay Noy village⁹. The aerially surveyed area of plantations in each of these three zones (Dan, Houayxay Noy and Nam Tin), and a corresponding estimate of the plantation area, number of households tending bananas is given in Table 3. The actual number of camps is unknown, but is possibly over 40. The potential sampling frame for the household questionnaire, were all available and willing to be interviewed, is 416 households (Table 2). Of these, about 60% of the households would be expected to be of Hmong ethnicity, and 69% migrants (Ling 2015:96).

Table 2: Area of plantation surveyed and its estimated number of households contracted to tending bananas.

<table>
<thead>
<tr>
<th>Zone (kumban)</th>
<th>Origin village of plantation</th>
<th>Areas (hectares)</th>
<th>Estimated number of households tending bananas fulltime (at 3.29 HH/ha.)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan</td>
<td>Dan</td>
<td>814</td>
<td>247</td>
</tr>
<tr>
<td>Houayxay Noy</td>
<td>Houayxay Noy/Donesavanh/Nam Phuk</td>
<td>236</td>
<td>72</td>
</tr>
<tr>
<td>Nam Tin</td>
<td>Nam Samok/Phouvanh Tai</td>
<td>320</td>
<td>97</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>1,370</strong></td>
<td><strong>416</strong></td>
</tr>
</tbody>
</table>

*Source: Area is based on an aerial survey by the Gibbon Experience (2015); Number of households is based on the area tended by average household (Ling, 2015b:44).*

Five key stakeholders related to the research topic were identified. Of these, three represent policy makers at provincial level (Agriculture and Forestry, Labour and Social Welfare, and the Government Inspection Office), one is a policy implementer at district level (Houayxay Noy police station), and one represents a Chinese company working in the Dan zone (Singtaly). All those eventually interviewed were male: a summary is given in Appendix 4.

Selection of the Research team
The research team comprised four CAMKID staff, and seven provincial government counterparts, which had been allocated prior to the start of data collection (Table 3).

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⁹ Houayxay Noy is located about 25 km south of the Bokeo provincial capital of Houayxay.
While the CAMKID team had some experience working with local people, the government counterparts were mostly young and lacked research experience. This inconsistency in interview style and level of experience has influenced the reliability of the final results.

Further, it was requested by the government counterparts to work only in the daytime, as most had young families and needed to return to the provincial capital. Interviewing in the daytime (when plantation workers are obliged to work) did not permit the research team to organise small focus group discussions, when more workers may have been available.

Survey instruments
Quantitative data
Quantitative data was collected from worker households using a structured questionnaire, which would be easy to implement for inexperienced researchers (government counterparts), and which would provide standardised data in a format which could be statistically analysed.

Given the number of research questions (Section 1.5), the household questionnaire was divided into two streams to ensure that each interview would not take too long. One stream focussed on labour rights, while the other focussed on child rights and gender equality. The English translation of the questionnaire is given in Appendix 3. In the questionnaire, children were defined as those under the age of 18, which is consistent with the 2006 Law on the Protection of the Rights and Interests of Children.

A figure of 60 completed questionnaires was specified (30 for each of the two streams) because it is the minimum number which will both likely result in the normal distribution needed for basic statistical analysis (Saunders et al., 2012), and be achievable given the constraints of time and human resources. In order to capture the voices of the various ethnic minorities, and ensure that migrants were represented, purposive sampling, rather than random sampling, was used to select the 60 households for interview. Purposive sampling is “a non-probability sampling procedure in which the judgement of the researcher is used to select the cases that make up the sample” (Saunders, Lewis and Thornhill, 2012, 287). Again in an attempt to achieve normal distribution (given that the research questions call for disaggregated data on ethnicity and migration status), it was also intended at the outset that the 60 interviews should cover about half Hmong and half other ethnicities, and about half migrants and half non-migrant.

### Table 3: Gender and ethnic balance of the research team

<table>
<thead>
<tr>
<th>Organisation</th>
<th>No. of males</th>
<th>No. of males</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ethnic</td>
<td>Non-ethnic</td>
</tr>
<tr>
<td>CAMKID</td>
<td>3 (2 Hmong, 1 Khmu)</td>
<td>1 (Khmu)</td>
</tr>
<tr>
<td>Provincial Government</td>
<td>1 (Khmu)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4</strong></td>
<td><strong>3</strong></td>
</tr>
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<td>1 (Khmu)</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>4</strong></td>
<td><strong>3</strong></td>
</tr>
</tbody>
</table>
A key limitation of the household questionnaire is that the low number of samples (60 households) within the potential sampling frame of 416 (Table 3) leads to a relatively high margin of error of 12% at the 95% confidence level (Survey Monkey, 2016). This means that while the results from this research are useful to identify trends and can complement the information obtained with the qualitative data, they cannot be said to be statistically significant, and external validity is weak.

To ensure the best possible understanding between the interviewer and the interviewee, it was intended to interview in the ethnic language of the interviewee as far as possible. The CAMKID interviewers and government counterparts were divided into two teams based on their language skills, with one team targeting Hmong (who make up the majority of households in the plantations) and the other targeting Khmu, Iu Mien and Lao.

**Qualitative data**

Qualitative data was collected from two groups, being households living in the camps and key stakeholders. Semi-structured interviews were chosen as the preferred tool by the lead researchers, and were focussed on those research questions that required a nuanced response (Section 2.1).

There was no quota placed on the number of household interviews to be undertaken – only that a range of voices, and particularly women’s and children’s voices, could be heard: this sampling technique may also be classified as purposive sampling as described above. Those who had already participated in the household survey were excluded from the qualitative survey.

All interviews with plantation workers were held in the banana camps within a common space. One limitation of this approach was that this arrangement was not conducive to creating a safe space for women to fully express their opinions on sensitive issues such as domestic violence. Interviews with the key stakeholders (government and company) were held at their offices.

None of the semi-structured interviews (household or stakeholders) were digitally recorded – the information provided was written down on prepared sheets and/or recorded in notebooks.

**Training, ethical procedures and pilot testing**

The CAMKID team were trained in the use of the questionnaire and its associated ethical procedures in a half day session. It was emphasised to the interviewers that participation was entirely voluntary, and that those interviewed could withdraw at any stage. By agreeing to answer the questionnaire or other questions, all those interviewed are considered to have given consent.
The draft questionnaire was pilot tested on four families, and revised based on the feedback received. After improvement, each took between 30 and 40 minutes to administer. The pilot test data was discarded. At the suggestion of government counterparts, who arrived prior to the fieldwork proper, all references in the questionnaire concerning the use of illegal drugs were removed. The final form used for the household questionnaire is given in Appendix 3.

The seven government counterparts who arrived on the first day of data collection, were also given a briefing in the use of the questionnaire and its ethnical procedures.

2.4 Sampling procedures

Location of sampled areas
The location of the villages in which plantation camps were surveyed (within the three plantation zones – Table 1), relative to the provincial capital of Houayxay and the CAMKID office in Houayxay Noy is shown in Figure 2.

Figure 2: Location of villages in which plantation camps were surveyed (yellow pins)
Sampling for quantitative data collection

The number of households actually sampled using the questionnaire, for each of the three zones, is shown in Table 4.

**Table 4: Location of samples for the quantitative survey**

<table>
<thead>
<tr>
<th>Zone (kumban)</th>
<th>Estimated No. of households tending bananas fulltime (at 3.29 HH/ha.)</th>
<th>Total number within the sampled camps</th>
<th>Households sampled (questionnaire)</th>
<th>Percentage sampled of total households</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dan</td>
<td>247</td>
<td>94</td>
<td>32</td>
<td>13</td>
</tr>
<tr>
<td>Houayxay Noy</td>
<td>72</td>
<td>13</td>
<td>7</td>
<td>10</td>
</tr>
<tr>
<td>Nam Thin</td>
<td>97</td>
<td>44</td>
<td>21</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>416</strong></td>
<td><strong>151</strong></td>
<td><strong>60</strong></td>
<td><strong>14</strong></td>
</tr>
</tbody>
</table>

The required sample number (with due regard for the zone representation, migration status, ethnicity and gender targets) required visits to 16 camps. A complete list of camps visited and numbers interviewed is given in Appendix 4. A breakdown of the 60 interviews by ethnicity and migration, is given in Figure 3.

![Figure 3: Breakdown of the household survey by ethnicity and migration status (N=60)](image)

In summary, 47% of those sampled were Hmong, 35% were Khmu, and 52% were migrants. The same data, broken down by ethnicity and the gender of those interviewed, is given in Figure 4.
Figure 4: Breakdown of the household survey by ethnicity and gender interviewed (N=59)

Figure 4 is notable for the fact that while there was an overall gender balance between those interviewed in the household survey, Hmong women were underrepresented.

**Sampling for qualitative data collection**

The ethnic, gender and migration status of those who participated in the semi-structured interviews in the camps is shown in Figure 5.

Figure 5: Breakdown of the semi-structured interview by ethnic, gender and migration status (N=15)
Figure 5 shows that seven of the fifteen interviews were female migrants of Hmong ethnicity, which somewhat makes up for their lack of voice in the quantitative survey. Two of those interviewed were children, with one 17 year old Hmong boy (who migrated alone from Houaphan), and one 12 year old girl who migrated with her parents from Oudomxay. Further details on the semi-structured interviews are also given in Appendix 4.

2.5 Data Analysis

The household survey data was entered into a prepared Excel spreadsheet, and then checked by a second person for completeness and accuracy. Simple descriptive statistics such as counts and means were obtained and plotted (often in percentage terms) using the Excel software. Qualitative responses were collated, and useful quotes from the interviewees have been incorporated into Section 3.

The semi-structured interview notes were collated and drawn up as a series of case studies, which were used to illustrate the responses to the research questions (Section 3).

2.6 Feedback process and refinement of conclusions and recommendations.

There were two opportunities within the research process for the lead researchers to obtain feedback and refine the conclusions and recommendations. The first of these was at an internal workshop on the 24th of May, at which the lead researchers presented the preliminary results and jointly drew recommendations on strategies and approaches with representatives of Plan and CAMKID.

The second was a consultations workshop held on 27th of May to present the results of the internal workshop to external stakeholders. The meeting was chaired by the Department of Interior, Bokeo Province, and attended by 42 participants (12 women) representing provincial and district authorities, and five other Non Profit Associations.
CHAPTER 3. RESULTS AND DISCUSSION

3.1 Demography of plantation workers living in camps

The ethnicity and migration status of the sixty contracted households interviewed with the structured questionnaire was presented in Figure 3. Because purposive sampling was used to select those interviewed rather than random sampling, a better estimation of the ethnicity of fulltime plantation workers in Bokeo is that previously obtained by Ling (2015b): this study found that 96% of fulltime workers were ethnic minorities (with the majority ethnic Hmong), and that 69% were migrants from other districts or provinces (p. 47).

For the 60 households surveyed in this study, the average household size was 3.9, with Hmong having an average of 4.6 members per household compared to 3.1 for the Khmu. (Figure 5). At 2.03 persons/household, women represented 52% of those living in the camps, a percentage which was slightly boosted by the four female headed households within the sample (one from each of the four ethnic groups).

The higher household size obtained in this study for Hmong households may not just be due to larger family sizes in general, but also because the authors (who include a Hmong woman) consider that it is more difficult in Hmong society to leave children in the home village with relatives compared to the other ethnic groups in the survey. Firstly parents and children have a close nuclear relationship and find it difficult to separate from each other, secondly there is a reluctance to send children to live with relatives when everyone in the village has large families to feed with limited resources, and thirdly because the parents themselves believe that their children will be better off in the plantations where there is a regular income to buy food, rather than being in the home village where food may be scarce.
There were 108 children under the age of 18 (or an average of 1.8 per household), with exactly half of these (54 children) aged under 6 (Figure 6a).

Figure 6b: Age of children by ethnicity (N=60)

Figure 6b illustrates that a significant proportion of children (57%) are sent out of the plantations (and presumably to school) once they reach school age. Although not statistically significant (due to the small sample size) this trend appears more marked in Khmu households (dropping from 13 to 3, or about 77%) compared to Hmong households (dropping from 35 to 17, or 49%): this result could be due to the cultural norms that retain children within the nuclear household as described above, or simply reflect the existing low school participation rate for Hmong in rural areas.

3.2 Realisation of labour rights under the Lao laws

As noted in the literature review, the Lao Labour Law (2014) is designed to protect the rights of Lao workers by setting minimum working standards and defining grievance mechanisms. As pointed out in Section 1.3, however, its application to those tending plantations is not clearly defined however since they are regarded as sub-contractors rather than employees. This ambiguity was confirmed during an interview with the Singtaly Company Representative on 8/5/2016, who stated: “The labour conditions for those tending bananas are the same as in China. We don’t take responsibility for how the work is organised between husband and wife.”

