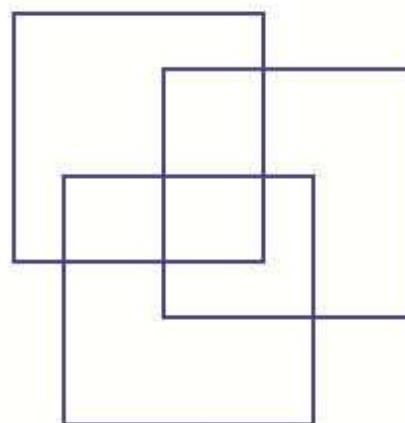




International  
Labour  
Organization

**Report of the Eighth Tripartite Regional Seminar on  
Industrial Relations in the ASEAN Region  
Hoi An, Viet Nam  
8–9 November 2017**



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## Foreword

Changing forms of employment and technological transformation have revitalized industrial policies and practices in the Association of Southeast Asian Nations (ASEAN) region. While it is important that ASEAN Member States recognize the risk of displacement for their workforce due to the advancement of disruptive technologies, they must also acknowledge the many opportunities to generate new skills and occupations that meet the demand for future work. Existing policy instruments and reform measures must align to the realities of evolving jobs and technologies and that a social dialogue and rights-based approach to sound industrial relations must be promoted.

The International Labour Organization (ILO) assists member States in establishing or strengthening their legal frameworks, institutions, machinery or processes for sound industrial relations and effective social dialogue. By promoting social dialogue among member States and regional or subregional groupings as a means of consensus building, economic and social development and good governance, the ILO seeks to create an enabling environment for the realization of the Decent Work Agenda.

To promote the role of effective social dialogue in coping with labour market consequences, including issues concerning industrial relations and employment, the ILO (through the ILO/Japan Multi-bilateral Programme) and the Viet Nam Ministry of Labour, Invalids and Social Affairs arranged the Eighth Tripartite Regional Seminar on Industrial Relations in the ASEAN Region (8–9 November 2017) in Hoi An, Viet Nam. This seminar is one in a series of seminars that began within the ASEAN-ILO/Japan Industrial Relations Project (2009–2015). In following through on the interest and need for the region to build better industrial relations and promote social dialogue since the closure of that project, the ILO continues to offer the seminar each year. The theme for 2018, “Promoting sound industrial relations through social dialogue and implications of changing forms of employment for industrial relations in the ASEAN region”, was agreed during the Project Cooperation Committee meeting (arranged in conjunction with the Thirteenth Senior Labour Officials Meeting) in May 2017 in Singapore.

The seminar discussions centred on four areas of relevance for ASEAN Member States to promote sound industrial relations through social dialogue: (i) ILO policy recommendation and advocacy; (ii) international and regional good practices through social dialogue; (iii) country experiences in industrial relations; and (iv) implications of changing forms of employment.

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## **Abbreviations**

ASEAN	Association of Southeast Asian Nations
CBA	collective bargaining agreement
ILO	International Labour Organization
IR	industrial relations
OSH	occupational safety and health
SMEs	small and medium-sized enterprises

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## 1. Opening remarks

Moderator: Hideki Chiba, Programme and Operations Officer, ILO/Japan Fund for Building Social Safety Nets in Asia and the Pacific

**Ha Thi Minh Duc, Deputy Director General, International Cooperation Department, Ministry of Labour, Invalids and Social Affairs, Viet Nam**

After her introduction to the challenges and similarities associated with industrial relations in the Association of Southeast Asian Nations (ASEAN) region, Ha Thi Minh Duc outlined the role of social partners to influence legislation, citing as an example new provisions in the 2012 revised Labour Code of Viet Nam that incorporates social dialogue and collective bargaining agreements. She explained how legislation in Viet Nam had been translated at the workplace level to protect workers' rights while promoting productivity for employers. Ms Duc stressed that the involvement of tripartite partners in securing harmonious industrial relations is crucial. She highlighted the support of the International Labour Organization (ILO)/Japan Multi-bilateral Programme in promoting harmonious industrial relations across the region as well as ILO initiatives relating to jobs and employment for the future. Ms Duc encouraged the participants to share their experiences to enrich the mutual learning that is possible through the seminar.

**Wim De Groof, Programme Manager, New Industrial Relations Framework, ILO Country Office for Viet Nam**

Citing changes in the world work and taking an example from Japan in the context of globalization and the evolving nature of work, Wim De Groof stressed the importance of effective, harmonious and inclusive industrial relations for social stability and social justice. With the establishment of the ASEAN Economic Community, economic integration within the region is growing, and this needs to be facilitated by the sharing of policies, ideas and experiences. Mr Groof noted that the seminar will contribute to the common goal of sound industrial relations promoted by the Bali Declaration, which was adopted by the tripartite partners. This seminar is also important because the discussions around social dialogue, freedom of association and collective bargaining in the context of changing forms of work and the importance of small and medium-sized enterprises (SMEs) in an economy will help governments and social partners towards achieving decent work objectives.

**Eiki Inoue, Deputy Director, International Affairs Division, Ministry of Health, Labour and Welfare, Japan**

Highlighting the work of the ILO/Japan Multi-bilateral Programme and the support from the Government of Japan to help countries engage in sound industrial relations practices, Eiki Inoue stressed the need to understand the similarities and differences in labour management practices in the region. The seminar serves this objective, he said, by providing opportunity to learn from one another on what works well for labour management. But, ultimately, it is what the tripartite partners do with the good practices in the context of the sociocultural background and customs of their country that will most affect the strengthening of the industrial and labour relations system.

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## **2. ILO perspectives on changing labour markets and their impact on the ASEAN region**

### **2.1 Current industrial relations situation in ASEAN region**

#### **Pong-Sul Ahn, Regional Workers' Education Specialist, ILO Regional Office for Asia and the Pacific**

Pong-Sul Ahn focused his presentation on three areas: (i) opportunities for harmonious industrial relations in the ASEAN region; (ii) major issues hampering industrial relations; and (iii) essential factors for effective social dialogue.

The ASEAN region is the sixth-largest economy in the world, with US\$2,432 trillion in gross domestic product in 2015, Mr Ahn said in giving a backdrop to the opportunities and challenges. Growth in foreign investment and economic prosperity has brought together the challenges of widening income inequality, polarization in jobs and unequal gains (on a country, sector and gender basis). He then noted the following factors affecting sound industrial relations.

1. **Technological disruption on employment:** The increase in the use of robots across sectors is changing employment. The number of industrial robots in use in the Asia-Pacific region increased by 70 per cent – up to 887,400 units – between 2010 and 2015. Mr Ahn noted the widening disparity in jobs and the urgent need for adequate protection of employment and labour rights in new economic models.
2. **Vulnerable employment:** Workers in vulnerable employment are less likely to have formal work arrangements and are thus more likely to lack decent working conditions, adequate social security and “voice” in representation through trade unions and similar organizations. Mr Ahn noted that the incidence of vulnerability is greatest in the agriculture sector, at 40 per cent, thus affecting labourers right to decent work.
3. **Gender gap in labour participation:** The gender gap in labour force participation has narrowed slightly but remains wide and persistent, at 26.4 per cent globally. Women continue to work in low-quality jobs and earn smaller salaries than men in the region. Mr Ahn stressed that women’s labour force participation has remained low despite significant economic growth. Countries must acknowledge the implications of high female labour force participation for greater economic growth and address the obstacles. ILO data analysis for 2016 found that female labour market participation rate was the lowest in Malaysia, at an estimated 44 per cent, compared with the estimated 78 per cent in Cambodia (the highest in the region).
4. **Demographic changes and youth unemployment:** One implication of ageing populations is an increasing concern for the sustainability of development. While the proportion of the region’s population aged 15 or younger is following a decreasing trend (projected at 24.1 per cent in 2020, compared with 40.7 per cent in 1980), the proportion of persons aged 65 years or older is projected to increase to 30.8 per cent in 2020. Increasing youth unemployment due to various factors, including slow job creation, rise in the gig economy, automation and adoption of information and communication technology, has created an imbalance in the labour market.
5. **Low public expenditure on social protection and low coverage:** Recent ILO estimates show that public expenditure on social protection in ASEAN countries is low when compared with the global average of 8.6 per cent. Mr Ahn stressed that countries in the region must strengthen their social protection system for future economic growth.



