

## GMS TRIANGLE Project

### Protecting Migrant Workers through Labour Inspection

International  
Labour  
Organization

Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion from Labour Exploitation (the GMS TRIANGLE project) is a five-year project that aims to strengthen the formulation and implementation of recruitment and labour protection policies and practices. The project is supported by the Australian Government, and is operational in six countries: Cambodia, Lao People's Democratic Republic, Malaysia, Myanmar, Thailand and Viet Nam. In each country, tripartite constituents (government, workers' and employers' organizations) are engaged in each of the GMS TRIANGLE project objectives - strengthening policy and legislation, building capacity of stakeholders and providing services to migrant workers. These goals are interdependent, with policy advocacy and capacity building activities driven by the voices, needs and experiences of workers, employers and service providers.

Proper application of labour legislation to protect workers' rights and ensure decent work for all workers depends on an effective labour inspectorate. Labour inspectors examine how national labour standards are applied in the workplace and advise employers and workers on how to improve the application of national law on issues such as working time, wages, occupational safety and health, child labour, and forced labour. They play an important role in ensuring that labour law is applied equally to all employers and workers – including migrant workers, young workers, and workers in hard to reach sectors. Most importantly, labour inspectors usually have the power to freely enter any workplace liable to inspection, at any time and without prior notice, to ensure that minimum standards are being applied in that workplace. The GMS TRIANGLE project and partners are engaged in a number of initiatives to improve the scope and effectiveness of labour inspection in Thailand and Malaysia, with a particular focus on the Thai fishing industry.



Thai Marine Police inspection of a fishing vessel at sea.

#### Labour inspection in the Thai fishing industry

Fishing is an industry that regularly operates away from the general purview of labour inspections and the enforcement of labour laws and standards. Fishers are also often excluded from the scope of national labour laws and protection that apply to other workers.

In Thailand, fishers are excluded from the Labour Protection Act, B.E. 2541 (1998) provision regarding inspections; and inspections provided for in the Fisheries Act, B.E. 2490 (1947) are limited to control of gear and catch, to the exclusion of crew members. The Department of Labour Protection and Welfare (DLPW) does not directly conduct inspection of fishing vessels at sea, rather providing support to Marine Police and the Navy to ensure that working conditions and employment practices on board are lawful.

The labour inspectorate in Thailand faces several institutional challenges to effective implementation. Thailand has an active labour force of 38.3 million (Labour Force Survey 2014), while there are 605 labour inspectors, responsible for monitoring conditions in over 350,000 registered workplaces that employ nearly 8 million workers (2011). Inspections are usually conducted in response to specific complaints or intelligence received about criminal activity; and are largely limited to the formal economy. This leaves the sectors in which migrant workers are largely engaged – agriculture, construction and domestic work – out of the scope of labour inspection. A further shortcoming is that while migrant workers are particularly vulnerable to labour rights abuses, interpreters are not engaged in inspections of workplaces where the employees are predominately migrants, raising questions as to how inspectors are able to determine conditions in place. Recognizing these gaps in protection, the need to improve labour inspection standards and procedures was explicitly mentioned in the Anti-Trafficking Action Plan of the Royal Thai Government in 2012-2013.

## **Current initiatives in Thailand**

The DLPW, the Ministry of Labour (MOL), in collaboration with, the ILO GMS TRIANGLE Project, the ILO-IPEC (Shrimp) Project and the ILO Country Office for Thailand, Cambodia and Lao People's Democratic Republic have been working to strengthen capacity for inspection of forced labour, child labour and working conditions for vulnerable workers, including migrants. In June 2012, the GMS TRIANGLE and IPEC projects hosted a Labour Inspection Management Workshop for DLPW senior labour and safety inspectors, to identify institutional challenges and provide information on current labour inspection innovations and developments. Some of the current and ongoing activities are outlined below:

1. **Training modules for increasing labour inspection capacities with a special focus on vulnerable workers** have been developed. The purpose of the training modules are to enhance the response of Thai labour inspectors to the specific challenges faced by vulnerable workers, and in particular improve the protection provided to children and young workers, migrant workers, and those in child labour, forced labour and hard to reach sectors. In addition to the training modules, a set of guidelines for conducting inspections in the fishing sector, as well as a protocol for officers to follow in the event that they uncover cases of forced labour and child labour, in terms of protecting workers, sanctioning employers, and linking to referral partners, were developed. In 2014 a series of training programmes based in 22 coastal provinces was carried out; and will be followed by monitoring missions from a central-level technical working group to provide additional coaching and track inspection activities and orders issued.
2. In February 2013, the ILO facilitated **an advisory mission from the Brazilian Labour Ministry to Thailand to share their experiences, good practices and innovations** on combatting forced labour and child labour, and improving inspections in the fishing sector. Among the key measures adopted by Brazil in the fight against forced labour was the creation of a Special Mobile Inspection Group in 1995, under the Ministry of Labour. The Special Mobile Inspection Group combines the efforts of specially trained and equipped labour inspectors, labour prosecutors, and police officers. The Special Mobile Inspection Group has extensive data to demonstrate their success in rescuing workers from situations of forced labour and in gaining compensation for workers.
3. Inspired by the good practices shared by Brazil, in 2013 **the DLPW established a multi-sectoral unit to inspect vessels while at sea**. The team operates under the DLPW and includes a labour inspector from DLPW and officers of the Marine Police, Royal Thai Navy, Department of Special Investigations and the Department of Fisheries.

## **Current initiatives in Malaysia**

The ILO GMS TRIANGLE project has been cooperating with the Ministry of Human Resources (MOHR) in Malaysia on labour inspection through a series of workshops in 2011, 2012 and 2013. In 2014, there are plans to develop guidelines for labour attachés and NGOs to cooperate with the authorities on the protection of migrant workers.

4. In 2010, the Anti-Trafficking in Persons Act of Malaysia was amended to give additional enforcement powers to labour officers. In May 2012 the GMS TRIANGLE project delivered **training on the labour dimensions of trafficking to labour officers** from across Malaysia. The training course aimed to enhance labour officers' understanding of the law, of how to identify trafficking victims, and their role in the investigation of labour trafficking cases.
5. In February 2013, the **Workshop on Sharing Experiences and Innovations in Labour Inspection between Malaysia and Brazil** was held. The delegates heard from the Labour Department of Peninsular Malaysia, the ILO, and the Brazilian delegation on their experiences in labour inspection, including in the fields of child labour and the fishing sector. Participants discussed possible areas for replication into the Malaysian context, including re-defining tasks of labour inspectors to be more specific, and to receive better support and coordination from the police and the Immigration Department.