Labour rights may be compromised by the ease with which Chinese companies can obtain sufficient labour for the plantations. Due to high demand, some villages have a roster so that the day labour opportunities are shared amongst each family. As noted by Ling (2015b), social networks, particularly amongst the Hmong community are very efficient at ensuring that there is a steady stream of families coming to tend the
plantations fulltime. The research team met several families who were staying in the camps while waiting for a plot to be allocated. A 17 year old Hmong boy who migrated from Houaphan as a day labourer (interviewed on 9/5/2016) reported:

I came to work here in Bokeo because I heard the money was good. I can make 200,000 kip/day for carrying bananas, 80,000 kip/day for spraying chemicals and 500THB for washing bananas. The only problem is that I work only about 4 days/week, because there are too many people seeking work.

These figures are clearly higher than the minimum wage, which, as pointed out in Section 1.3, averages only 36,000 kip/day.

Both men and women undertook day labour, with women being reportedly preferred by the banana companies for work that requires patience, such as in the nursery and for washing bananas. Daily wages were the same for men and women, except for carrying bananas, where the piecework system based on fruit weight meant that men earned more than women: often, two women worked together to carry the 25kg bunches from the field to the wash station, while men were able to do this task by themselves.

Figure 7 shows how satisfied contract workers were with their conditions of employment, based on a scale of unsatisfied, fairly satisfied or highly satisfied.

![Figure 7: Level of satisfaction with working conditions for contract labourers (N=29)](image)

In general, people were more satisfied with their working conditions (such as payments, work hours, leave) than their living conditions (accommodation, clean water and hygiene).
The experiences of two households, which represent the response received, are given in Box 1.

**BOX 1: WORKING AND LIVING CONDITIONS IN THE BANANA PLANTATIONS**

1. Hmong male, 29 years old, contract labourer, migrated from Beng district, Oudomxay

   The Chinese staff are always arguing with those tending bananas. The Chinese are too strict. When the sun is hot we still can’t take a rest, and when we are sick they don’t care and don’t help to buy medicine. If we need to go to hospital they will let us borrow money, but then cut the cost off our final payments. If the bananas die they also cut off from our final payment (Interviewed 6/5/2015).

2. Hmong female, about 50 years old, contract labourer, migrated from Sam Neua district, Houaphan

   We came here because we had some relatives already working here. But life here isn’t as we imagined. Our camp accommodation is dirty, and we don’t have clean drinking water because the drinking water company doesn’t come to our camp. Water for our daily needs comes from the creek, which is polluted, and there are no toilets. There are no natural vegetables to eat, and since we are far from the market it is hard for us to find food. We will just stay here for one season and then go home. (Interviewed 7/5/2016).

Like the first respondent in Box 1, being forced to work by the Chinese was a common complaint, even though their contracts had defined working hours and also stated that they had to follow the instructions of their Chinese supervisors. As noted in Section 1.3, the Chinese companies have invested their own capital in the plantations, and need to ensure that workers tend the bananas in a conscientious manner so that this investment is repaid. Some workers reported that it was hard to get used to the discipline of daily work after having only experienced the freedom of working on their own farms. These sentiments echo the findings of Daley et al. (2013:41) at a banana plantation in southern Lao PDR (in which all workers were classed as employees and paid daily wages, rather than as subcontractors):

Although local women and men wanted jobs on the plantation, the company had to overcome initial difficulties as it had not only to train its workers in growing bananas, but also in being formally employed as plantation workers – meaning that they had to come to work on time, work for a certain number of hours and leave at a certain time. This was because there was no culture of this kind of work in the villages nearby the plantations, as most people had never had any kind of regular formal employment before.
Delang (2002) goes so far as to suggest that in Hmong society there is a stigma attached to working for others, but it is more likely that this applies to rural Hmong who lack experience with labour markets (Ian Baird, by email, 11/04/2016).

In accordance with the Labour Law, 90% of contract workers actually had a contract, a proportion which is higher than that reported by NERI (2014): this suggests that the government has been successful in promoting the use of contracts over the past couple of years. While the basic provisions within the contract were similar for each company (such as piecework rate, obligation to work during daylight hours, fortnightly allowance), they varied in the level of detail. There was also some variation in the management styles of the Chinese supervisors: while some were reported to be very strict, others gave workers more flexibility to manage their plots. Contracts were bilateral, signed between the company and the workers, and there were no examples found of a contract which had been witnessed by a Third Party. In some cases, the contracts included a photocopy of the seal of the local village head, in an attempt to make it more convincing to workers who are used to all decisions being taken with the authority of the government (Figure 8). It should be noted however, that the seal of the village head doesn’t provide official recognition of a banana camp as part of their village, and that it is not necessary for the camp workers to register with the local village head: only migrant workers (those from another district or province) need to register their presence with the police.

Figure 8: Examples of contracts.

The contract on the left in Figure 8 is signed only between the two parties, while that on the right has a stamp from a village head in Tonpheung district (even though the bananas are located in Houayxay district). A government official (interviewed on 11/5/2016), reported that in the case of Dan village, the village head was also an agent for the Singthaly banana
company (receiving a bonus for area converted to bananas): this is a conflict of interest and may compromise the right of workers to achieve justice in the event of a dispute.

Also noteworthy about Figure 8 is that the contract is signed only by one member of the household (presumably the male), even though the whole household (including the women and children) participate in the labour.

Figure 9 shows how those surveyed perceived their contracts for tending bananas.

![Figure 9: Household perceptions of their contracts (N=29)](image)

Most respondents (both male and female) claimed they understood their contracts, stating that it had been explained to them prior to beginning work. However, while 90% knew how much they should receive at the end of the season (price/kg), only a small proportion were aware of how they should be compensated if a storm were to damage their bananas. Storm damage is not uncommon in the plantations, especially during the windy months leading up to the start of the wet season. According to the Singtaly company representative, compensation is only paid in the event that bananas are ripe and ready to be harvested: if not, then the family just receives their monthly allowance, the company loses its capital inputs and so both parties miss out.

Government officials and plantation workers mentioned two key areas in which disputes had often occurred over the past few years. The first of these is related to storm damage and its definition, and one contract sighted by the research team failed to mention storm damage at all. A second area concerns banana standards, as there are no clear specifications regarding the size of the fruit, leading to some bananas being rejected. Examples of disputes related to grievances on these issues are presented in Box 2.

Section VIII of the Labour Law defines how workers should resolve grievances, but its application is difficult in banana plantations because there is no form of worker
organisation to negotiate under its provisions. When asked what they should do about their substandard living conditions (such as accommodation and water supply), many workers replied that they could just be patient since their contracts would soon be over (one season lasts between seven to ten months, and extending workers tend to change companies in search of a better deal). There were no specific dispute mechanisms incorporated into any of the contracts sighted during the research: the only mention made was that of a company working in Houayxay Noy\textsuperscript{10} stating that workers had the right to seek arbitration from the relevant agencies if the company did not follow the agreed contract. In any case, organizing contract workers is challenging, since the average time spent by each family in this study was found to be 2.05 seasons, or little over one year. The Singtaly company reported that in 2015 (at the urging of the government), they had attempted to establish labour units on a camp by camp basis, with one objective being to improve camp sanitation. However, this had not been accepted by workers since it would have meant choosing a camp leader, thereby undermining individual freedoms.

To test how they would resolve grievances if they were to occur, contract workers were asked what they would do if the company did not pay them correctly at the season (Figure 10).

Most respondents reported that they would visit the local police. Local police (interviewed on 10/5/16) reported that they are occasionally called upon (several times/year) to resolve issues between banana companies and the workers. This is consistent with the findings of Ling (2015b) who noted that although the official channel for dispute resolution is with the Department of Labour and Social Welfare, this task is delegated to local authorities.

\textsuperscript{10}Bizarrely, the name and address of the company was not stated on the contract which had been signed by both sides.
for practical and budgetary reasons (Section 1.3). Police stated that they can only act as intermediaries, and often spend time going through the contract with the affected workers. The Singtaly Company reported that they ask local police to escort off the plantation those who are asked to leave for disciplinary reasons – this leads to a perception by workers that the police are on the side of the Company, and so justice is unlikely to be achieved in the event of a grievance.

Three case studies related to grievance resolution are given in Box 2.

**BOX 2: RESOLUTION OF GRIEVANCES BY PLANTATION WORKERS**

1. Hmong female, 40+ years old, contract worker, lives locally at Donesavanh village
   The Chinese are rude to those tending bananas, but I try to be patient because I am poor and I have many children. One time they rejected some of my bananas because they said they didn’t meet their size standards, but I saw them putting 65 boxes which they had rejected onto the truck. I asked them for payment for 25 of the boxes, but they refused. So I grabbed a machete and threatened to slash the tyres of the truck – the Chinese supervisor screamed at me but in the end he agreed to pay me for the 25 boxes as I had proposed. (Interviewed 8/5/2016).

2. Khmu male, 49 years old, contract worker, lives locally in Phouvanh Tai
   In 2015 I was looking after 5,500 stems in Phouvanh Tai, and 2,700 of them were damaged by a storm when the fruits were nearly ripe. The company, Tong Yong Chong Fa, didn’t want to pay us anything, even though the contract was for 10 baht/stem in such circumstances. Seven families who were affected went to complain to the local village head, but he said he couldn’t do anything, even though I am from that village. I then talked to Mr Bounmy¹¹, who works in the District Education Office and takes responsibility for the Nam Tin area within Houayxay district (“long hak tan”). I had met him because he was posted to our village. Mr Bounmy suggested that the village head should call the company to a meeting with the company, using the authority of the village. With the authority of the district behind him, the village head called a meeting, at which the Chinese agreed to pay compensation to all 35 families who had been affected by the storm. (Interviewed 8/5/2016).

3. Provincial Labour and Social Welfare Office
   I recently had a Hmong couple from Phongsaly come to my office, who claimed that they hadn’t been paid for 7 months work tending bananas in the Nam Hor area. It was very hard to understand them. I asked them the village they worked in and the name of the company they worked for and they couldn’t tell me. What could I do? (Interviewed 25/5/16).

¹¹ This name is a pseudonym to protect privacy.
The case studies show that workers need to be proactive if they are to claim their rights. While Case 1 shows the power of direct action, Case 2 shows the value of local knowledge in obtaining rights: through the worker’s contact with the district official, and with the advantage of being able to work through his local village head, the worker was able to obtain compensation not just for himself, but also for 34 other families, including many migrants from outside that particular village. While worker justice in the event of a grievance is difficult to obtain in any instance, they are doubly so for migrant workers (as highlighted by Case 3).

3.3 Use of agrochemicals

As noted in the literature review, there is concern within the government about the amount of agrochemicals used in Bokeo. Interviews with workers and the Singtaly Company (8/5/2016) confirmed that management decisions to use agrochemicals are taken by the company, with a range of chemicals (pesticides, fungicides and hormones) needed to ensure the profitability of the operation. However, Singtaly emphasised that it is the family unit, rather than the company that determines who uses the chemicals, pointing out that “it is really up to the husband to decide whether or not his wife sprays chemicals.”

All chemicals are mixed by the Chinese supervisor in the correct proportions before being sprayed by the workers, which ensures that the bananas receive the correct dosage of chemical. The supervisor monitors the workers to ensure that spraying is done properly. The exception is the herbicide Paraquat, which was provided by the banana companies to the contract households at a rate of one container/2,000 banana stems. Some families used it, while others were reported to weed by hand and then sell their chemical onto others. It should be noted that Paraquat is on the proscribed list of chemicals for Lao PDR (MAF 2010). During the fieldwork, it was observed that instead of being disposed of properly, old Paraquat containers were being recycled12 for other purposes (Figure 11).

12 It is common throughout Laos for farmers to reuse chemical containers, even though they are aware of the risks, because they are simply useful for carrying liquids.
As in the Chinese plantations described by Farquhar (2012), workers sampled reported a considerable variation in the spraying rates, from several times/week to only a couple of times/month. The Singtaly Company reported that the level of spraying was related to the health of the plantation, with areas at risk of Panama disease, for example, being more heavily treated with fungicide.