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6. Disparity in minimum wages: Mr Ahn described mechanisms to set minimum wages, which sometimes may not fully reflect inflation rates and productivity growth rates. Minimum wages are still low in some ASEAN countries, with little social protection and corporate benefit for workers, which pushes them to undertake overtime work.
  7. Migration: Migrant workers contribute to the economic engine in labour-receiving countries and are a financial resource for economic development in labour-sending countries. However, recognition and respect for the rights of migrant workers, coupled with employment-related income data that is disaggregated by sex and migration status, must be stressed. Mr Ahn emphasized that both sending and receiving countries should facilitate a smooth transition for workers prior to and during their migration process, as well as after their return home and reintegration into the labour force.
  8. Compliance with the core ILO Conventions: Mr Ahn noted that some ASEAN countries have signed several legal and non-binding instruments relevant to industrial relations, including ratification of the ILO core Conventions, such as the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98). These standards must be respected, if not ratified, to align the priorities of countries in securing the rights of workers.

In conclusion, Mr Ahn maintained that effective social dialogue processes can be assured through comprehensive social protection for unemployed youth, informal workers and migrant workers, enforcement of minimum wage payment and monitoring, implementation of the Bali Declaration (especially article 1 on ratification of Convention No. 87 and No. 98) and tripartite response to the impact of technological disruption on employment.

## **2.2 Changing forms of employment and their implications**

### **Labour market and industrial relations in ASEAN: Miaw Tiang Tang, Senior Specialist on Employers' Activities, ILO Decent Work Team for East and South-East Asia and the Pacific**

Industrial relations in ASEAN countries are changing – in parallel with labour market developments, began Miaw Tiang Tang. She spotlighted the region's labour market trends, noting the shift from low-cost and low-skill production to an increased demand for higher wages and better working conditions. The growth in trade agreements and economic partnerships, such as the Trans-Pacific Partnership, the Regional Comprehensive Economic Partnership and the Responsible Business Conduct in Supply Chain, has intensified competition for – and increases in – investment, technology, skilled labour and productivity. Thus, countries in the region are preparing for the future and working to amend their legislation towards compliance with international labour standards.

Transitioning with the changes and labour market conditions has its challenges and opportunities, Ms Tang said. In the ASEAN region, where an estimated 10.2 million migrant workers are mobile, the risk of low-skilled workers in labour-intensive sectors being replaced with automation is high. She emphasized it is crucial that adequate skills and training be provided to these workers so they can better cope with advancements in technology and jobs that are relevant for the future. ASEAN Member States must prepare themselves to deal with the challenges of formalizing the informal sector, transitioning irregular jobs to regular employment and enforcing standard forms of employment.

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Ms Tang stressed the importance of clear communication and consensus to mutually agree and adapt proposed changes. Good practices and guidelines can contribute towards strengthening good industrial relations when promoting good industrial relations. For instance, the ASEAN Guidelines on Good Industrial Relations Practices as well as the ASEAN Guidelines for Corporate Social Responsibility on Labour, adopted by ASEAN ministers in 2010 and 2016, respectively, each underscores the key elements in good industrial relations, including the fundamental rights of employers and workers, bipartite cooperation and collaboration, mutual trust and respect, promoting corporate social responsibility, and compliance and social dialogue.

**Non-standard employment trends in ASEAN and the impact on industrial relations: John Richotte, Specialist on Labour Administration and Labour Relations, ILO Decent Work Team for East and South-East Asia and the Pacific**

The ILO, explained John Richotte, recognizes “non-standard employment” as an umbrella term for different employment arrangements that deviate from standard employment. Non-standard employment encompasses four elements: (i) temporary employment; (ii) part-time and on-call work; (iii) temporary agency work and other multiparty employment relationships; and (iv) disguised employment and dependent self-employment. Non-standard employment is different from informal economy jobs and thus attention must be given to the two concepts during policy discussions and analysis.

Mr Richotte then defined the context and trends highlighting challenges and good practices in the region. Across the ASEAN region, there exists a wide variation of definitions for various types of non-standard employment. It is particularly challenging to establish a standardized definition and make comparisons because of the different forms, and the region lacks adequate statistics and data on the ratio of non-standard employment. Despite these discrepancies, information obtained through informal surveys and research indicate that all four types of non-standard employment exist in the ASEAN region, with two of them more predominant: (i) temporary employment; and (ii) outsourcing and subcontracting. Mr Richotte maintained that where data are available, a general trend is apparent towards increasing use of temporary contracts. However, the growing incidence of multiparty employment relationships (involving four or more parties) is increasing the demand for agency and dispatch work. Citing examples from Indonesia and Thailand, Mr Richotte noted that 55 per cent of Thai workers and 9.8 per cent of Indonesian workers engage in temporary employment, which is a form of non-standard employment.

Non-standard employment is a major source of disputes and poor industrial relations, Mr Richotte pointed out. It is linked to lower wages, limited access to training, job insecurity, greater risk to the health and safety of workers and barriers to freedom of association and collective bargaining. Thus, governments must increase protection for non-standard employment workers. Mr Richotte added that the lack of specific legislation to regulate non-standard employment as well as the nature of industrial relations makes the regulation of non-standard employment relevant and important for any change in legislation concerning employment. The correlation between rising non-standard employment and declining union density rates must not be neglected, he added. Non-standard employment must be regulated to ensure a sound industrial relations system. Drawing on good practices in the Philippines and Singapore, Mr Richotte highlighted that tripartite involvement in social dialogue is critical to secure a successful industrial relations system and for the protection of all workers, irrespective of their contract type.

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### **3. Current situation of industrial relations and social dialogue and changing forms of employment in ASEAN Member States**

#### **3.1 Experiences from Malaysia**

**Noor Azian Jamaludin, Senior Assistant Director, Industrial Relations Department, Ministry of Human Resource**

Noor Azian Jamaludin explained that Malaysia has in place the elements for a sustainable national industrial relations system, citing the growth in the number of trade unions (739 in July 2017, compared with 680 in 2009) and mechanisms to promote harmonious industrial relations, including the Program of Industrial Engagement (which aims to educate employers, employees and union members on matters related to industrial relations), and legislation, such as the Employment Act, 1955, the Industrial Relations Act, 1967 and the Code of Conduct for Industrial Harmony. Within that system, there is a focus on collective bargaining, provision of client consultation services and establishment of non-unionized facilities, like the Joint Consultative Council in enterprises. These councils support both employers' and employees' interests and provide platforms to discuss common issues and resolve disputes.

Over the past few years, Ms Jamaludin added, the industrial relations system in Malaysia has become smoothly systematic. The country has experienced a small number of picket demonstrations but no strikes and has settled more than 70 per cent of labour dispute cases through conciliation. However, she noted, the new technologies and changes in market conditions present risks to the country's labour force. With industries adjusting to the evolving technologies, most occupations are undergoing a fundamental transformation, and some jobs are threatened by redundancy. The Khazanah Research Institute, she cited, estimates that approximately 54 per cent of all jobs in Malaysia could be at high risk of being displaced by technology in the next two decades, while 40 per cent of skilled jobs are at medium risk and more than 70 per cent of all semi-skilled and 80 per cent of all low-skilled jobs are at high risk in the wake of industrial revolution 4.0.

On the way forward, Ms Jamaludin stressed that strong tripartite involvement to proactively promote industrial harmony through social dialogue is vital to cope with the challenges of disruptive technology and the changing forms of work. Investment in skills linked to science, technology and design that will enable workers to work alongside smarter machines as well as adequate budget allocation for SMEs to automate and mechanize is necessary. And, she concluded, trade unions must go beyond their traditional role of collective bargaining and rights-based approaches and help workers enhance their employability through skills upgrading and good employment practices.

