

Proposed Actions on Improving Cooperation between Labour Inspectors, Recruitment Agency Regulators and Anti-Trafficking Police

Workshop on Strengthening Capacity and Coordination on Prevention and
Investigation of Trafficking in Persons for Forced Labour

27-28 May 2019, Luang Prabang Province, Lao PDR

The Workshop on Strengthening Capacity and Coordination on Prevention and Investigation of Trafficking in Persons for Forced Labour was convened on 27-28 May 2019 in Luang Prabang Province, Lao PDR. It was attended by the delegates of ASEAN Member States representing the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), Senior Officials Meeting on Transnational Crime (SOMTC), ASEAN Inter-Governmental Commission on Human Rights (AICHR), ASEAN Senior Law Officials Meeting (ASLOM), Senior Officials Meeting on Social Welfare and Development (SOMSWD), and ASEAN Commission on the Promotion and the Protection of the Rights of Women and Children (ACWC). Representatives of the ASEAN Secretariat, resource persons from TENAGANITA and Human Rights and Development Foundation (HRDF), Australian Department of Foreign Affairs and Trade, Global Affairs Canada, ASEAN-Australia Counter-Trafficking (ASEAN-ACT) Programme, the Asia Foundation and ILO TRIANGLE in ASEAN Programme were also in attendance. The list of participants is enclosed.

RECOGNISING that labour inspectors, recruitment agency regulators and anti-trafficking police have a shared responsibility and complementary roles, mandates and advantages in remedying violations of workers' rights, including forced labour and trafficking in persons for forced labour in accordance with their national legal framework.

RECOGNISING that trafficking in persons across the ASEAN region occurs in the context of migrating for work and it can be effectively tackled and prevented through a labour approach that addresses recruitment agencies and employers who abuse and exploit workers.

RECOGNISING that migrant workers, irregular workers, workers in poorly regulated sectors, women and underage workers are more vulnerable to trafficking for forced labour, and abuses along the continuum of exploitation.

RECOGNISING that labour inspectors, recruitment agency regulators and anti-trafficking police need to work collaboratively to ensure workers can access effective remedies for violations suffered, effective sanctions and punishments for perpetrators and a systematic approach to curb illegal practices in recruitment and employment of workers.

NOTING that labour inspectors' advantages include their ability to act without a victim complaint; to enter a workplace (or a suspected workplace) freely and without prior notice or search warrant at any hour of the day or night; impose orders and/or penalties on employers for labour law violations including with respect to unpaid wages and benefits; and their knowledge of labour laws, working conditions and other labour protection issues.

NOTING that recruitment agency regulators' advantages include ability to license recruitment agencies, regularly monitor and audit recruitment activities, reward good practices, and revoke the licenses of agencies who violate regulations and their licence criteria.

NOTING that anti-trafficking police's advantages include the authority to arrest and detain offenders, seek orders to freeze assets and other proceeds of crime, prosecute for the full range of criminal offences associated with the exploitation of workers' rights and, where a worker is declared a victim of human trafficking, facilitating access to protection and support services.

RECOGNISING that the primary duty of labour inspectors should not include enforcing immigration law, and that all migrant workers, including those who become undocumented through no fault of their own and those employed in informal workplaces, should be entitled to the protections afforded by applicable laws.

The participants agreed to propose the following actions for the ASEAN Member States:

1. Strengthen or establish formal and informal mechanisms for sharing information between labour inspectors, recruitment agency regulators and anti-trafficking police when a case involving violations of workers' rights amounting to trafficking or forced labour identified and investigation initiated;
2. Review legal frameworks, policies and practices to enable application of concurrent sanctions by labour inspectors, recruitment agency regulators and anti-trafficking police, to ensure migrant workers timely access to remedies, including compensation and payment of unpaid wages;
3. Enable, through legislation, policy or other means, and improve sharing of data and evidence between labour inspectors, recruitment agency regulators and anti-trafficking police to facilitate more efficient investigation of and response to violations of workers' rights, in the interest of the worker, based on a shared understanding of the incidence and features of trafficking and forced labour;
4. Coordinate investigation actions at national and regional level of labour inspectors, recruitment agency regulators and anti-trafficking police, including parallel and/or joint investigations where possible, in handling violations of workers' rights;
5. Enable and facilitate referral mechanism from one authority to ensure that no cases are overlooked and workers and their representatives have timely access to remedies, including compensation;
6. Coordinate on strategic planning of investigation actions of labour inspectors, recruitment agency regulators and anti-trafficking police, for example to define priority sectors and targets as well as proactive interventions beyond enforcement that could help address the underlying systemic causes of trafficking and forced labour;

7. Empower labour inspectors and recruitment agency regulators to impose more effective sanctions, where necessary in coordination with police, to root out unlawful recruitment and employment practices, including barring noncompliant employers from hiring migrant workers and publicly identifying noncompliant recruitment agencies;
8. Carry out an ASEAN analysis of inter-agency platform in ASEAN Member States to identify best practices in data sharing, remedies and referrals; and
9. Carry out an ASEAN mapping study of legal mandates, procedures and sanction regimes of labour inspectors, recruitment agency regulators and anti-trafficking police in ASEAN Member States to identify further needs, opportunities and limitations for improving coordination in handling violations of migrant workers' rights, including through cross-border referrals.

Closing

The participants extended their appreciation to the Ministry of Labour and Social Welfare of Lao PDR for the excellent arrangements of the Workshop and warm hospitality accorded to them. The participants also extended their appreciation to the ASEAN Secretariat, Australian Department of Foreign Affairs and Trade, ASEAN-ACT Programme, the Asia Foundation and ILO TRIANGLE in ASEAN Programme for the support to the Workshop.