Awareness and perceptions on chemical use by sampled households is shown in Figure 12.
Figure 12 shows that most families have previously used chemicals (particularly herbicides), in their home villages. Most also reported having received training on the use of chemicals from the company prior to starting work, although follow-up questions indicated that this was only a brief introduction about to spray effectively rather than providing in-depth knowledge of chemicals and their impacts. Even so, most people still understood the potential dangers of chemicals, as evidenced by their concerns on the health of themselves and their families. Some responses from those sampled are given below:

- *I am not sure of the impact of chemicals, but maybe they are not good for my health* (1.1)
- *I am scared of chemicals, but I need to use them because I have no money and need to work in the bananas. Last year my wife got dreadful diarrhoea and became weak after using chemicals, and I treated her with opium before taking her to the hospital* (1.3).

Thirty percent of respondents agreed that their health had worsened since they had started tending bananas, with about half of these blaming chemicals. Other reasons for worse health included too much hard work and a lack of natural foods to eat. Ninety percent of households reported that they took at least some precautions to protect themselves against agrochemicals, with the type of protection used shown in Figure 13: it should be emphasised that this was an open question, which just asked people to list what they used – the figures should therefore be considered as minimum percentages.

![Type of protective equipment used by contract workers](image)

> **Figure 13:** Type of protective equipment used by contract workers (N=29)

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13 Mild symptoms of chemical poisoning are dizziness and skin rashes, while more severe symptoms include breathing difficulties and loss of motor control. Chemicals can build up in the body (particularly in the liver) so that prolonged use can lead to severe illness and death.

14 This 90% figure shows how difficult it is to generate meaningful indicators for changed behaviour as a result of Project interventions – the logframe indicator (1.2) was: All households in banana camps report increased awareness of risks associated with agro-chemical use and at least 50% report taking practical measures to protect themselves during exposure.
Figure 13 indicates that most workers tending bananas were forced to purchase their own protective equipment, and that masks were the common item used. The Singtaly Company representative explained the company policy as follows:

When we first started planting bananas, we provided protective equipment for free. But we don’t do that anymore because nobody used it. Besides, none of our Chinese staff use it either. (Interviewed 8/6/2016).

However, this response appears to contrast with the results of Figure 12, which shows that workers were actively seeking to protect themselves, at least to some extent.

Figure 14 shows the protective gear used by a worker in the Tong Yong plantations, near to Nam Samok Tai village.

Figure 14: Protective gear used by a worker in the Tong Yong plantations, 7/5/2016
Some households interviewed decided that the health risk from chemicals was too great, and so hire outsiders to undertake this task at a rate of 70-100,000 kip/day. Some come from local villages, others from within the camps themselves, and there are also several camps in the area for day labourers who have migrated looking for such short term work.

Three case studies of the impact of chemicals is shown in Box 3:

**BOX 3: IMPACT OF CHEMICALS ON WORKERS IN BANANA PLANTATIONS**

1. Hmong female, approximately 30 years old, contract worker, migrated from Nam Bak district, Luang Prabang
   I have tended bananas now for three seasons. Even though we use of lot of chemicals, I know how to protect myself so that there is no impact on my health. Also, when there is a lot of spraying, we hire outsiders to help us. Up until now I am just as healthy as I was before I moved here. (Interviewed 6/5/2016).

2. Hmong male, 17 years old, migrated by himself for day labour work, from Viengxay District, Houaphan
   I came to Bokeo two months ago after hearing that the money was good. I get casual work about 4 days/week, portering or washing bananas, fixing pipes or spraying chemicals\(^\text{15}\). I don’t use any protective equipment, but I didn’t ask the Company for any either. They told me that the chemicals weren’t dangerous, and I accepted that. But I don’t accept work spraying Paraquat, because I can’t breathe properly. (Interviewed 7/5/2016).

3. Hmong male, contract worker, approximately 35 years old, lives locally in Xaychaleune village
   I have tended bananas now for three seasons, and since I have no house I don’t have anywhere else to stay. My son, who is sixteen years old, helped me with spraying the chemicals. One day he collapsed and was unable to walk. We took him to the provincial hospital where they gave him an injection, and although he is able to walk now he is not the same. We don’t let him spray chemicals anymore. (Interviewed 7/5/2016).

Case 3 highlights the potential dangers of the chemicals being used on the plantations. In the first two cases, the respondents were cautious, and attempted to limit their exposure through the use of protective equipment, hiring out others and avoiding certain chemicals. In the third case however, which involved a boy from a local family with a history of drug abuse\(^\text{16}\), apparently no particular precautions were taken. The second case studies presented in Box 3 involves the use of chemicals by children under 18: this issue will be examined in Section 3.5.

\(^{15}\) As a day labourer he doesn’t have a contract.

\(^{16}\) According to the CAMKID team
3.4 Gender rights issues

Division of labour and workload
Seventy-three percent of households in the survey reported that the workload of women has increased compared to their home village (Figure 15).

![Graph showing change in women's workload](image)

**Figure 15: Workloads of women living on the plantations (N=30)**

The increased workload was reportedly due to the constant nature of the banana work, which was seven days a week and without rest days. Even so, women overwhelmingly reported feeling satisfied, as they stated that overall the work was easier, and that their increased workload had translated into increased income. Some responses from women on the survey forms are below:

- *There is a lot of work, and the Chinese company gives us no time to rest (2.21).*
- *In our village we have to walk very far to the upland fields and carry heavy things, but we still have days to rest. Here the work is light but we have to work every day (2.7).*
- *We have to work every day, but we are earning money (2.8).*
- *I work the same as in my village, but here I am making money (2.27).*
- *The work is reduced here, since we don’t have to look after animals or go the rice fields (2.9).*
Figure 15 also shows that about half of the households share the spraying work between husband and wife. Most plantations used motorised pumps, which required one person to hold the hose while the other held the nozzle: typically this was the worker-couple. There appears to be an ethnic difference here, with Hmong households more likely to report that men and women helped each other with spraying, while Khmu households reported that it was mainly a male task (N=26).

**Pregnancy and breastfeeding**

Seventeen percent of households interviewed (corresponding to four Hmong households and one Khmu household had members that were either pregnant or breastfeeding. Of these, two households were using chemicals, while three were not, meaning that some families have the awareness to prevent their womenfolk taking dangerous risks (Figure 16).

![Figure 16: Pregnancy, breastfeeding and use of chemicals (N=29)](image)

Others did not. One Hmong female with a breastfeeding son reported (6/5/2015) stated, “My husband and I both help with the spraying of chemicals in the plantation. I am not scared of chemicals, because in my village I also use them.”

Additional research (with a larger sample size) is needed to determine how plantation work affects pregnant and lactating women compared to their home village. Since women’s work is lighter in the plantations, it may be that the risk of miscarriage is reduced. Or with a regular monthly income and close access to health services\(^{17}\), more women may choose to give birth at the local hospital, or visit a clinic if their child is unwell.

\(^{17}\) Since many migrants come from remote villages with very limited access to health services.
**Domestic violence**

No respondents reported that domestic violence had increased for women or children since coming to live in the plantations, although this may be because the household interviews were held in a common space without privacy (Section 2.5). The only specific instance of domestic violence recorded during the research came from a lu-mien women:

> My husband would beat me when we were living in the village. After I divorced him I came to work in the banana plantation with my son. Now I am healthier because I don’t get beaten any more (interviewed on 8/5/2016).

The household survey did find however, that the consumption of alcohol, which is a contributing factor to domestic violence, decreased within 47% of families (compared to 11% of households reporting an increase in alcohol consumption). Even though men had a regular income in the plantations compared to their home villages, they didn’t drink because they were tired and had no free time. As noted in Section 1.3, the use of amphetamines is another contributing factor to violence (NCAW, 2015), but it was not permitted to ask specific questions on this issue. However, the Singtaly Company reported (8/5/2016):

> Amphetamine use is widespread in the plantations, even though its use is not permitted under the employment contracts. But if the household can still work effectively then we don’t take any action. There have been cases where a husband will come and ask for an advance because his wife is sick, but then they take the money to go and buy drugs. If this happens too often then the family will have nothing left. For this reason we don’t like to give advances to the workers if we can avoid it.

This quotation is also interesting in the sense that it may explain one of the other complaints about working conditions given by workers in Section 3.2, which is that the company doesn’t support them when they are sick.

### 3.5 Realisation of child rights

This section addresses the three rights areas which were identified in the literature review of being of potential concern to children living within banana plantations, being child education, child health and protection from hazardous work.
Figure 17 shows the main activity of children under 18 who are living on banana plantations.

Figure 17 indicates that, at 64%, the majority of children aged between 6 and 10 stay at the banana camp, with many of these (of both sexes) entrusted to look after their younger siblings while their parents work in the plantations: similar child-minding responsibilities are provided by older siblings in their home villages. The other 36% attend primary school. By the time they are of secondary school age (11-13), some children have started helping their parents in the plantation, although parents are careful to protect them from being directly exposed to chemicals: parents stated that their children would only help with lighter duties such as removing the banana flowers or cutting off the excess leaves and stems from the banana plants. Of the eleven families interviewed that had children under 14, six stated that their children worked more than in the village, while five said they worked about the same in the village as the plantation. Like changes in women’s workload (Figure 15), the respondents reported that the work for children in plantations was more constant, but easier, than in their home villages.

Once children reach the age of 14 (and already considered part of the workforce under the Lao Labour Law), most (59%) are working with the parents in the plantations, with some 25% starting to use chemicals. In several cases, these children had already married and started families themselves, which makes them responsible adults within their own communities. Some had already married in their home communities, while others had eloped after meeting each other on the plantations.
A gender breakdown of school attendance for those living in plantations is given in Figure 18. It shows that girls of primary and lower secondary age still have a chance of attending school.18

![Graph showing school attendance by gender for those living in plantations (N=56)](image)

**Figure 18: School attendance by gender for those living in plantations (N=56)**

Children of migrating households may be expected to find it more difficult to restart their studies in a new school. This study proved that this group has a lower attendance rate than children living on plantations who originate from nearby villages, since 73% of non-migrant children of primary school age (6-10) attend school, compared with only 14% of migrants (Figure 19).

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18 The graph is somewhat misleading due to small sample size and a gender imbalance in the age classes. In the 14-17 age group, there were 14 boys and only two girls, so it is not possible to speculate whether a greater proportion of girls (compared to boys) participate in child labour.
Figure 19: School attendance for migrant and non-migrant children living in plantations (N= 56)
Some case studies that demonstrate why it is difficult for migrants to attend school are given in Box 4.

**BOX 4: CHALLENGES TO ATTEND SCHOOL FOR THE CHILDREN OF MIGRANT WORKERS**

1. **Khmu couple, age mid-thirties, contract worker, migrated from Ngoy district, Luang Prabang**
   My oldest son, aged 14 years, finished primary school in June 2015, after which we moved to the plantations here in Nam Tin. When it was time to begin secondary school, he went to the local secondary school in Nam Phuk to enrol, but they refused to enrol him without a primary school completion certificate. They told us to go back and get it from our home village, but we didn’t have the money for such travel. We went with our son to the school to ask for a special exemption, and the teachers agreed, but only if we paid 500,000 kip/month. We didn’t have that sort of money either, so now he works with us fulltime in the plantation or carries bananas for a daily wage. (Interviewed 7/5/2016).

2. **Hmong female, approximately 30 years old, contract worker, migrated from Houn District, Oudomxay**
   We have tended bananas for two seasons now. My two oldest children stayed in our village, where they look after the house and go to school. But my two youngest children came to the plantations with us because we they would miss their parents too much if we left them. One had already finished second class, while the other was still too young for school. However, I was afraid to send them to school here in Ban Dan, because I thought that the Lao Loum children would beat them. So my husband and I decided that we would tend bananas for one more season, so that we can earn enough to buy a motorcycle, and then we will return home and the children can go to school. (Interviewed 7/5/2016).

3. **Hmong female, 12 years old, contract worker, migrated with her parents and 4 other siblings from Hongsa, Xayaboury**
   I finished Year 3 of primary school, but had to leave because my parents had no money and my mother had no-one to help her in the fields. I was sad, as I really wanted to stay at school. Now my elder brother and I work in the plantation, doing jobs such as cutting off the excess leaves and stalks, and helping to pull the hoses during the spraying, while my three younger siblings stay in the camp. At first the chemicals made me feel sick, but now I am used to it. I don’t use any protection and neither do my parents, since the company didn’t give us any. (Interviewed 9/5/2016).
If true, Case 1 in Box 4 appears to be an attempt to extort money, as there is no basis for such a request within the education system. As migrants, those in Cases 1 and 2 may have benefitted from mediation by a third party which understood the school regulations and knew the local officials. Case 3 highlights the need for both the parents and the company to acknowledge their duty of care for children, who, through circumstance, are obliged to work: this is clearly a breach of the Lao Labour Law which specifically prohibits the employment of children in hazardous work.