#### **3.2 Experiences from Thailand**

**Chotiwat Tisan, Labour Officer, Labour Relations Bureau, Ministry of Labour**

While the number of labour disputes and conflicts in Thailand has stabilized since 2014, began Chotiwat Tisan, workers' demands for an increase in wages is rising. Thailand relies on its Labour Protection Act, 1998 to regulate its industrial relations system. But the Government is currently discussing labour law reforms that are in line with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

Stressing the importance of good governance in industrial relations, Mr Tisan highlighted good practices in industrial relations in Thailand. He explained that the labour law requires any business with 50 employees or more to establish a welfare committee of at least five

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elected employee representatives. This committee empowers workers to jointly consult with the employers every quarter and voice their concerns. The Government awards businesses the Labour Management Excellence on Industrial Relations and Welfare to honour and recognize employers who promote better management of Thai labour standards, employee relations, welfare and occupational health, safety and environmental measures.

The Government also recognizes a continuing imbalance in the power dynamics between employers and employees as well as the need to change the perspectives of both, Mr Tisan said. By introducing the Happy Workplace Programme, the Government seeks to address that imbalance by educating human resources personnel in enterprises and leaders of trade unions that employers and employees are expected to understand the laws and principles regarding industrial relations.

### **3.3 Experiences from Viet Nam**

#### **Nguyen Thuy Linh, Deputy Head of Industrial Relations Division, Bureau of Industrial Relations and Wages, Ministry of Labour, Invalids and Social Affairs**

Following on from demographic details of the country, Nguyen Thuy Linh highlighted the active participation in industrial relations by the Ministry of Labour, Invalids and Social Affairs at the national level and the Department of Labour, Invalids and Social Affairs at the provincial level. She also highlighted the role of the Vietnam General Confederation of Labour, a socio-political organization that represents all workers in industrial relations, and the involvement of employers' representative organizations in industrial relations-related law developments: the Vietnam Chamber of Commerce and Industry, the Vietnam Cooperative Alliance and the Vietnam Association of Small and Medium Enterprises.

Ms Linh pointed out that the number of enterprises encouraging collective bargaining agreements is limited. Although some businesses have collective bargaining arrangements, which are regulated by the 2012 Labour Code, most of them deviate from discussions on wages and working conditions. To date, collective bargaining agreements are at a pilot stage, and mainly in the garment and rubber sectors.

Ms Linh noted that the number of strikes have decreased, from 268 in 2014 to 245 in 2015 and 242 in 2016. However, wildcat strikes are still prevalent, mostly (at 70 per cent) in foreign direct investment enterprises. She said the Government recognizes that it needs to do more to align decent work priorities with the country's economic development to fill any gaps between the Labour Code and the core ILO Conventions.

Despite these challenges, Viet Nam has reformed its processes and systems for sound industrial relations, in line with the ILO standards, Ms Linh said. Disputes, particularly individual labour disputes, which are frequent, are mostly settled through mediation and arbitration in the People's Court. Nominating mediators and Labour Arbitration Council members is timely and within the legal parameters. Collective labour disputes are resolved via mediation and in the courts, although the number of cases solved by a conciliator remain limited. Cases are also resolved by the chairperson of the district People's Committee and the Labour Arbitration Council.

Viet Nam has realized some positive gains in its industrial relations system, said Ms Linh, but the labour dispute resolution system may require revamping to meet practical requirements. The changes may include, but are not limited to, the introduction of regulations to allow for private labour mediators, independence of mediation and arbitration, updated standards for nominating mediators and arbitrators and government support for the Labour Arbitration Council's decisions to be binding.

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In the coming years, Ms Linh concluded, the Government plans to reform the processes for social dialogue and collective bargaining agreement. At the enterprise level, workers' representatives will be trained on negotiation skills through pilot projects to ensure that the social dialogue process is more inclusive. The process for collective bargaining agreements will be reformed to ensure flexibility and practicality. To encourage dispute resolution through mediation and arbitration and to reduce the number of wildcat strikes, the Government has drafted a strategy for enhancing the capacity of mediators and arbitrators (2017–2020) and is working towards reforming the labour dispute resolution system in the Labour Code. Significant changes regarding contracts, retirement age and overtime hours will be introduced once the Labor Code is revised.

### **3.4 Experiences from Brunei Darussalam**

#### **Haji Kamaruddin Bin Dato Haji Talib, President, National Chamber of Commerce and Industry**

After a short introduction to the demographics of Brunei Darussalam, Haji Kamaruddin Bin Dato Haji Talib explained the objectives of the National Chamber of Commerce and Industry for sustainable and equitable growth. With the discovery of oil in 1929, there was increased need for foreign workers to explore the oil fields, both onshore and offshore. By 2015, a total of 59,871 workers from the ASEAN region were working in skilled and non-skilled categories, including domestic work.

Mr Talib then noted that the Government allows trade unions under the Sultanates Trade Union Act, 1962. However, the law prohibits unions and federations from affiliating with international trade union bodies without consent from the Ministry of Home Affairs and the Labour Department. Failure to register is an offence, carrying a fine of up to 300 Brunei dollars per day. There is only one union in the country – the Brunei Oilfield Workers Union for onshore workers. It was established in 1962, and its members currently are from the Brunei Shell Petroleum Company and the Brunei Liquefied Natural Gas. Its objectives are to ensure that members are properly advised on policies affecting their working conditions, to improve relations and communication between both companies and the union and to resolve grievances and problems according to each company's procedures. They have a collective bargaining agreement, which is signed every three years with both companies. There is no organization for workers in the offshore oil installations.

Mr Talib explained that the Employment Order, 2009 governs the terms and conditions of employment and covers all persons employed under a contract of service, which may be written or implied, except seamen, domestic workers and any person employed in a managerial, executive or confidential position. Civil servants and all employees of statutory bodies are also excluded. The legal provision on workers' education and a safe migration process – the Employment Agencies Order, 2004 – regulates employment agencies. The Employment Information Act, 1974 allows government agencies to enter business premises and inspect documents to determine how many employees an enterprise has and their profile. The Workmen's Compensation Act, 1957 and the Workplace Safety and Health Order Act, 2009 regulate the protection of workers' rights.

Mr Talib noted that good practices of industrial harmony and social dialogue include the provision for any employee in either the public or private sector to lodge a workplace complaint online or by email – and anonymously – to the Local Employment and Workforce Development Agency under the Labour Department. Common causes of complaints relate to late or incorrect payment of salary and termination of contract without notice. Upon receiving a complaint, the Local Employment and Workforce Development Agency launches an investigation.

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In 2016, the Government established Darussalam Enterprise, which is a statutory body that nurtures and supports SMEs. Darussalam Enterprise arranges various dialogue forums to engage employees and employers from multiple sectors, including business communities, government agencies, district offices and other relevant stakeholders in various industries. These social dialogues allow Darussalam Enterprise to determine underlying issues affecting SMEs. Darussalam Enterprise follows up the dialogues with focus group sessions to discuss specific concerns per industry.

### **3.5 Experiences from Cambodia**

#### **Nget Vannarith, Advisor to the Ministry, Labour Dispute Department, Ministry of Labour and Vocational Training**

The Cambodian Government proactively promotes tripartite dialogue to improve industrial relations, Nget Vannarith emphasized in beginning his country profile. For example, the Government adopted the Industrial Development Policy (2015–2025) and the National Employment Policy (2015–2025). It follows the Decent Work Country Programme (2016–2018), in which improving industrial relations and rights at work is one of three priorities, and the National Strategic Development Plan (2014–2018), in which harmonization of industrial relations is one of five strategies of the Ministry of Labour and Vocational Training. He added that industrial relations in Cambodia is regulated under the Labour Law, 1997, the Social Security Schemes Law, 2002 and the Law on Trade Unions, 2016. The country has ratified 13 international labour standards, including the eight core ILO Conventions.