Families with children were also asked about changes in child health and nutrition since starting work in the plantations (Figure 20).

![Figure 20: Changes in children’s health after living in plantations (N=24)](image)

Figure 20 indicates that most households felt that the health of their children was unaffected by coming to work in the plantations. Of the 17% that did report increased illnesses (four households), only one directly attributed this to exposure to chemicals, while the others described fever, rashes or being unused to the local climate.

There was a varied response to the question on nutrition, with bananas contributing to both better nutrition and worse nutrition. Some negative responses on the survey forms were:

- I only have time to work – and no time to look for food (2.9)
- In the plantations I have no time to look for food and we are far from the market (2.17)

While the positive responses included:

- Here we get a salary and can buy food in the market (2.24)
Nutrition may also be affected by the increased workload of women as a result of coming to the plantations (Ling, 2015a). As noted above, many young children are left in the care of older siblings, which, according to research by Plan International, may lead to poor health outcomes.

When older children are entrusted with care for younger siblings, it results in lack of attention to younger children’s nutritional intake and lost opportunities for early detection of childhood illnesses. Even if household income improves, it may not necessarily compensate for these types of loss in child growth (Yuko Yoneda, personal communication, 3/7/2016)

During their interviews, government agencies expressed their concern for the health of children due to poor hygiene and the risks of chemical exposure (Figure 21). A local police officer (interviewed on 10/5/2016), recommended that: “All camps and schools should have a buffer zone to protect children from chemical spray.”

Compared to their home villages, the concentration of people within the banana camps has provided new opportunities for young people (including children) to meet each other and form relationships. Some participants in the final workshop expressed their concern about the number of marriages between Chinese workers and ethnic women, because in many cases, the women involved were still under 18. Local police (interviewed 10/5/2016) reported: “There are at least six instances of marriage between Hmong girls and Chinese
workers that I have heard of\textsuperscript{19}, but there could be many more than that. But I haven’t heard of any direct cases of trafficking in persons.”

Marriages between local women and Chinese workers are undertaken with the acceptance of the girl’s families, in exchange for a fee of 100,000 THB (based on the lead author’s personal experience in 3 cases in Kengphak village, Paktha district). The new bride then uses her local contacts to register the marriage with the district police in exchange for a fee (reportedly 10,000 THB): this process circumvents the proper legal process between a Lao citizen and a foreign national which requires the approval of the Ministry of Foreign Affairs.

\textbf{3.6 Household hopes for the future}

The survey gathered the perceptions of workers on the benefits and costs to their families of working in the plantations, and attempted to ascertain their hopes for the future.

Most households interviewed described themselves as poor. The correlation between ethnicity and poverty in Lao PDR has been confirmed in several studies (ADB and WB, 2012). Ethnic groups have lower educational levels and higher rates of illiteracy than their Lao-Tai compatriots. Their farms, which are often located in mountainous areas and are based on shifting cultivation, have lower market opportunities, particularly in recent times as natural resources have been depleted. Lack of income is therefore a driving force in choosing to migrate to the plantations in Bokeo. Ling (2015:75) concluded that off-farm income is rapidly becoming a significant part of the livelihood strategy of rural people in Lao PDR to keep pace with modern lifestyles and spread the growing risks of competing in market oriented agriculture. One Hmong male (interviewed on 9/5/2016), who had migrated from Houn district, Oudomxay recounted: “In my village I work hard planting corn, and I also need to use a lot of chemicals. But because the price of corn has dropped, I decided to come here to tend bananas. It’s not hard – it is about three times less work!” This example highlights the flexibility of workers in seeking the best return on their labour.

As might be expected, the reasons given for tending bananas in this study were similar to that found by Ling (2015:50). In short, both men and women reported that there was insufficient income from their existing lifestyles to achieve their goals. Poverty is relative, and the goals of those tending bananas vary significantly between households (Box 5).

\textsuperscript{19} This is only in one police sub-district, which covers 6 ethnic villages
BOX 5: REASONS FOR WORKING IN BANANA PLANTATIONS

1. Hmong female, 30+ years old, contract worker, migrated from Houn district, Oudomxay
   Tending bananas is easier than working in my village because the work is easier and I don’t have to walk up mountains with a heavy load. Even my children are healthier here, because I have money to buy food and medicine for them. Even though we risk exposure to chemicals, tending bananas is a means for rural people who have no other choices to escape poverty. After our first season we were able to pay back our debts, help our relatives and buy a motorcycle. With the money earned over the next two seasons we started building a house, and we will finish it with the money we earn from this season. (Interviewed 8/5/2016).

2. Hmong female, about 30 years old, contract worker, migrated from Houn District, Oudomxay
   I migrated to work in banana plantations for four seasons now, in order to send my children to school and buy rice. In our village we only harvest rice once per year and this is not enough. With our monthly allowance from tending bananas we can easily buy rice and still send our children to school. (Interviewed on 8/5/2016).

3. Khmu male, 50 years old, contract worker, lives locally in Phouvanh Tai village
   This is my fifth season tending bananas. Even though I own twenty cows and have a rice surplus, I still need to earn money to finish my house. There are 10 people in my household, so I need a big house. I have spent 600,000 baht so far, but I am not yet finished, so I will continue to work in the plantations next year. (Interviewed 8/5/2016).

4. Hmong female, about 50 years old, contract worker, migrated from Sam Neua district, Houaphan
   We had enough to eat in our village, but we wanted to earn money for our son’s wedding and to buy a motorcycle. (Interviewed 7/5/2016).

Some parents had high hopes for their children, with nine households (all with older children, and the majority Khmu) reporting that they wanted to earn money to send their children to school. But only one respondent (of sixty) intended to invest their earnings in agriculture or business.

- I want to earn money so that I can open a motorcycle repair shop for my son (respondent 1.1).
Households were asked to rate their level of satisfaction by coming to work in the plantations, and whether they intended to extend their contracts (Figure 22).

![Figure 22: Satisfaction with working in plantations and intention to extend contract (N=60)](image)

At 58%, most workers were satisfied, and prepared to put up with poor working/living conditions in the short term because it would eventually be worth the money they received (which is consistent with the findings of Figure 7). Some responses for satisfied workers from the questionnaires are given in Box 5 (above) and below.

- *I am satisfied, because I have been able to send my children to school, have invested in a repair shop and bought paddy land (1.1)*
- *I was able to send my children to study a vocation (1.15)*

There were also those who were unsatisfied.

- *The Chinese make us work too hard, and we have poor hygiene (1.23)*
- *I worry about my children, but I didn’t have a choice, since I couldn’t do upland rice (2.13)*

Breaking down the data further indicates that 46% of households engaged in their first season tending bananas were unsatisfied, while only 19% of households with two or more seasons tending bananas were unsatisfied. This reinforces the assertion of Daley et al. (2012) that the adjustment from independent farmer to working under the direction of a Chinese supervisor was proving difficult (Section 4.2). Those with more than one season of experience are likely to be either more efficient at completing their work or more used to the daily routines.
Despite generally being satisfied, 64% of workers stated that they did not intend to extend their contracts, a proportion similar to that one year earlier in Ling’s study (2015:70). The most common reasons for not extending (with number of responses in brackets) were: concern about chemicals (7), forced to work too hard (6) and children lack opportunity (3). Those who wish to extend cited the need to earn more money to achieve their goals, such as buying a motorcycle or building a house (Box 5). However, despite their intention to leave, it is likely that many families will decide to extend their contracts at the end of this season. As Ling (2015:70) points out, the temptation to spend their final lump-sum payments on consumer items often tends to outweigh their desire to save a sufficient amount for their stated goals. In this study, non-migrating households stayed longer on plantations (an average of 2.57 seasons each) compared to migrating households (an average of 1.57 seasons each).

The final survey question asked the household sample what aspects of their living and working conditions they would like to see improved in the plantations (Figure 23). Unfortunately, it was not possible to be detailed here, and the large number of interviewers is likely to have affected the quality of the results (Section 2.3), but it does give a general idea of where priorities lie.

![Figure 23: Contract workers priorities for what the banana companies should improve (N=60)](image)

Figure 23 suggests that despite the general satisfaction for working conditions reported in Figure 7, contract payment conditions are the biggest priority for improvement, with most of these proposing that the piecework rate should be increased. Better working hours was the second priority (again contradicting Figure 7): here the timing of our research may have influenced the response, since in early May 2016, the weather was unseasonably hot, and
a common complaint was that the Chinese didn’t let them rest during the day in the hot weather. Reflecting the responses to the other survey questions, the next priorities were related to the high use of chemicals and the lack of clean water for washing and cooking.

3.7 Role of government and civil society in ensuring labour rights, child rights and gender justice

At the provincial level, and after the creation of several committees which failed to address the negative aspects of banana plantations, the Governor appointed a Committee for the Promotion and Management of Chinese Banana Plantations in Bokeo in November 2015, which is chaired by the Party Inspection Office (Governor’s Office, 2015). This Committee includes representatives from the Offices of Agriculture and Forestry (PAFO), Labour and Social Welfare (LSWO) and Natural Resources and Environment (PONRE). PAFO has a role, along with the Department of Trade, to regulate the use of illegal chemicals, the LSWO has a role to implement the Labour Law, and PONRE is responsible for environmental protection and land management. The Finance office is responsible for revenue collection. There are no specific agencies on the committee related to child rights or gender, which suggests that these are not priority areas, although the committee may second government staff from other relevant organisations to assist as necessary.

Limited numbers of staff, time and budget were identified as constraints to enforcing the laws by all government stakeholders interviewed. The Governor’s Committee and the provincial/district line agencies must determine their priorities, and some of these are determined by the central government. Bokeo has been designated by the MAF as one of ten Lao provinces responsible for food security in rice: local authorities must therefore ensure that bananas do not encroach on paddy lands, and the Governor’s committee has visited several areas and provided notice to farmers and companies. The priority of the Ministry of Labour and Social Welfare is the regulation of illegal immigrants in general, which have been entering Lao PDR in increasing numbers throughout the country. The Committee also responds to complaints from the public, and has investigated several cases of fish deaths after receiving directives from the National Assembly or Governor’s Office.

PAFO (interviewed on 2/5/2016), reported that the government is able to steadily reduce the level of dangerous chemicals in the plantations.

When bananas first came, we [provincial officials] didn’t have any experience in dealing with these companies. Over the past year, we have improved our management and the

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20 The nature of the final question may have influenced the results here, since it asked respondents for a ‘wish list’ of improvements (open question), compared to Figure 7 which asked for a rating of labour and living conditions (closed question). It is a natural response to wish for less work and more pay.
amount of chemicals such as Gramoxone has reduced. The Plant Protection Office, which receives support from the Food and Agriculture Organisation (FAO), has been supporting the better labelling and inspection of chemicals to ensure that they meet the regulations21.

While PAFO is officially responsible for implementing the regulations on chemicals, it largely relies on the Department of Trade and the Department of Finance (customs officials) to ensure that restricted chemicals are not brought into the country. While all trucks from China and Thailand are reported to be scanned, it is apparently not possible to determine the type of chemicals in the containers, and that some importers try to deceive customs officials. Once chemicals reach the plantations, it is up to the district officials to carry out inspections, but it was noted that budget constraints mean that it is not possible to provide regular monitoring of the companies to ensure full compliance. However, given the widespread coverage that the negative impact of chemicals in banana plantations has received in the official press (Vientiane Times 2016a, 2016b), it is likely that the government will prioritise this area.

The provincial LSWO (interviewed on 25/5/16) reiterated that it is hard for the government to assist in the resolution of contract disputes because only two parties sign the contract, and suggested that the district LSWO should be a witness. But they were unable to suggest how this issue would be implemented in practice: for example, who would pay for the contracts to be witnessed, and who would pay for arbitration costs. They did agree, however, that there should be a standard contract for fulltime workers, and that it should be up to the district to implement this.

In an attempt to better regulate the banana industry and improve its management, the Bokeo government, via the Provincial Banana Committee asked all Chinese banana companies to establish an Association in 2015. Working via the Association, rather than through individual operators, is seen by the government as a means to streamline liaison between the government and the companies: this includes the implementation of laws and the collection of taxes. The government could negotiate, for example, a standard contract for fulltime workers in plantations, which could ensure that contracts are able to meet the requirements of the Labour Law.

However, a government source (interviewed separately on 30/5/2016), noted;

The Association leaders are speculators rather than genuine investors, and only play a role in organising government approvals and setting up joint ventures in return for commission or sub-leasing fees. As such, the banana companies who actually employ the workers and grow the bananas have refused to participate, and the Association is inactive.

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21 The Vientiane Times reported that the FAO supported a workshop on pesticide control in February, 2016: “The first target is to end the sale of banned pesticides and illegally repackaged pesticides. The next step will be to end the sale of unregistered pesticides and products without labelling in the Lao language. This will be a major challenge, as over 95 percent of products on the market currently do not have a label in the national language.” (Vientiane Times, 2016).
Speculators were also described by Farquhar (2012:3) as an important driver for the rapid expansion of bananas in China, and particularly in Yunnan province which borders Lao PDR.

With regard to civil society, Farquhar (p. 31-32) notes the important role that trade unions can make in ensuring worker rights and health and safety in banana plantations worldwide. Like China, Lao PDR does not permit the establishment of independent trade unions with their own structures, rules and activities (ILO, 2016): the only union organisation permitted is the Lao Federation of Trade Unions, which is a mass organisation connected to the ruling Party. In any case, independent unions may not be effective, since, “clearly there is little room for trade unions when groups of workers or worker-couples are simply sub-contracted by employers rather than employed by them” (Farquhar, 2012:32).
4 CONCLUSIONS

This study has researched one small aspect of the banana boom in Bokeo, by gathering information on the issues of labour rights, child rights and gender justice for Lao workers in Chinese banana plantations. The research had four objectives, being:

1. Assess the extent to which labour rights, as defined by the Lao Labour Law, are realized for male and female workers in 3 banana plantations.
2. Assess impact of employment with banana plantations on workers’ families, particularly women (including pregnant women) and children (in different stages of development—in early childhood, school age, and in adolescence), with respect to child rights, protection and gender equality.
3. Explore workers and their families’ awareness, current practice and priorities, and future aspirations in relation to labour rights, child rights and gender justice, and identify areas of primary concern to them.
4. Identify relevant stakeholders with regard to the areas of primary concern identified above and analyze their rights, responsibilities and relationships as per the current policies and laws (including relevant provincial decrees or orders) as well as in practice.

Positioning of the research methodology

The methodology was guided by the findings of the literature review and the research questions in the TOR. The official Lao media has recently published several articles that question the sustainability of the banana plantations, particularly with respect to the use of chemicals and their effect on the environment and human health. The specific rights of workers, children and women working in the plantations have received less attention in the literature, but other studies in Lao PDR have demonstrated the challenges of improving these rights due to a rapid turnover of the workforce, weak law enforcement and traditional gender norms in ethnic communities. The twelve research questions required both qualitative and quantitative data, which was collected with the use of semi-structured interviews and a structured questionnaire respectively. While the data was not able to be collected using random sampling which weakens its external validity, the use of multiple methods has added to the overall convincingness of this report.

Responses to the research objectives

Objective 1: Extent to which labour rights are realized

Labour rights, as described in the Labour Law, are not fully realised.

Firstly, the workers are sub-contracted on a household basis, rather than being individual employees, and the Labour Law does not make provision for such cases. In any case, there is evidence that some workers prefer the higher returns of piecework over a standard wage. In general, those families who have several seasons in the plantations, are hard-working and complete their work quickly (giving them time off) report feeling satisfied, while inexperienced workers and households with drug problems were dissatisfied with the working arrangements.
Secondly, those tending bananas are the poorest segment of society – they are largely illiterate and lack the capacity to negotiate for improved working conditions. In any case, the high level of worker turnover, and a lack of regulatory support means that it is difficult for them to organise in a formal manner. Migrants in particular lack both local knowledge and representation at a village level. The lack of clear provisions for storm damage in some labour contracts leave workers vulnerable to being underpaid when storms arise. It is largely up to the ingenuity of the workers themselves to resolve their own disputes.

Thirdly, the contracts specify that dangerous chemicals are be used on the banana plantations. While many workers appeared to understand the risks of using chemicals, many did not take sufficient steps to protect themselves adequately, leaving them vulnerable to agrochemical poisoning. As Bartlett (2016:5) points out, “risk-taking is part of daily life in rural areas.” The situation is made worse because some companies do not provide sufficient protective clothing, leaving many workers to buy their own (Figure 13). Chemicals banned in Lao PDR, such as Paraquat were observed in the camps.

Finally, due to limited resources and conflicting priorities, government agencies are not capable of prioritising worker rights issues in a long term at present. Despite a massive increase in the plantation area over recent years, relatively high wages (compared to their existing livelihoods) mean that the companies continue to be able to attract sufficient workers to satisfy their labour demands. The status quo is likely to continue.

Objective 2: Impact of employment with respect to child rights and gender equity
Banana plantations in Bokeo provide paid employment for thousands of households, and women make up a slight majority in those tending plantations full-time. While women are working harder, they feel satisfied because they are earning money, which they describe as being essential to survive in a modern market economy. Pregnant and lactating women continued to work in many cases, just as they would also have done in their village: reproductive rights are difficult to claim with large family sizes.

The research shows no simple trend to describe how this income is being used. Worker testaments have demonstrated that bananas have contributed to sending kids to school, and also contributed to kids leaving school. They have contributed to better nutrition for children, and worse nutrition.

As expected, there were cases found in which children are unable to claim their rights under the CRC. Firstly, children in the company supplied banana camps live in unsanitary conditions and often without access to clean water, which limits their ability to stay healthy. Secondly, only about one third of children aged 6-10 were able to attend primary school. However, amongst migrant workers this proportion is much, much lower, because of the need to look after younger siblings, the isolation of the camps and lack of transport, and a lack of proper documentation from their previous school. Thirdly, some children under 18 were married, including some to Chinese supervisors. Finally, there was some child labour, particularly between the ages of 14 and 17, but such children are considered to be part of the active workforce under the Lao Labour Law. As noted directly above, many parents
were aware of the dangers of chemicals and didn’t let their children be directly exposed to them: instead children helped with lighter duties such as removing the banana flowers or cutting the excess leaves and stems. However, and of great concern, were the instances noted of both parents and companies permitting children to undertake clearly hazardous work, such as spraying dangerous chemicals.

**Objective 3: Future aspirations and areas of primary concern to workers**

The majority of workers surveyed were satisfied, and prepared to put up with poor working/living conditions in the short term because it would eventually be worth the money they received. Quite simply, they work in plantations to earn money that they cannot earn on their own farms. As noted by Ling (2015b), many migrating Hmong households use their income to purchase consumer goods such as motorcycles, which then limits their ability to make the long term investments they aspire to:

Housing and land represented the largest planned investments, with again only a limited investment intended to improve agricultural productivity: this suggests that worker-couples and their families are not intending to rely full time to farming for their future livelihoods, and that migration is part of a diversified livelihood strategy (p. 75).

This research, which included both migrants and a range of ethnic groups, drew similar conclusions. Only one household (out of 60) specifically reported that they planned to invest in a business or on their farms. A few more hoped their children would finish school, thus enabling them to make the transition from farmer to a vocation or profession. For most however, it was simply a matter of earning money to cater for their needs in a market economy.

Workers were concerned about aspects of both their living and working conditions. The lack of clean water and sanitation was a particular concern in some camps. Workers in their first season expressed greater unhappiness about their working conditions, particularly over working hours and the requirement to continue working in hot weather and when feeling sick.

**Objective 4: Relevant stakeholders and their rights, responsibilities and relationships, in theory and in practice**

Provincial and district government officials have not had the capability over the past few years to deal with the rapid expansion of bananas in Bokeo and the issues that it raises. The Chinese companies, aided by local brokers, have focussed on gaining land first and worrying about the documentation later. In many cases, the original company which received approval has sold its rights to other companies in a speculative fashion – at the time of this research, the Bokeo government was still unable to finalise a list of the companies and the areas that they have planted. Chinese companies are simply transferring their successful management methods from China to Lao PDR.
After several committees which failed to address the negative impacts of banana plantations, the Bokeo Provincial Governor has handed over the management of bananas to a Committee of relevant agencies led by the Party Inspection Office. This Committee deals with all aspects of the banana plantations, including the use of chemicals, land use and worker rights. However, as described in Section 4.7, it is not possible for the committee to tackle all the issues at once, and its priorities at present are to ensure that all companies and their areas and their workers are properly registered, and that bananas are not planted on rice paddy lands. Other issues, such as the practical implementation of the Labour Law, are delegated to the district authorities, and especially the local police, who are responsible for registering plantation workers who migrate from other districts and provinces.

A recent study at national level (NAFRI, 2016) on the negative impacts of banana plantations (including the dangers of chemicals), generated wide coverage in the official press (Vientiane Times, 2016a, 2016b). It is possible that the improved management of agrochemicals will be given priority within the recently elected government, and this will benefit workers. However, it is unlikely that the government will be able to address child rights and gender equity issues in the short term.
5 PRACTICAL RECOMMENDATIONS TO CAMKID/PLAN

The following are practical recommendations to CAMKID/Plan, which are believed to be achievable within the three year Project timeframe and with a limited budget.

1. Use a flexible working approach for each camp to build awareness
Each banana camp has a different mix of people: some are Khmu while others are Hmong. Some are comprised mainly of migrants with large numbers of children, while others are predominantly local people. The different company policies, different supervisors and locations (such as access to clean water or not) lead to different issues arising within each camp, that requires a degree of flexibility from CAMKID.

Awareness should start with group meetings that identify and discuss these issues, and supports those in the camps to resolve them. Meetings should be held over a one-two hour period in the afternoons or evenings, ideally with company permission so that workers feel comfortable attending, and with the attendance of a government counterpart. Many issues will be simple, such as reviewing the contracts so that people understand them. Follow-up visits may include training materials (posters and films) in relevant topics (protection from chemicals).

Theatre is unlikely to be a successful tool with giving awareness in the camps. Theatre is not only expensive (needs lots of preparation, equipment and actors), but assumes what the problems are in advance. The audience at each camp is small (sometimes only 5 families) and theatre tends to be a one-off activity, with no scope for a follow-up visit. In order to service the 40+ camps within the three zones (Dan, Houayxay Noy, Nam Tin), CAMKID needs to focus on the simple actions described above that address and resolve the relevant issues at a minimum cost. The camps must have regular visits: therefore it may be necessary to prioritise the camps to be targeted and for CAMKID to employ and train additional volunteers to ensure that the camps can be sufficiently covered.

2. Establish a helpline to provide support services in ethnic languages
Plantation workers, and migrants in particular, lack social services within their own language. They lack the local knowledge and abilities to seek information or claim their rights from companies or government agencies. Since CAMKID may only visit the camps every few months, there are likely to be ongoing issues which people would like to discuss. A working hours helpline in Hmong and Khmu language, needs to be established and advertised with posters (to be distributed during the group discussions). Its operation is simple: people can call in and ask questions about the issues that affect them in the plantations, from questions about their rights, to how to put a child in school, or domestic violence. CAMKID is like a bridge between the government agencies and the Chinese companies: they can provide advice directly, or may be able to schedule a follow-up visit to discuss the issue in person.
3. Build working relationships with the plantation companies
Some issues cannot be resolved without the involvement of companies. CAMKID should maintain at the outset to take a co-operating, rather than threatening position with companies, in order to seek solutions to those issues raised by farmers. The CAMKID role may be described in terms of liaison, or mediation, rather than advocacy. It is beyond the scope of this program to expect companies to develop a formal corporate social responsibility policy.

Issues raised at the meetings (Recommendation 1) should be documented and feedback provided to the companies. These issues need to be prioritised and should reflect genuine concerns about the wellbeing of workers and their families. Where feasible, companies should be invited to come and meet with a delegation of affected workers with the objective of seeking mutually agreeable solutions. To improve sanitation for example, time and materials could be made available by the company for workers to make their water source more hygienic.

4. Advocate for standardised contracts that reduce potential grievances and reduce hazardous child labour
The Chinese company contracts do not cover all the requirements as stated in the Labour Law or recommended contract farming procedures. This leaves workers vulnerable to not being able to access their labour rights, particularly in the event of a dispute. Storm damage and minimum fruit sizes, for example, have been identified as leading cause of disputes between workers and companies. Hazardous child labour is not defined, and it would appear that the Chinese supervisors are aware of children involved in spraying, but choose to ignore it since they regard it as a matter for parents. The provincial LSWO has also suggested that standardised contracts would benefit workers and their families.