Highlighting the role of labour inspection, Mr Vannarith maintained that labour conditions remain an important element in strengthening industrial relations. Formalities and procedures for the opening and closing of businesses, on the movement of personnel, the internal regulation of businesses and overtime work have been established. Improvement measures have been undertaken, largely through a working group that conducts inspections to monitor the working conditions of all garment factories (at 558 factories, covering 569,000 workers). The group's membership is drawn from the Ministry of Labour and Vocational Training and Better Factories Cambodia. The Ministry has organized capacity-building training for labour inspectors and drafted the Code of Ethics for inspectors, along with a new checklist for monitoring. Collaborating with the German Corporation for International Cooperation, the Ministry launched the Social and Labour Standards in the Textile and Garment Sector in Asia Project to improve the working conditions in the textile and garment industry by promoting social dialogue. This ongoing project has so far resulted in a systematic inspection procedure, with the number of inspections, warnings and penalties increasing in recent years.

Mr Vannarith informed that the Government has drafted a law on minimum wage and organizes a tripartite dialogue each year to revise the minimum wage, based on social and economic criteria. And based on the principle of consensus among members present in those consultation meetings, revisions are determined through a voting process. The minimum wage for the garment sector was last revised in January 2016, to US\$140 per month. As per the Employment Injury Scheme and the Health Insurance Scheme of the National Social Security Fund, all registered workers are entitled to the benefits provided by the Government concerning employment-related injuries and health issues. To promote social dialogue, each National Social Security Fund policy is discussed at the tripartite forum of the Governing Board.

Even with the positive developments in the country's industrial relations system, Cambodia still faces challenges, Mr Vannarith acknowledged, such as the implementation of the 2016 Trade Union Law as well as the suspension of the Labour Dispute Adjudication Law, which established the procedure for settling all types of labour complaints by the labour judiciary. In the context of unregulated trade union and to prevent labour disputes and illegal strikes, the

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Government expects to enforce collective bargaining agreements or a memorandum of understanding between trade unions and employers. Annual training on conciliation and mediation skills and techniques at both the national and provincial levels has been proposed. The Government recognizes that training at the enterprise level on labour dispute resolution mechanisms for workers and their representatives and for employers and the provision of a 24-hour hotline service (along with social media) will facilitate the complaint mechanism and grievance procedures.

In conclusion, Mr Vannarith stressed that decent work needs decent tripartite actors; changes in the scope of employment must be addressed to include flexibility in minimum wage-fixing mechanisms.

### **3.6 Experiences from Myanmar**

#### **Tin Mar Htwe, Director, Department of Labour, Ministry of Labour, Immigration and Population**

As Tin Mar Htwe outlined, Myanmar has a working-age population of 33.9 million people, of which nearly 22 million are in the labour force: 21.8 million of them are employed, while some 160,000 of them are unemployed. Agriculture, forestry and fishing is the predominant employment industry, with 51.7 per cent of the labour force, followed by the wholesale and retail trade industry and the manufacturing industry, at 14.3 per cent and 10.9 per cent, respectively.

To augment existing legislation, the Government introduced various policy and legal instruments in recent years, including the Labour Organization Law, 2011, the Settlement of Labour Disputes Law, 2012, the Social Security Law, 2012 and the Minimum Wage Law, 2013. Several laws and regulations were then revised or amended, such as the Settlement of Labour Disputes Law, 2014, the Leave and Holidays Act, 2014, the Factories Act, 2016, the Shops and Establishments Law, 2016 and the Payment of Wages Law, 2016. The Government has drafted a Foreign Worker Law and the Occupational Safety and Health Law. Ms Htwe noted that among these laws and instruments, the Settlement of Labour Disputes Law defines the process and mechanisms for resolution at the workplace, township, regional and national levels for reaching an agreement.

Ms Htwe underscored the role of social partners for sound industrial relations at the enterprise level. There are 29 employers' organizations and 2,664 trade unions in Myanmar, she said. The Government has implemented general protective measures for workers that are in line with changes in the economic landscape. This includes the Minimum Wage Law, 2013 and a social security system. As of September 2015 and irrespective of location, the minimum wage was set at 3,600 kyats per eight-hour day. The Government also has introduced the General Insurance System, the Employment Insurance System, the Family Assistance Insurance System, the Invalidity, Superannuation and Survivors' Benefit, the Unemployment Benefit and the Housing Plan to ensure social security to all workers. Ms Htwe also said that the Government is adopting measures for labour dispute resolution, both individual and collective disputes, including processes for negotiation, conciliation, arbitration and litigation.

Recent developments in industrial relations through the National Tripartite Forum as well as the Employment Contract (Notification No. 140/2017 as of August 2017) have contributed towards building up an effective industrial relations system in Myanmar, she added. Strengthening industrial relations entails promoting social dialogue at all levels, from the workplace and enterprise to the industry and national levels. To promote industrial relations, Ms Htwe recommended that the Government enforce transparency among stakeholders, conduct awareness-raising programmes, provide training to tripartite partners and organize

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tripartite meetings on the developments in and challenges to establishing a strong industrial relations system in Myanmar.

### **3.7 Experiences from Indonesia**

#### **Adriansya Iskandar, Head of Subdivision of Evaluation and Reporting, Ministry of Manpower**

The labour situation across Indonesia as of February 2017, as Adriansya Iskandar pointed out, involves 131.5 million workers, of which 120.7 million are employed; most of them are in the agriculture, industry and construction sectors. There has been a sharp decline in recent years in the number of disputes and strikes, he noted, and most businesses ensure that workers' basic rights are realized, including payment of minimum wage and protection through social security programmes, such as a death scheme, an accident scheme, an old age scheme and a universal pension programme.

Mr Iskandar explained that the Governments' new minimum wage system incorporates provisions to adjust the minimum wage every year and based on an accumulation of the inflation rate and economic growth figures. Additionally, there will be adjustments every five years to the index for minimum decent living costs, which is determined by a regional Wage Council consisting of representatives from regional administrations, business associations and labour unions. The Government has prioritized developing industrial relations infrastructure, such as bipartite cooperation institutions, tripartite cooperation institutions, company regulations, collective labour agreements, statutory labour laws and regulations and labour-dispute settlement institutes. Despite the progress and positive developments, Mr Iskandar added, the country needs to tackle emerging challenges associated with digitalization and automation in workplaces, particularly in the labour-intensive industries.

To adjust and accommodate changes in employment, the role of industrial relation actors is imperative for harmonious industrial relations, Mr Iskandar stressed. He suggested five techniques that would contribute to establishing harmony in the country's industrial relations system: (i) improve the quality of institutional governance and industrial relations cooperation; (ii) ensure a fair wage system; (iii) empower the Wage Council members; (iv) boost social protection programmes for workers and increase training to industrial relations personnel on the prevention and settlement of labour disputes; and (v) improve the quality of governance of employment, welfare and discrimination analysis.

To promote social dialogue in a country where most SMEs (at an estimated 254,161 enterprises) have ten or fewer employees, Mr Iskandar noted that transparency and fairness must be reflected within each business. Each party must be treated as equal and welcomed to express their opinions. An atmosphere that is conducive to improving productivity can only be realized when both employers and employees recognize and realize their obligations and exercise their rights in the employment relationship.

Mr Iskandar concluded with a recap of the ongoing industrial relations practice, which still requires systemization and revision. He maintained that tripartite partners should enforce their commitment to active social dialogue to minimize disputes and achieve consensus.

### **3.8 Experiences from the Lao People's Democratic Republic**

#### **Bouavanh Panyavong, Director, Labour Management Division, Ministry of Labour and Social Welfare**

Growing investment in the Lao People's Democratic Republic, especially in the construction of infrastructure projects such as hydropower, railway and garment factories has increased the



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demand for more workers, began Bouavanh Panyavong. However, the lack of a skilled labour force is creating an imbalance in the market. She said that the Government is undertaking measures to handle issues concerning labourers and employment. A Tripartite Committee on Labour Relations, consisting of representatives from the central and local levels, is now responsible for discussing and jointly addressing issues relating to employment, the Labour Law and labour regulations. The Committee organizes a meeting every three months to manage cases concerning labour disputes, inspections, the minimum wage, occupational safety and health, individual and collective labour contracts and international standards.

To comply with the international standards and to encourage development of laws and procedures or reforms to them that will benefit industrial relations, the Government has entered into several agreements, such as the Agreement with the Ministries of the Central Committee of the Tripartite, No. 2397; the Agreement on Movement of the Tripartite Committee, No. 2398; the Agreement on Occupational Safety and Health, No. 43211; and the Agreement on Labour Inspectorate, No. 4277. The country has ratified the ILO Convention on Tripartite Consultation (International Labour Standards), 1976 (No. 144).

Ms Panyavong highlighted as good practices how the Government publishes and disseminates legislation and labour regulations within the Ministry of Labour and Social Welfare, enforces individual and collective labour contracts, introduces ILO Conventions to labour ministry officials (such as Convention No. 144) and advises on collective bargaining, labour contracts and internal rules in labour units.

Despite such good practices and effort from the Government, the country faces challenges in the implementation of a tripartite committee for each sector due to limited budget. There is a gap in the dissemination of labour laws and labour regulations to workers and employers and inadequate capacity of resource persons to address labour issues, such as labour shortages, working conditions, policies and strategies, legislation and labour standards. Ms Panyavong said that, with the involvement of tripartite partners, the Government is upgrading the Tripartite Labour Relations Committee as well as working to improve legislation that serves labour relationships.

### **3.9 Experiences from the Philippines**

#### **Ma. Zenaida A. Angara-Campita, Regional Director, Department of Labor and Employment**

Ma. Zenaida A. Angara-Campita began her Philippines profile with an overview of labour data. The latest Labor Force Survey (January 2017) found an estimated 42.1 million persons in the labour force, with 39.3 million, or 93.4 per cent, of them employed (mostly in the service sector), while 2.9 million people, or 6.6 per cent, were unemployed, and 6.4 million people, or 16.3 per cent, were underemployed.

To provide inputs to studies on industry trends and practices and as the basis for new labour policies, Ms Angara-Campita said the Government relies on a nationwide Integrated Survey on Labor and Employment. The 2016 results show that of the estimated total employment, 42.7 per cent were female, or two in every five workers; more than half of all businesses hire workers through recruitment agencies; and the service sector accounts for the bulk of job vacancies. The survey also found that, despite employing only around 4.38 million workers, the manufacturing sector hired the most number of persons with a disability, at 3,504 workers.

The Integrated Survey on Labor and Employment findings on unionization, reported Ms Angara-Campita, indicate that the number of unions in businesses is increasing. Although large establishments employing 200 and more workers were more unionized, at 18.2 per cent (733 out of 4,033), small establishments with 20 or fewer workers also had unions. Around

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283,081 workers (of the nearly 4.4 million paid employees in 2016) were members of a union, leading to a union density rate of 6.5 per cent. The proportion of employees covered by a collective bargaining agreement to total paid employees (coverage) is decreasing. In 2016 around 313,267 of the nearly 4.4 million paid employees were covered by a collective bargaining agreement, at 7.2 per cent, compared with 8.1 per cent in 2014. Ms Angara-Campita noted that while multinational companies had the greatest collective bargaining agreement coverage, 97.1 per cent of unionized establishments in 2016 had negotiated such an agreement.

The Government established a Tripartite Industrial Peace Council in 1990 to recommend mechanisms and provide policy advice to the Department of Labor and Employment secretary and to the president of the Philippines on industrial relations matters while also conforming to ILO Convention No. 144 on tripartite consultation. So far, the Council has implemented new sets of rules from the Labor Code provisions on subcontracting and labour relations, formalized legislation on union organizing affiliation, revised Department Order No. 174-17 that supersedes Department Order 18-02 (Rules and Regulations on Contracting and Sub-Contracting) as well as Department Order No. 40-03 to expedite the disposition of labour dispute cases.

Turning to planned reforms on industrial relations, legislation and good practices, Ms Angara-Campita talked about the Government's two-pronged reform strategy, in which the first reform focuses on ensuring transparency, efficiency and integrity in the labour dispute settlement system. The second prong includes reforms intended to transform the traditional American-based litigious labour relations system towards one that is reflective of the Asian and Philippine culture of consensus building. The second prong also promotes a major reform of de-judicialization<sup>1</sup> of the labour dispute settlement system. The reform offers an alternative dispute resolution mechanism that relies on mandatory conciliation-mediation of all labour cases in the Department of Labor and Employment and industry-based conciliation-mediation by the Industry Tripartite Council members.

The Government is in the process of providing technical inputs to formulate laws and policies in relation to security of tenure, contracts and labour flexibility through social dialogue. Nationwide consultations with the Government and workers', employers' and civic organizations as well as various tripartite councils, in addition to the usual policy and programme reviews, are ongoing. A medium-term blueprint is being drafted that spells out how investment, infrastructure, climate concerns and governance, among other issues, interplay towards providing decent and productive employment for Filipinos.

#### **4. Special session: InSIGHT Project: Enhancing industrial relations at the enterprise level through green business initiatives based on workplace cooperation**

**Georgina Pascual, Project Technical Officer, ILO/Japan Project on Workplaces and Industries for Sustainable and Inclusive Growth through Sharing of Good Practices of GBA, OSH and IR Project (InSIGHT)**

In highlighting workplace good practices on industrial relations, green business and socially responsible enterprise operations, Georgina Pascual outlined the rationale and key concepts

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<sup>1</sup> De-judicialization means initiating changes through more inclusive tripartism and social dialogue through the reconstitution of the Tripartite Industrial Peace Councils. The aim is industry self-regulation governed by industry voluntary codes of good labour-management practices.

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concerning the InSIGHT Project and touted a country-level application for Indonesia along with learning insights from other relevant projects.

Committed under the Sustainable Development Goals and fuelled by the anticipated growth and consolidation in the ASEAN region, the InSIGHT Project has been investing efforts to fully engage ILO tripartite partners in regional discourse, agreements and actions most relevant to them, including fostering an understanding of the implications and challenges created by economic growth, transitioning into greener economies and the need for social inclusion – in the context of decent work.

Citing the thematic scope and achievements of the project since its launch in 2014, Ms Pascual emphasized the primary lessons learned throughout the years:

- encourage cooperation among workers and employers in resource productivity and environmental issues;
- support enterprises with technical resources and in building institutional capacity;
- strengthen impact with changes in the system, policy and dialogue mechanisms; and
- provide joint-learning opportunities (tripartite) that foster proactive partnerships, consensus building and more substantive and lasting results.

Transition to a sustainable, green economy is only complete and inclusive when the management strategy, structure and system incorporate the purpose, people and process.

Ms Pascual introduced existing tools and training packages on green business, including core (foundational) sessions and technical modules and an expert advisory service (for baseline assessments and guidance, implementation advice and action-learning). These resources are based on decent work standards and provide the linking element to address the dual challenge of employment and social inclusion and of environmental sustainability. In Indonesia, the InSIGHT Project teamed up with the Employers' Association of Indonesia (APINDO), the Astra group and Japanese companies from Bekasi and Karawang areas to roll out the CORE training for the automotive parts supply chain industry. This training uses brainstorming, ecomaps, cause-and-effect and diagram techniques to gather opinions and train participants. Also, Japanese management style and workplace practices on multiskilling and action-learning, productivity, quality circles, worker participation, employee involvement, small group assignments, consultation, joint decision making and joint action are integrated into the project.