CAMKID should work with the relevant provincial agencies (PAFO for contract farming law and the provincial LSO for the Labour Law) to review the current contracts for workers, initially within CAMKID’s target villages, with the aim of ensuring that they meet minimum standards according to the Law. All contracts should:

- specify clearly the definitions of storm damage and fruit sizes, as well as dispute resolution procedures.
- list the entire household workforce (14 years old and over, both men and women), and require their signature before it is accepted as a legal document. Contracts should clearly prohibit the engagement of youth under 18 to undertake hazardous work (which would lead to expulsion from the plantation):

It will need to the full support of the government if the introduction of these improved contracts is to be successful. Ideally improved contracts will be progressively introduced by the government throughout the province.
5. **Consider the feasibility of providing mobile health and family planning services to migrant workers and their families**

Since they are not attached to any village, migrant workers and their families do not have access to the mobile health services provided by the government (especially mother and child health, immunisations). This leads to poor health outcomes compared to those not working in plantations.

Plan and CAMKID need to prioritise the most vulnerable camps, and identify how much it would cost to service these camps with mobile health services with the Department of Health. Programs in family planning (including the sensitisation of men) may help to prevent unwanted pregnancies, particularly for women who intend to use chemicals while they are in the plantations, and also for young people who find themselves with new romantic opportunities away from their home villages.

6. **Provide information to migrating parents about the local schooling options**

The children of migrant workers rarely attend school, because of the need to look after younger siblings, the isolation of the camps and lack of transport, and an absence of proper documentation.

Plan and CAMKID need to prioritise the most vulnerable camps with large numbers of children, and provide parents with information about sending their children to local schools and alternatives to early marriage. Through their local contacts, CAMKID can assist parents to discuss constraints to attendance (such as the absence of proper documentation) with the relevant school so as to ensure that those who wish to attend school can do so.

7. **Document cases in which Lao PDR does not meet its obligations under the CRC**

During the research, evidence was gathered of instances in which Lao PDR does not meet its obligations under the CRC. Examples include: the discrepancy between the internationally agreed age of children (18 years) and the Lao Labour law (14 years), the employment of children by banana companies to use hazardous chemicals, and the approval of marriages between children under 18 and foreign adults.

These and similar cases need to be detailed and documented into Lao language, so that they can be used by Plan in its advocacy work at the central government level.
APPENDIX 1: REFERENCES


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APPENDIX 2: TERMS OF REFERENCE

Term of Reference for the banana plantation research

Strengthening civil society to protect and promote social, economic and cultural rights of ethnic communities in Bokeo province

Funded by The European Union (EU)

1. Introduction

The Government of Lao PDR has deliberately pursued the agriculture strategy to replace shifting cultivation with commercial farming and prioritize export commodities over local food crops for more than a decade. Some donor policies also encouraged improvements in labor productivity in the agriculture sector as a means to release labor for industrialization. Triggered by foreign investments, a rise in agri-businesses commonly took a form of mono-crop plantations, such as banana, rubber, maize, in upland areas, often accompanied by application of herbicides that made possible land clearance on a large scale. Lao PDR actively sought Chinese investment, both as a counter to the influence of Thailand and Vietnam, and as a means to develop the isolated and ethnically diverse north of the country that borders China. By 2011, the Chinese contributed 85% of all foreign investment in the three Northern provinces of Oudomxay, Luang Namtha and Bokeo.

The Chinese banana industry in Bokeo only began in 2009 and took off in 2012, after China banned imports of Philippine bananas in a dispute over the Spratly Islands in the South China Sea. With a value of USD38 million in 2012/2013, bananas represented about 5% of Bokeo’s total GDP of USD231 million (DPI, 2013). According to the Provincial Technical Committee for the Inspection of Banana Plantations, chaired by Provincial Agriculture & Forestry Office (PAFO), banana plantations occupied 11,266 ha of land as of September 2015, and employed 2,363 migrant households. Of these, about 96% came from non Lao-Tai ethnic groups, with 73% being Hmong. Typically, migrant families tend to congregate together in particular locations, with an initial migrant family encouraging their relatives to join them. Overall, 58% of migrating families come from other provinces, with many reported from northern Sayaboury (Khop, Xienghone and Ngern districts) and Luang Prabang (Nam Bak district).

24 Ibid
Rapid industrialization and commercialization of agriculture has far-reaching implications on economic, social and demographic changes. According to Bokeo-based Non-Profit Association, MHP’s situational analysis on banana plantations, the expansion of land for commercial plantations led to a corresponding decline in land for subsistence rice farming or small scale enterprises and an increase in land conflict environmental degradation, negatively impacting on rural household livelihoods. In turn, loss/decline in subsistence livelihoods, coupled with a demand for workers for commercial agriculture, prompts small scale farmers to seek employment in banana plantations. Strikingly, 39% of migrant households on banana camps interviewed in Ling’s research explained their motivation for migration on the ground that they either had no land or that their existing land was too small. Moreover, a trend towards economic integration also gives rise to an outflow of young, relatively educated people from the agriculture sector in favour of ‘easier’ jobs in the manufacturing and service industries in Thailand, creating employment vacuum to be filled by unskilled migrant labor from ethnic communities in upland areas of Bokeo and beyond25.

MHP found 18 companies, 1 state enterprise and 38 enterprises currently engaged in banana plantations in Bokeo. Reportedly, many of those companies do not have an official permission for agri-business, a commercial registry, a tax & revenue registry, or an investment permission from Bokeo provincial government. The provincial government does not have a full grasp of the scale of production and export of bananas from commercial plantations. In practice, the relevant Lao laws and regulations, such as the Law on Agriculture, the Law on Phytosanitary, and the Labour Law, are neither observed by the companies nor enforced by the government26.

These companies make different local contractual arrangements to secure land and labor for production. Some takes a so-called “4+1 format” to combine 5 means of production, whereby a farmer rents land to a company, who brings inputs in the form of a variety, techniques, a maintenance cost, purchase (or repurchase). Only 30% of them hold legally valid contracts with local land owners, however. The terms for lease are often unclear, inaccurate, and not endorsed by concerned local authorities and thus not enforceable27. Likewise, the companies employ labor with and without contracts. On the one hand, a worker-couple migrate with their dependents to a banana camp on a contract for one season or 7-10 months, and are assigned to tend 5,000 stems on a plot of roughly 3 ha under the direction of a company supervisor. They are paid an advance to cover their subsistence needs and get a lump sum payment after harvest deducting the advance. On the other hand, the companies also hire daily wage laborers without contracts to perform specific tasks which are not included in the standard tending contracts, such as nursery work, planting, portage and washing/packing28. This new pattern of migration of families, as opposed to single youth, is likely to persist as an integral part of rural economy. Based on the analysis of worker-couples’ use of income from banana plantations, Ling concludes that

25 Ibid
26 MHP report to the International Republican Institute on 25 Aug 2015.
27 Ibid
28 Ling, 2015, ibid.
employment at banana plantations is becoming part of a diversified household livelihood strategy to supplement or replace increasingly unviable subsistence farming.

In the absence of transparent, accountable corporate governance in the plantation sector and given the weak legal system and oversight/enforcement mechanisms at the national and local levels, NPAs based in Bokeo, such as CAMKID and MHP, report rising official and local concerns over the operation of these plantations and their social, cultural, environmental and health impacts. This is also reflected in state managed press coverage. While pay rates are good by local standards, there is no job security and this appears to be at the expense of related benefits and protections enshrined within the Lao labour law. Laborers, with or without contracts, are vulnerable to exploitation, and are repeatedly exposed to harmful pesticides and herbicides typically without access to any protective work equipment. In the absence of educational facilities in the proximity, workers’ children stay out of school, and suspected of being engaged as child labor on the plantations. Heavy chemical use has resulted in many cases of illness and even death among workers as well as harmful impacts on environment, soil fertility and health in neighbouring communities. Workers have an almost complete lack of knowledge of their rights under the Labour Law including those associated with occupational health and safety. Violations of worker’s rights are widely reported to be routine in particular in relation to basic working conditions and poor or non-existent health and safety practices relating to the use of herbicides and other agrochemicals. A shift from traditional livelihoods to incorporation into the agri-industrial sector as day or migrant labour has strained family life, causing a greater pressure on girls and women. Women are obliged to bear increased workload, juggling between fulltime jobs in commercial plantations and traditional domestic duties. Exploitative work conditions also add to stress among workers, contributing to drug (especially amphetamines) or alcohol abuse in men. Domestic violence often results from men’s consumption of alcohol and/or amphetamines. Migration exposes ethnic families to market economy and modern life styles, which are associated with a loss of cultural identity. This may give rise to a host of social problems such as loss of self-esteem, desire for material assets, drug and alcohol abuse, violence against women and children and family breakup.

2. Plan and CAMKID’s response on labor rights

With support from the European Union and a matching grant from Plan Belgium, Plan partners with CAMKID to implement the Strengthening civil society to protect and promote social, economic and cultural rights of ethnic communities in Bokeo province project in two districts of Bokeo Province. Specifically, the project aims to: Build the capacity of local civil society in Bokeo Province to empower vulnerable ethnic communities and families to secure gender justice, labour rights and cultural rights, in a manner sensitive to local traditions and under the laws of Lao PDR and internationally recognized human rights principles.

Building on the successful approaches developed in the previous phase to facilitate sensitization and behavior change with regard to women and children’s rights, Plan and
CAMKID will address specific vulnerabilities of ethnic men, women, boys and girls living and working in 3 banana camps and surrounding 22 communities. Plan and CAMKID will respond to emerging rights issues resulting from banana plantations, by building their knowledge and understanding of their legal rights, gender equality, environmental health and risks of migration and supporting them to protect themselves from abuse and exploitation. Working in banana camps and potential sending communities, the project anticipates to take the following actions:

- Disseminate knowledge of key laws related to employment in commercial plantations and labor migration to workers in banana plantations and 22 target villages.
- Train plantation workers and community members in safer use of agro-chemicals.
- Deliver drama shows on worker rights and negotiation strategies.
- Undertake research on labor rights and occupational health in banana plantations.

Launched in February 2016, the 3-year project is currently in the start-up phase of 5 months. Key is to unpack how families and communities make a choice about their future, and what values guide such choices. Taking a case of a high failure rate for efforts to convince Hmong farmers to refrain from knowingly applying harmful pesticide in their own farms, Barlett notes that knowledge and awareness doesn’t necessarily influence farmers’ choices, and illustrates importance of understanding farmers’ own understanding of costs, benefits and risks. This study is commissioned to develop in-depth understanding of the current situations, validate the feasibility and appropriateness of the proposed actions and further develop and adapt strategies and approaches to deliver this expected result.

3. Objectives of the research

While anecdotal evidence is abundant as to the negative impacts of banana plantations, little is known as to the current situations of labor rights for plantation workers and their families, and their own perspectives on their rights, priorities and future aspirations, as well as the existing mechanisms and initiatives taken by workers themselves, employers and the concerned government offices to realize labor rights. Plan and CAMKID will undertake an in-depth research on banana plantations with an aim to:

1. Assess the extent to which labor rights, as defined by the Lao Labor Law, are realized for male and female workers in 3 banana plantations.
2. Assess impact of employment with banana plantations on workers’ families, particularly women (including pregnant women) and children (in different stages of development—in early childhood, school age, and in adolescence), with respect to child rights, protection and gender equality.
3. Explore workers and their families’ awareness, current practice and priorities, and future aspirations in relation to labor rights, child rights and gender justice, and identify areas of primary concern to them.
4. Identify relevant stakeholders with regard to the areas of primary concern identified above and analyze their rights, responsibilities and relationships as per the current policies and laws (including relevant provincial decrees or orders) as well as in practice.

With the research findings, Plan and CAMKID staff will revisit what outcomes to be attained in the lives of workers and their families, and strategize how to engage different stakeholders to do so. The research will provide practical recommendations to clarify focus for Plan and CAMKID’s work in banana plantations and identify an entry point and a pathway towards aimed-for changes. The research will be also shared with relevant stakeholders and networks or forums, such as the Land Issues Working Group, LaoFAB, Lao008, to build collaboration and influence their perspectives and actions.

4. Scope

This research will build on the existing body of data and researches on related topics and coordinated with relevant ongoing work of other actors, such as:

- Stuart Ling’s dissertation on “Use of Remittances by Circular Hmong Migrants to Chinese Banana Plantations in Bokeo, Lao PDR”, October 2015
- MHP’s International Republican Institute funded project on data gathering on the scale and impacts of banana plantations and a consultation meeting with relevant provincial authorities on banana plantations, August 2015 report
- Oxfam Hong Kong’s study on the trend of Chinese investment in Bokeo
- Oxfam’s ongoing work in Lao PDR on labor rights, land and natural resources in partnership with mass organizations, such as Lao Women’s Union and the Federation of Trade Unions
- The Federation of Trade Unions’ emerging interest in addressing banana plantation issues. In particular, its prior experience of the Federation of Trade Unions in negotiating with a banana plantation run by a Vietnamese company in southern Lao PDR.