Ms Pascual stressed that green issues are a good starting point for dialogue and joint action in workplaces. To achieve positive results, stakeholders must work together through teams to reinforce cooperation and collaboration, which are fundamental for better industrial relations and social dialogue mechanisms. She also pointed out that throughout the project's implementation, InSIGHT has added new skills – analytical, technical (energy, resource efficiency and waste management) and leadership (on sustainable development and climate change) and involved tripartite partners, including industry associations, to escalate the enterprise initiatives at the sector level. The project will continue to build the capacity of partners on skills for green jobs and on incorporating industrial relations-enhancing approaches for holistic improvements in workplaces.

## **5. Japanese experience sharing and good practices**

**Eiki Inoue, Deputy Director, International Affairs Division, Ministry of Health, Labour and Welfare of Japan**

Eiki Inoue opened his presentation with an outline of the Japanese Labour-Management Relations Law. The Constitution of Japan (article 28) guarantees workers the right to organize, to bargain, to strike or to act collectively. These rights can be exercised under the Labour

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Union Act and the Labour Relations Adjustment Act. While the Labour Union Act elevates the status of workers by promoting their equal standing with their employer when bargaining with the employer, the Labour Relations Adjustment Act, in conjunction with the Labour Union Act, promotes the fair adjustment of labour relations to prevent or settle labour disputes and thereby contributes to the maintenance of industrial peace and economic development.

In Japan, unions are classified into company unions, industrial unions and national unions. While company unions are organized on a company-by-company basis and industrial unions are formed by a cluster of company unions, a national union is a federation of the individual industrial unions. The national union addresses problems that may be difficult for individual company unions to resolve, particularly policies concerning spring offensives, or *shunto*. *Shunto* is a wage bargaining style unique to Japan, where in spring (February or March), company unions concurrently submit a wage increase demand, bargain with the individual companies and elicit their response in the form of wage adjustment/increment.

Regarding the prominent role of trade unions, Mr Inoue highlighted a downward trend in recent years in the unionization rate, mainly due to: (i) changes in the industrial structure (transition from secondary industries to tertiary industries); (ii) diversified employment systems (increase of non-regular workers); and (iii) changes in workers' attitudes. Despite the lower unionization rate, Mr Inoue explained that improvements in working conditions and wages as well as labour union policy changes had brought about a decrease in labour disputes.

In addition to abiding by the ILO Declaration concerning Aims and Purposes (Philadelphia Declaration, 1944) and ratifying the ILO Convention on Employment Service, 1948, Japan relies on the tripartite system of governance through its Labour Policy Council to manage its labour situation. The Council consists of representative members from employers, workers and a public interest group appointed by the Minister of Health, Labour and Welfare. The public interest representatives are appointed from among academic experts in the field of labour.

Despite significant improvements in the country's labour management policies, there are still concerns in labour management relations, particularly with the increase in the number of non-regular employees over the past few years (37.5 per cent of the labour force in 2015 were non-regular workers). Non-regular workers are more vulnerable to lower wages, scarce opportunities and insufficient safety nets and are ineligible to join a union at work – leading to the declining unionization rate. Mr Inoue stressed that the issue of non-regular work needs redress, and the first step in doing so involves converting non-regular workers to regular workers. By defining the work of non-regular workers, providing support to realize stable employment for non-regular workers as well as strengthening the employment safety net for non-regular workers through a support structure, companies can provide employment support for non-regular workers. Mr Inoue cited the example of Hello Work for youth, which provides capacity-building programmes, pre-consultations, occupational consultations and job introductions to non-regular workers in 28 locations across the country.

For the long term, the Government plans to expand the public vocational training courses for non-regular workers registered to Hello Work and others to prepare them for a full-time employment possibility in regular jobs. The training includes courses such as Applied Information Engineering, Cisco Engineering, Architecture Engineering, Certification in Social work, Mental health studies, Care work etc. Mr Inoue also said that Japan will continue funding to the career development system through which companies that convert non-regular workers to regular workers are provided subsidies in their operations.

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**Ikota Ryuichi, Assistant Director, International Department, Japanese Trade Union Confederation**

Ikota Ryuichi highlighted the collective bargaining and labour-management consultation system in Japan, discussed the productivity movement and the three guiding principles of productivity and outlined current labour force issues and challenges for the future.

Japan adopts a tripartite decision-making process concerning labour, management and reforms, with a Labour Policy Council consisting of representatives from employers' and workers' groups and a public interest group. Company-level labour management is based on mutually independent, autonomous and equal relations, with a combination of confrontation for the fair distribution of remuneration through collective bargaining agreements and cooperation for productivity improvement. The labour-management consultation system within companies can take place at various levels, for instance in a manufacturing enterprise labour management consultations are organized at four levels: the workplace labour-management meeting, the plant-level committee, subcommittees, special committees and the central labour-management consultation committee. The topics range from working hours, holidays, leave days, human resources and wages to training, workplace safety, work-life balance and basic management issues.

Focusing on how Japan developed its productivity movement, Mr Ryuichi explained that the country learned from the experiences of the European productivity movement and adopted American management methods and technologies to improve the nation's economy and increase national income. The Government established the Japan Productivity Center (in 1955) and the National Trade Union Productivity Council (in 1959) and implemented a nationwide productivity movement involving the government, management and labour sectors. The movement follows three guiding principles: (i) maintenance and expansion of employment; (ii) labour-management consultation and cooperation; and (iii) fair distribution of productivity gains (for companies, workers and consumers).

On the key to the success of the labour-management consultation system, Mr Ryuichi maintained that it is dependent on the attitude of management. Based on mutual trust between employees and management, on equality, on partnership in which the management recognizes trade unions as a partner in corporate activities and on recognition that management has the final responsibility, a strong consultation system can be established.

With the ongoing changes in the world, including globalization, changes in employment structure and demographic changes, countries – including Japan – need to prepare for the future. Mr Ryuichi stressed that pacing the policies and practices according to the changes and advancements, such as addressing the problems of increasing non-regular workers, individualization and diversification of workers, working conditions and union density, Japan has been moving towards securing a sound industrial and labour relations system.

## **6. Industrial relations in small and medium-sized enterprises**

**Wim De Groof, Programme Manager, New Industrial Relations Framework, ILO Country Office for Viet Nam**

Wim De Groof provided a background on the role and importance of SMEs in the context of Viet Nam while also highlighting the country's challenges and practices for industrial relations in SMEs.

An SME in Viet Nam operates on total capital that is less than or equal to 100 billion dong (VND), with earning revenue not greater than VND300 billion. With an average of 200 employees per enterprise, SMEs represent 97 per cent of the total number of enterprises in the

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country, contribute more than 40 per cent of the national gross domestic product and create more than 50 per cent of employment. Recognizing the importance of SMEs to the country's economy, the Government passed the Law on Support for Small and Medium-Sized Enterprises, which took effect in January 2018. The law contains provisions on incentives, credit access, land rental preferences and human resource development.

Despite the supportive law and the importance of SMEs to the economy, challenges in relation to owners' access to financing, gaps in links to the global supply chain (at 21 per cent, compared with 30 per cent in Thailand and 46 per cent in Malaysia), unfair competition from foreign-invested enterprises, lack of budget for research and development and delays due to regulations are hindering the growth of SMEs in Viet Nam. To increase support to SMEs, adjustments and regulations are needed to simplify the tax support and accounting procedures, manage human resource development and increase access to credit and other sources of funds.

Mr Groof pointed out that, despite the flexible working hours, the skilled workforce is driven to larger corporations because of the low pay, little job security and limited training opportunities associated with SMEs. The low unionizing rate and the lack of disaggregated data on trade union and employers' organization membership adds to the existing challenge of involvement of SMEs in industrial relations-related matters. The coverage of bargaining agreements among small firms is less extensive in countries like Viet Nam, Mr Groof added, because of the weak union presence and little representation from SMEs in employers' organizations.

Mr Groof said that while most countries have developed measures to improve the environment of SMEs (taxes, administration, financial assistance, research and development, internationalization), Viet Nam lacks the capacity to enforce regulations related to labour rights and working conditions. Thus, the Government and social partners are actively promoting the implementation of the new law on promoting SMEs. The Vietnam Chamber of Commerce and Industry has established a centre for supporting SMEs, and the Vietnam General Confederation of Labour drafted a master plan that includes action and projects to form trade unions in SMEs. ILO support through two projects – the Sustaining Competitive and Responsible Enterprises and the Creating and Activating New Industrial Relations Framework in Respect of the ILO Declaration on Fundamental Principles and Rights at Work – works to reinforce that new law on SMEs. The SCORE Programme in Viet Nam provides capacity building trainings on quality management and works with the worker-management committees to focus on improvements that benefit workers and managers. The New Industrial Relations Framework Project has engaged workers' and employers' organizations in the process to revise the Labour Code to ensure that it covers all workers. It also promotes improved legislation and policies on collective bargaining and dispute mechanisms and has piloted initiatives on multi-employer collective bargaining and set up trade unions in SMEs.

**Miaw Tiang Tang, Senior Specialist on Employers' Activities, ILO Decent Work Team for East and South-East Asia and the Pacific**

As Miaw Tiang Tang reiterated, industrial relations is the dynamic between individual employees or groups of employees and employers to maximize productive activities. The ILO recognizes the value of SMEs in a country's economy and thus assists countries in promoting mechanisms and processes for setting up and operating SMEs. Ms Tang stressed that SMEs are key drivers for economic growth. More than 95 per cent of all business establishments in the ASEAN region can be categorized as an SME; and they generate between 51 per cent and 97 per cent of employment in most ASEAN countries and contribute 10–30 per cent of exports per country. These enterprises also enable greater integration of women and youth into an economy.

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To create a better workplace within SMEs, the business case for promoting good employment or industrial relations must be underscored with employers. Ms Tang noted that case studies have revealed different attributes that contribute towards good employee relations. Chief among them: (i) fair and consistent treatment of employees; (ii) flexibility to adapt human resource policies to match the changing labour force; (iii) empowerment of employees and helping them enhance self-esteem; (iv) relationship building based on trust and mutual respect; (v) absence of “distance” between management and employees; (vi) support to employees’ career path and development within an organization; and (vii) a workplace culture of effective communication.

The role of employers’ organization in promoting good industrial relations within SMEs is crucial, Ms Tang added, because they provide guidance, support, consultation and training while complying with the laws and regulations of a country to promote workplace cooperation. Ms Tang cited experiences in Indonesia, Malaysia and the Philippines, where services targeting SMEs (regarding industrial relations, employee relations and human resources) and SME owners’ access to membership in employers’ organizations provided the most help.

**Pong-Sul Ahn, Regional Workers’ Education Specialist, ILO Regional Office for Asia and the Pacific**

Pong-Sul Ahn highlighted the definition and scope of the informal economy and the implications of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). As he reminded, the 2002 International Labour Conference adopted the resolution and conclusions concerning decent work and the informal economy, which provide a new framework for action. The adopted conclusions define the informal economy broadly as “all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements”. The informal economy comprises more than half of the global labour force and more than 90 per cent of micro and small enterprises worldwide. While the informal economy encompasses a huge diversity of situations and phenomena, it also manifests challenges to rights at work, social protection, quality employment, decent working conditions, inclusive development and the rule of law.

Recommendation No. 204 was adopted at the 104th International Labour Conference (June 2015) through strong tripartite consensus and near unanimous vote, following a two-year process of consultations. This is the first international labour standard to focus on the informal economy in its entirety and to the need of transition to the formal economy as a means for achieving decent work for all. The Recommendation covers a broad and detailed scope of application to all workers and economic units in the informal economy, including enterprises, entrepreneurs and households. The Recommendation covers: (i) the legal and policy framework; (ii) employment policies; (iii) rights and social protection; (iv) freedom of association, collective bargaining and social dialogue; (v) incentives, compliance and enforcement; and (vi) data collection and monitoring.

Mr Ahn pointed out that to transition from the informal to the formal economy, it is important that governments and social partners make an action plan for ongoing labour issues and include these issues in their Decent Work Country Programme. They may also need to conduct analytical studies to build up the capacity of unionists and strengthen the trade union position. The process of transition may take a minimum of two years to more than four years and thus also the need to set an appropriate time frame for tangible results is crucial. In addition, stakeholders must develop strategies to constantly mobilize trade unions during the process and strengthen partnerships with relevant institutions (labour-friendly organizations) to maximize support to the partner unions and create a synergy effect.

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Through effective bipartite and tripartite dialogue mechanisms to build tripartite consensus, coupled with media mobilization and political support, countries can promote employment and income opportunities as well as the rights and social protection of the millions of informal workers as they transition to the formal economy.

## 7. Group work and discussion

The participants were divided into three groups (A, B and C), each consisting of three representatives from employers' organizations, workers' organizations and government and observers. Each group discussed the following themes and reported their observations, experiences and recommendations during the plenary.

1. The most important form of non-standard employment.
2. The role of social dialogue and collective bargaining agreements for multiparty employment.
3. Implications of non-standard employment for industrial relations.

**Group A:** Representatives from Malaysia, Thailand and Viet Nam

**Group B:** Representatives from Brunei Darussalam, Cambodia and Myanmar

**Group C:** Representatives from Indonesia, Lao People's Democratic Republic and the Philippines

## 8. Plenary reporting

Social dialogue and tripartism are at the core of the ILO. ASEAN stakeholders during the seminar noted the importance of building consensus and maintaining social cohesion, facilitated by legislation and national policies that guarantee minimum protection for all workers, including those who are not represented in social dialogue bodies. Those representatives also maintained that social dialogue and collective bargaining must address a range of issues pertaining to the world of work, including fundamental principles and rights at work as well as outsourcing and subcontracting.

### Group A

All three countries recognize multiparty employment. Malaysia does not have any specific law on this, nor is there protection for workers in multiparty employment. The existing gap in basic rights is wide, coupled with a complicated employment relationship, particularly on matters concerning accidents, injury complaints and dispute resolution. The Thai Labour Protection Law (section 11/1) notes the lack of freedom of association and collective bargaining for multiparty employment, that benefits are unequal and job security is not ascertained. The Vietnamese Labour Code 2012 (Chapter III) has provisions for multiparty employment, but compliance in terms of labour contracts, wages, freedom of association and collective bargaining agreements is not practised. In Malaysia, specific laws on non-standard employment must be formulated and implemented.

More can be done to standardize non-standard forms of employment through education and awareness-raising programmes to all relevant stakeholders on labour rights, along with law enforcement and reform in legislation in conformity with ILO standards.

Promoting social dialogue for multiparty employment and disseminating recommendations nationwide in addition to strengthening relations between employees and employers to increase engagement are all necessary for the social dialogue as well as collective bargaining processes.

Non-standard employment is a relatively new term to many countries, although it has become a trend in the labour market. Despite the challenges in regulating non-standard employment,



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governments must refer to good practices and available resources, including ILO standards, to regulate non-standard employment in their labour markets. The group recommended technical assistance; for example: training, research and pilot activities that reflect ILO standards and recommendations are crucial for standardizing non-standard employment.

### **Group B**

Brunei Darussalam abides by its 1974 Labour Law, which does not fully respect the ILO Declaration on Fundamental Principles and Rights at Work, and there is no recognition of the temporary employment system in construction and for self-employed or home-based work. Although the 1974 Employment and Information Act obliges Bruneian employers to provide information about employees, this information may not be communicated in all cases. Even though Cambodia recognizes temporary employment under its 1997 Labour Law and its 2002 Social Security Law, enforcement remains lacking. Under the 2011 Labour Organization Law and the 2012 Social Security Law, temporary employment in Myanmar is recognized, although the country lacks resources to enforce those laws.

The Government of Brunei Darussalam initiated a policy and legislation against non-standard employment, but social dialogue is still weak because of the non-existence of workers' organizations. The Government of Cambodia plans to reinforce its legal framework, through a policy and memorandum of understanding to formalize non-standard employment at the enterprise level. The Government of Myanmar aims to implement the Decent Work Country Programme (2019–2021) to eliminate non-standard employment.