In line with the objectives defined above, the research will specifically address the following questions.

1. Who are plantation workers and their families? What is the demographic outlook of the population in the 3 target banana camps, by ethnicity, gender, age, marital status, family size, land ownership, oral Lao communication skills, education and economic status? What are the pattern of settlement and migration in and out of the banana camps?

2. What does the Lao Labor Law say about rights of workers? To what extent are those labor rights realized in practice for workers with or without contracts, and how? Which rights are not realized, and why so? Is there any disparity in
realization of labor rights for male and female workers of different ethnic/social/age groups, and why so? Is there any positive discrimination to proactively protect and promote rights of women, including pregnant or lactating women, and other vulnerable groups?

3. What is the current practice of use of agro-chemicals in banana plantations? Is it employers, workers or land owners who make a decision as to use of agro-chemicals? What are their incentives to use agro-chemicals? To what extent are they all aware of negative health and environmental impact especially for women and children, in the short and long run?

4. What are the gender division of labor in banana plantations and at home? What are the types of work men and women do at work and at home? Are men and women’s work equally recognized by families and by employers? Does the division of labor expose male or female workers to negative impacts or risks of chemical use, exploitation or drug or substance abuse? Is the workload equitably shared between male and female workers? Do women have more or less say in household decision making, and why so?

5. To what extent are 4 areas of child rights (survival, participation, protection and development) realized in practice for boys and girls in different ethnic/social/age groups in banana camps, and how? Which child rights are not realized, for whom, and why so? How widespread is the practice of child labor among boys and girls, and what are the causes? What are the roles and responsibilities of parents and employers in preventing child labor?

6. Has workers’ relocation to banana camps had positive or negative impact on their children and families’ health, education, protection from drug and substance abuse, trafficking, violence against women & children, and livelihoods? Are the families better off as a result of employment in banana plantations? What did the families gain or lose by migrating to banana camps?

7. What do male and female workers know about their rights? Where, and how, did they gain rights awareness? Any significant disparity in rights awareness across male and female workers of different ethnic/social/age groups? Why so?

8. What hope do male and female workers have for their families, particularly children’s future? How do male and female workers and their families perceive benefits, costs, and risks of migration to banana plantations? How did the families weigh different factors and come to a decision to migrate to/stay on banana plantations?

9. How do workers resolve any issues or grievances with employers? What are the level of solidarity and collaboration among workers from different ethnic groups? Are there any existing workers’ groups? If so, how do they function?

10. What do the Labor Law say about the duties of employers? What do employers do or not do to protect their rights? Why so? What practical mechanisms exist for the Lao government to influence employers’ incentives and regulate employers?

11. Which government offices at the local and national levels have a role in enforcing the Labor Law, child rights and gender justice for workers and families in banana plantations? To what extent do these offices fulfil their roles? What are their constraints?
12. What are the interest of different stakeholders in banana plantations? Any conflicts among them? Are there any civil society networks addressing issues of concern to workers?

5. Methodology

The research will primarily draw on the following three sources of data:

1. Literature review, including the Lao Labour Law, the existing legal frameworks for child rights and gender equality, the MoU between the Governments of Lao PDR and China on Chinese investment, the national and provincial governments’ decrees and orders on commercial plantations, a ban on agro-chemical use, environmental protection, labour unions.
2. Field work in 3 banana plantations to gather data from plantation workers and their families (girls, boys, women and men)
3. Interviews with stakeholders in the province and Vientiane, including plantation managers, banana growers’ groups, the provincial governor’s office, the provincial and district focal groups technical teams mandated to oversee banana plantations, relevant line Ministries at the provincial and national levels, the Federation of Lao Trade Unions, Oxfam, MHP and LIWG members.

The selected consultant will be asked to further develop methodology and tools to address the objectives and areas of inquiry described above during the inception phase. The consultant will be assisted by CAMKID staff in data collection and translation during the field work.

The consultant will facilitate analysis of findings in an internal workshop with Plan and CAMKID staff, and help them to identify implications for the program design, and jointly draw recommendations on strategies and approaches. A workshop to share the research with external audience will be organized after the draft report.

6. Expected Outputs

All the outputs will be produced in English. Plan will translate the final version into Lao.

1. An inception report with the refined methodology, tools and a fieldwork plan based on the literature review. To be approved by Plan.
2. A presentation of the research with external audience in Bokeo for validation of findings and consensus building on recommendations. The consultant is encouraged to use creative means, other than PowerPoint, to present key findings and facilitate discussion on findings and recommendations.
3. A draft version of the report will be sent to CAMKID and Plan Lao PDR for feedback. The report should address the objectives and areas of inquiry and will be based on the internal workshop with Plan and CAMKID staff. The final version of the report is due within the one week after the receipt of the feedback. To be approved by Plan.
7. Timeframe

An estimated timeframe is 27 days and will take place between mid-April and May 2016.

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<tr>
<th>Tasks</th>
<th>Days</th>
<th>Outputs</th>
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<tr>
<td>Document review</td>
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<tr>
<td>Refine methodology, tools and plan</td>
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<td>Inception report</td>
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<td>Stakeholder interviews in Vientiane</td>
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<tr>
<td>Training on data collection tools for CAMKID staff. Field test the tool.</td>
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<td>Field work in 3 banana camps (3 days each)</td>
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<td>Stakeholder interviews in Bokeo</td>
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<tr>
<td>An internal workshop to jointly analyse data and develop recommendations with Plan and CAMKID staff</td>
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<td>Draft report</td>
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<td>Draft report</td>
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<td>Presentation at the validation workshop in Bokeo</td>
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<td>Finalize the report</td>
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NB: Travel days between Bokeo and Vientiane will be added as needed

8. Qualifications, skills and experiences of a consultant

1. At least a Master's degree or demonstrated equivalent experience in a social science area, Agricultural and Law
2. At least 5 years senior experience in monitoring, evaluation and research
3. Experience in gender analysis and familiarity with child rights, and youth empowerment
4. High level of analytical skills
5. Familiarity with qualitative and quantitative/participatory methods
6. Experience with partnership and capacity building
7. Strong facilitation and presentation skills
8. Lao language skill as an advantage
9. Excellent report writing skill in English

**Child Protection:** Plan does not tolerate child abuse. All Plan staff and consultants are selected and employed in line with the conditions of Plan's Child Protection Policy. These include appropriate reference and background checks.
APPENDIX 3: FINAL QUESTIONNAIRES

Household Questionnaire
Stream – 1. Labour Rights

Name of Interviewers:       Date:

Interviewee(s):
O Female
O Male
O Male and female

Number of seasons worked in banana plantations (including this one) ....................

1. Location
   a) Village working in now
   b) Name of Company
   c) Village of Origin District Province
   d) Ethnicity:

2. Activities of children living on the plantation

<table>
<thead>
<tr>
<th>Child number</th>
<th>Age</th>
<th>Sex</th>
<th>Married?</th>
<th>School level complete</th>
<th>Daily Work</th>
<th>Use chemicals (Y/N)</th>
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3. Family makeup living on the plantation

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<th>Total Family Members</th>
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<tr>
<td>Age</td>
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<td>&gt;18 years</td>
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<td>6-10 years</td>
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<td>&lt; 6 years</td>
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<td>Total</td>
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Any children with disability? If yes, what do they do?

Labour rights questions

4. Level of satisfaction with working conditions

a) How satisfied are you with your working conditions on a rating of 1 to 3 (1 = unsatisfied, 2 = fair, 3 = very satisfied).
   payment of allowance 1 2 3
   hours of work 1 2 3
   essential leave 1 2 3
   assistance when sick 1 2 3

5. Level of satisfaction with living conditions

a) How satisfied are you with your living conditions on a rating of 1 to 3. (1 = unsatisfied, 2 = fair, 3 = very satisfied)
   accommodation 1 2 3
   access to clean water 1 2 3
   sanitation 1 2 3

6. Understanding of contract

a) Do you know how much are you getting paid per kilogram at the end of the year?
   O Yes, How much?
   O I don’t know but my husband knows
   O Nobody in our household knows

b) If a storm knocks down your bananas, will your family receive compensation from the company?
   O Yes, How much?
   O No
   O Not sure
c) Do you have a contract?
   - Yes, written
   - Yes, verbal
   - No
   - Not sure

Who signed the contract?
Who did you make it with?
If no, why not.

Do you understand your contract?
- Yes
- No

Did anyone explain the contract to you?

Do you think that the contact is fair?
- Yes
- No

7. Chemicals

a) Have you previously used chemicals in your village of origin?
   - Yes
   - No

What type?
- Fertiliser
- Herbicide
- Insecticide

b) At present, who sprays the most chemicals in your household?
   - Men/boys spray the most chemicals
   - Women/girls spray the most chemicals
   - Men/boys and women/girls spray about the same amount of chemicals

c) Did you receive training in how to use chemicals on the plantations
   - Yes
   - No

d) Do you use safety equipment when spraying chemicals
   - Yes, buy myself.
   - Yes, provided by Company
   - No

What do you use
Why not

Are you concerned about the impact of chemicals on your own health?
- Yes
- No

Reason

Are you concerned about the impact of chemicals on the health of your children?
- Yes
- No

Reason

Not sure
g) How is your health compared to before you worked on banana plantations?
   - Better than before
   - Same as before
   - Worse than before

8. Knowledge of Labour Law and rights

a) I have heard of the Labour Law
   - Yes
   - No

b) What action would you take if you weren’t paid the proper amount by the Company and your individual complaint to the Company wasn’t successful?
   - Do nothing
   - Visit the Company with other people
   - Visit the village head of the local village
   - Visit the local police station
   - Complain to the district or district court
   - Other (write down)_________________________________

9. Decision to come to the plantation

a) Why did you decide to come to work in banana plantations?

b) Describe your feeling towards working in the plantation right now
   - Happy made the decision to come
   - Regret making the decision to come
   - Not sure yet

c) Do you intend to extend your contract for another season?
   - Yes
   - No
   - Not sure

10. Radio Listening Habits

a) Do you listen to the radio?        - Yes        - No

b) Have you ever heard about the use of chemicals?    - Yes        - No

c) What language do you listen to?    - Hmong        - Khmu        - Lao

d) Which channels?

11. What would you like the Company to improve with its work in bananas? Why?
Household Questionnaire
Stream – 2. Women, child and gender rights

Name of Interviewers:                          Date:

Interviewee(s):
O  Female
O  Male
O  Male and female

Number of seasons worked in banana plantations (including this one).....................

1. Location

a) Village working in now
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3. Family makeup living on the plantation

Any children with disability? If yes, what do they do?

**Women’s rights, child rights and gender**

4. Pregnancy

a) In your family is anyone pregnant or lactating (child less than 6 months)
   - O Yes. Go to Part b)
   - O No, go to Question 5

b) If yes, which of the following is true?
   - O Pregnant or lactating women don’t spray chemicals
   - O Pregnant or lactating women spray chemicals, but less than before they were pregnant
   - O Pregnant or lactating women spray chemicals the same as before they were pregnant
   - O Pregnant or lactating women spray chemicals more than before they were pregnant

5. Impact to the household since moving to work in plantations

Since coming to work in the banana camps, in our household
6. Decision to come to the plantation

a) Why did you decide to come to work in banana plantations?

b) Describe your feeling towards working in the plantation right now
   - Happy made the decision to come  Why?
   - Regret making the decision to come  Why?
   - Not sure yet

c) Do you intend to extend your contract for another season?
   - Yes  Reason
   - No  Reason
   - Not sure

7. Radio Listening Habits

a) Do you listen to the radio?  O Yes  O No
b) Have you ever heard about the use of chemicals?
c) What language do you listen to?  O Hmong  O Khmu  O Lao
d) Which channels?

8. What would you like the Company to improve with its work in bananas?  Why?
Focus Group Discussion Example (for Female group and Male group)

Date: ________________

Location:

Number of participants: __________

- Objective: (Focus on research questions, 4, 6, 8, 9) To identify the priority areas of that should be addressed by awareness programs that will improve the lives of plantation workers – how should these be carried out

The discussion explores to women’s and men’s attitudes and beliefs, such as:

- How did the families weigh different factors and come to a decision to migrate to/ stay on banana plantations?
- How do male and female workers and their families perceive benefits, costs, and risks of migration to banana plantations?
- How have relationships between men and women changed since you have started work in the plantations?
- Has workers’ relocation to banana camps had positive or negative impact on their children?
- What hope do male and female workers have for their families, particularly children’s future?
- How do workers resolve any issues or grievances with employers? What are the level of solidarity and collaboration among workers from different ethnic groups? Are there any existing workers’ groups? If so, how do they function?
- What are the priority areas of that should be addressed by awareness programs that will improve the lives of plantation workers – how should these be carried out?
### APPENDIX 4: SCHEDULE OF INTERVIEWS UNDERTAKEN DURING THE RESEARCH

Summary of stakeholder interviews

<table>
<thead>
<tr>
<th>Date</th>
<th>Stakeholder</th>
<th>Sex of person interviewed</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/5/16</td>
<td>Provincial Agriculture and Forestry Office (PAFO)</td>
<td>Male</td>
</tr>
<tr>
<td>4/5/16</td>
<td>Provincial Party Inspection Committee (responsible for implementing government policies and regulations for the management of banana plantations in Bokeo)</td>
<td>Male</td>
</tr>
<tr>
<td>8/5/16</td>
<td>Singtaly Agriculture Company – Ban Dan</td>
<td>Male</td>
</tr>
<tr>
<td>10/5/16</td>
<td>Houayxay Noy Police Station</td>
<td>Male</td>
</tr>
<tr>
<td>25/5/16</td>
<td>Provincial Labour and Social Welfare Office</td>
<td>Male</td>
</tr>
<tr>
<td>No.</td>
<td>Survey Date</td>
<td>Village</td>
</tr>
<tr>
<td>-----</td>
<td>-------------</td>
<td>---------</td>
</tr>
<tr>
<td>1</td>
<td>6/6/16</td>
<td>Dan</td>
</tr>
<tr>
<td>2</td>
<td>6/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>3</td>
<td>6/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>4</td>
<td>7/5/16</td>
<td>Phouvan Tai</td>
</tr>
<tr>
<td>5</td>
<td>7/5/16</td>
<td>Samok Tai</td>
</tr>
<tr>
<td>6</td>
<td>7/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>7</td>
<td>8/5/16</td>
<td>Samok Tai</td>
</tr>
<tr>
<td>8</td>
<td>8/5/16</td>
<td>Samok Tai</td>
</tr>
<tr>
<td>9</td>
<td>8/5/16</td>
<td>Hounyay Noy</td>
</tr>
<tr>
<td>10</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>11</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>12</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>13</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>14</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
<tr>
<td>15</td>
<td>9/5/16</td>
<td>Dan</td>
</tr>
</tbody>
</table>
### Summary of banana camps and household interviews (questionnaire and semi-structured)

<table>
<thead>
<tr>
<th>No.</th>
<th>Survey Date</th>
<th>Village</th>
<th>Company</th>
<th>Camp Name</th>
<th>Total No. families</th>
<th>Ethnicity</th>
<th>Total No. interviewed (questionnaire)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6/5/16</td>
<td>Nam Phuk</td>
<td>Li Long</td>
<td>Market</td>
<td>5</td>
<td>Khmu</td>
<td>2</td>
</tr>
<tr>
<td>2</td>
<td>6/5/16</td>
<td>Dan</td>
<td>Singtały</td>
<td>6</td>
<td>12</td>
<td>Hmong</td>
<td>6</td>
</tr>
<tr>
<td>3</td>
<td>6/5/16</td>
<td>Dan</td>
<td>Singtały</td>
<td>9</td>
<td>12</td>
<td>lu-Miên, Khmu</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>6/5/16</td>
<td>Dan</td>
<td>Singtały</td>
<td>10</td>
<td>12</td>
<td>Hmong, lu-Miên</td>
<td>3</td>
</tr>
<tr>
<td>5</td>
<td>6/5/16</td>
<td>Dan</td>
<td>Singtały</td>
<td>3</td>
<td>11</td>
<td>Hmong</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>6/5/16</td>
<td>Dan</td>
<td>Singtały</td>
<td>2</td>
<td>12</td>
<td>Hmong</td>
<td>3</td>
</tr>
<tr>
<td>7</td>
<td>7/5/16</td>
<td>Phouvanh Tai</td>
<td>Sivanh</td>
<td>6</td>
<td>12</td>
<td>Khmu</td>
<td>6</td>
</tr>
<tr>
<td>8</td>
<td>7/5/16</td>
<td>Samok Tai</td>
<td>Tong Yong</td>
<td>Main camp</td>
<td>21</td>
<td>Khmu, Hmong</td>
<td>9</td>
</tr>
<tr>
<td>9</td>
<td>7/5/16</td>
<td>Phouvanh Tai</td>
<td>Sivanh</td>
<td>?</td>
<td>3</td>
<td>Hmong</td>
<td>3</td>
</tr>
<tr>
<td>10</td>
<td>8/5/16</td>
<td>Dan</td>
<td>Jingyuan</td>
<td>4</td>
<td>7</td>
<td>lu-Miên, Hmong</td>
<td>4</td>
</tr>
<tr>
<td>11</td>
<td>8/5/16</td>
<td>Nam Samok Tai</td>
<td>Yongfar</td>
<td>South Hill</td>
<td>8</td>
<td>Khmu</td>
<td>3</td>
</tr>
<tr>
<td>12</td>
<td>8/5/16</td>
<td>Dan</td>
<td>Singthały</td>
<td>Nong</td>
<td>11</td>
<td>Khmu, Hmong</td>
<td>4</td>
</tr>
<tr>
<td>13</td>
<td>8/5/16</td>
<td>Done savanh</td>
<td>Suiningming</td>
<td>?</td>
<td>5</td>
<td>Hmong</td>
<td>3</td>
</tr>
<tr>
<td>14</td>
<td>8/5/16</td>
<td>Done savanh</td>
<td>Suiningming</td>
<td>?</td>
<td>3</td>
<td>Hmong, Khmu</td>
<td>2</td>
</tr>
<tr>
<td>15</td>
<td>9/5/16</td>
<td>Dan</td>
<td>Jingyuan</td>
<td>1</td>
<td>11</td>
<td>Khmu, Hmong</td>
<td>1</td>
</tr>
<tr>
<td>16</td>
<td>9/5/16</td>
<td>Dan</td>
<td>Jingyuan</td>
<td>2</td>
<td>6</td>
<td>Hmong</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>TOTAL</strong></td>
<td>151</td>
<td><strong>60</strong></td>
</tr>
</tbody>
</table>
## APPENDIX 5: KEY ARTICLES IN THE REVISED LABOUR LAW AND THEIR ON-GROUND IMPLEMENTATION

The following table compares relevant articles (in abridged form to reflect work in plantations from the Lao Labour Law (No. 43 NA, 2014) with their observed implementation during the research.

<table>
<thead>
<tr>
<th>Article (abridged to reflect work in plantations)</th>
<th>Research observation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Article 51 (Revised) Hours of Work</strong>&lt;br&gt;Normal hours of work in every labor unit will be no more than six days per week and eight hours per day or no more than forty-eight hours per week, regardless of the type of salary or wage. Hours of work must not exceed six hours per day or thirty-six hours per week for employees whose occupations are in sectors that involve:&lt;br&gt;– Direct exposure to dangerous materials or chemicals, such as explosives;</td>
<td>Contracts specify that working hours are 7-11 and 1 till 5. However, the actual hours of work varied, depending on the experience of the workers, the labour available, the character of the supervisor, the time of year and the health of the plantation. Many workers reported they were satisfied: as contractors, they have to finish the job – if they work fast, can finish fast. Others unhappy about the lack of flexibility. No specific consideration given to hazardous work such as spraying chemicals: but can be up to several times/week.</td>
</tr>
<tr>
<td><strong>Article 58 (New) Personal Leave</strong>&lt;br&gt;Employees have the right to take personal leave of not less than three days while maintaining wages or salary in the following cases: [injuries, death to immediate family, marriage, birth..] &lt;br&gt;Employees who request personal leave for personal reasons must apply for personal leave with the employer.</td>
<td>As contractors, workers did not receive wages or salary, but their allowance may be reduced if the Company felt that the bananas were not being managed properly. People generally satisfied with leave arrangements. Those who want to take a couple of days off can ask their supervisor. It is generally granted for those with a good reputation that have completed their work.</td>
</tr>
<tr>
<td><strong>Article 77 (Revised) Forms of Employment Contracts</strong>&lt;br&gt;Employment contracts must be made in writing in cases where one party or both parties are a legal entity or organization.</td>
<td>About 90% of people have written contracts. These are only between the two parties, which limits recourse in the event to a dispute.</td>
</tr>
</tbody>
</table>
**Article 78 (New) Content of Employment Contracts**
The content of employment contracts must include the following: 1. Name and surname of the employer and employee; 2. Scope of work, rights, obligations, responsibilities and occupational duties of the employee; 3. Salary or wages of the employee; 4. Duration of the employment contract, date of commencement and expiry of the contract; 5. Address of the employer and employee; 6. Form of payment for salary or wages; 7. Duration of trial period for employees; 8. Welfare and other policies for employees; 9. Working days, rest days and holidays; 10. Benefits the employee will receive at the expiration of the employment contract; 11. Other matters that both parties deem necessary in accordance with the law.

**Article 97 (Revised) The Employment of Pregnant Women or Women Caring for Newborns**
It is prohibited to employ a woman during pregnancy or during the period she is caring for a child under one year of age to perform the following work: [2. Work lifting and carrying by hand, carrying on shoulders, carrying on a pole, or the bearing of loads heavier than ten kilograms; 4. Overtime or working on rest days; 5. Work which involves standing for longer than two consecutive hours; 6. Works specified in the list of hazardous works.]

A woman during pregnancy or during the period she is caring for a child under one year of age that has previously undertaken any of the work outlined above must be transferred by the employer to a new and more appropriate position temporarily, and shall maintain the same salary or wage.

Contracts vary between the companies, but working conditions generally follow the Chinese model. All contracts are in the form of piecework, whereby the worker receives a combination of a monthly living allowance and a final lump-sum.

Two main areas lead to disputes. Firstly, some contracts fail to specify compensation in the event of storm damage. Secondly, there is no clear statement of banana standards, such as size, which may cause the company to reject some of the crop. There is no specific dispute mechanism incorporated into the contract.

Ethnic workers trust the relatives who have asked them to come rather than what is written on paper. When people have come so far they generally don’t refuse to sign. It is up to the members of the household themselves how they organize to undertake the work.

Many ethnic women have large families, and are either pregnant or lactating throughout their reproductive years. Hmong women for example, must continue to carry out their household responsibilities as normal until they give birth (Symonds, 2004).

Poor households may not have the means to hire outside workers to assist.
<table>
<thead>
<tr>
<th>Article 101 (Revised) Acceptance of Youth Employees</th>
<th>Many youths were working on plantations as part of a contract, but it is up to the members of the household themselves how they organize to undertake the work.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employers may accept employees under the age of eighteen years but not younger than fourteen years; however, they are prohibited from working overtime.</td>
<td>Youth were found to be using chemicals without proper protective equipment during the research, both as part of the household contract and in a role as a day labourer. A large number of children were unable to attend school due to their work in the plantations.</td>
</tr>
<tr>
<td>When necessary, the employer may accept and use youth employees under the age of fourteen, but not younger than twelve years, and must ensure the work is light work such as:</td>
<td></td>
</tr>
<tr>
<td>1. Work that will not negatively impact the body, psychology or mind;</td>
<td>As noted above, youth (both men and women) are using dangerous chemicals without proper protective equipment</td>
</tr>
<tr>
<td>2. Work that will not obstruct attendance of school, professional guidance or vocational training.</td>
<td></td>
</tr>
<tr>
<td>Article 102 (New) Unauthorized Use of Youth Employees</td>
<td>The Employer does not consistently provide</td>
</tr>
<tr>
<td>Cases wherein the use of youth employees is prohibited are as follows:</td>
<td></td>
</tr>
<tr>
<td>1. Work in activities, duties and locations that are unsafe, dangerous to the health of the body, psychology or mind;</td>
<td></td>
</tr>
<tr>
<td>Article 119 (New) Obligations of the Employer</td>
<td></td>
</tr>
<tr>
<td>7. Supply information, recommendations, training and protection for employees so that they may undertake their work safely;</td>
<td></td>
</tr>
<tr>
<td>8. Supply individual safety gear to employees in full and in good condition according to international standards;</td>
<td></td>
</tr>
</tbody>
</table>
This project is funded by the European Union

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