Brunei Darussalam recognizes the gap in social dialogue due to the non-existence of trade unions; it has an online complaint system concerning delayed payment or non-payment of salary or contract termination without notice. In Cambodia, collective bargaining agreements are projected to increase in the future to address non-standard employment issues; the Labour Advisory Committee has recommended imposing a memorandum of understanding that is signed between trade unions and the Cambodian Federation of Employers and Business Association. Myanmar aims to encourage the activity of the National Tripartite Dialogue Forum for implementation of the Decent Work Country Programme.

Concerning implications of non-standard employment on industrial relations, the group highlighted the positive and the negative. On the positive side, non-standard employment is more suitable for investment in some countries. As for the negative implication, the group stressed that respect for labour laws and social protection can cause labour disputes and lead to a lack of worker representation in non-standard employment and hence lack of participation in social dialogue.

### **Group C**

Indonesia allows subcontracting in certain occupations, such as security service, company drivers, cleaning and janitorial service, catering and construction. The Industry Association of Indonesia approves a list of core jobs for subcontracting that are registered with the Government, which sends it to a tripartite body for approval. In the Lao People's Democratic Republic, subcontracting is allowed only for part-time and on-call jobs. The Philippines allows multiparty employment but only non-core jobs can be outsourced.

Because of the challenges in forming trade unions due to different work schedules, work environments and the nature of employers in Indonesia and the Philippines, there is an unequal distribution of power in employment relationships. Workers' education on the benefits of unionism must be promoted and put in place for effective employment relations. In the Lao People's Democratic Republic, ensuring social protection and correct wages are major challenges. The group recommended strengthening tripartism and intensifying information dissemination on labour regulations to close the employment-related gaps.

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By intensifying workers' education on unionism, putting in place labour-management cooperation and ensuring support from the government through policies and regulations, countries can address gaps in employment via social dialogue and collective bargaining.

Non-standard employment has led to the challenges in union formation and the recruitment of members as well as for identifying the applicable rules for new and emerging employment arrangements.

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## Annex I. Workshop agenda

**Eighth Tripartite Regional Seminar on Industrial Relations in the ASEAN Region on Promoting Sound Industrial Relations through Social Dialogue and Implications of Changing Forms of Employment for Industrial Relations in the ASEAN Region**  
Hoi An, Viet Nam, 8–9 November 2017

Time	8 November 2017	9 November 2017
08.30–09.00	<b>Registration</b>	
09.00–09.30	<b>Opening remarks</b>  Ha Thi Minh Duc, Deputy Director General of the International Cooperation Department, Ministry of Labour, Invalids and Social Affairs, Viet Nam  Eiki Inoue, Deputy Director, International Affairs Divisions, Ministry of Health, Labour and Welfare, Japan	
09.30–10.15	<b>Session 1: Context setting</b> - Current industrial relations situation in the ASEAN region - Changing forms of employment and their implications  Presentation by ILO specialists	<b>Special session: InSIGHT Project: Enhancing industrial relations at the enterprise level through green business initiatives based on workplace cooperation</b>  Presentation by Georginia Pascual, Project Technical Officer
10.15–10.45	<b>Plenary discussion Q &amp; A</b>	<b>Summary of day 1</b>
11.00–12.30	<b>Session 2: Current situation of industrial relations and social dialogue and changing forms of employment in ASEAN Member States</b> Presentation by ASEAN Member States: Group A (Malaysia, Thailand, Viet Nam)	<b>Session 3: Japanese experience sharing and good practices</b> - Presentations by Japanese delegates
12.30–13.30	<b>Lunch</b>	<b>Lunch</b>
13.30–15.00	Presentation by ASEAN Member States: Group B (Brunei Darussalam, Cambodia, Myanmar)	<b>Session 4: Industrial relations in small and medium-sized enterprises</b>
15.00–15.30	Coffee and tea break	Coffee and tea break
15.30–17.00	Presentation by ASEAN Member States: Group C (Indonesia, Lao People's Democratic Republic, Philippines)	<b>Session 5: Group work</b>
17.00–17.15	Group photo	<b>Session 6: Plenary reporting</b>
18.00–19.30	<b>Welcome reception</b>	<b>Closing</b>

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## **Annex II. Participants**

### **Eighth Tripartite Regional Seminar on Industrial Relations in the ASEAN Region on Promoting Sound Industrial Relations through Social Dialogue and Implications of Changing Forms of Employment for Industrial Relations in the ASEAN Region** Hoi An, Viet Nam, 8–9 November 2017

#### **Brunei Darussalam**

1. Mr Haji Kamaruddin Bin Dato Haji Talib  
President  
National Chamber of Commerce and Industry Brunei Darussalam (NCCIBD)

#### **Cambodia**

2. Mr Nget Vannarith  
Advisor to the Ministry  
Ministry of Labour and Vocational Training
3. Mr Chab Sopheap  
Human Resources and Administration Division  
Minebea (Cambodia) Co., Ltd.
4. Mr Rong Panha  
General Assistant  
Cambodian Confederation of Unions (CCU)

#### **Indonesia**

5. Mr Adriansya Iskandar  
Head, Subdivision of Evaluation and Reporting  
Ministry of Manpower
6. Mr Gama Anom Yogotomo  
Deputy Head of Manpower Regulations and Institution Relation  
Employers' Association of Indonesia (APINDO)
7. Mr Nur Yasin  
Vice General Secretary  
Confederation of Indonesian Trade Unions (KSPI/CITU)

#### **Lao People's Democratic Republic**

8. Ms Bouavanh Panyavong  
Director, Labour Management Division  
Ministry of Labour and Social Welfare (MOLSW)
9. Mr Saybandith Rasphone  
Board Director  
Lao National Chamber of Commerce and Industry (LNCCI)
10. Mr Vilay Vongkhaseum  
Deputy Director  
Lao Federation of Trade Unions (LFTU)

#### **Malaysia**

11. Ms Noor Azian Jamaludin  
Senior Assistant Director  
Industrial Relations Department  
Ministry of Human Resources (MOHR)

---

12. Mr P. Iruthayaraj D. Pappusamy  
Special Functions Advisor to the Executive Director  
Malaysian Employers' Federation (MEF)

13. Mr Kunasegaran Sankara Pillai  
Financial Secretary  
Kesatuan Percantuman Pekerja-Pekerja TNB

#### **Myanmar**

14. Ms Tin Mar Htwe  
Director  
Ministry of Labour, Employment and Social Security (MOLESS)

15. Mr Tun Aung  
Joint Secretary General  
Myanmar Industries Association (MIA)

16. Mr Soe Ko Naing  
Confederation of Trade Unions Myanmar (CTUM)

#### **Philippines**

17. Ms Ma. Zenaida A. Angara-Campita  
Regional Director, Dole Region IV-A (Calabarzon)  
Department of Labor and Employment (DOLE)

18. Mr Rene Soriano  
Honorary President  
Employers' Confederation of the Philippines (ECOP)

19. Mr Norberto Caparas  
General Secretary  
BPO Workers Association of the Philippines (BWAP-TUCP)

#### **Thailand**

20. Mr Chotiwat Tisan  
Labour Officer  
Ministry of Labour (MOL)

21. Mr Panu Ratcharoen  
ECOT member  
Employers' Confederation of Thailand (ECOT)

22. Mr Pongthiti Pongsilamanee  
Deputy General Secretary in Academic Sector  
State Enterprises Workers' Relations Confederation (SERC)

#### **Viet Nam**

23. Mr Nguyen Thuy Linh  
Deputy Head of Industrial Relations Division, Bureau of Industrial Relations and Wages  
Ministry of Labour, Invalids and Social Affairs (MOLISA)

24. Ms Ha Thi Minh Duc  
Deputy Director, International Cooperation Department  
Ministry of Labour, Invalids and Social Affairs (MOLISA)

25. Ms Mai Hong Ngoc  
Deputy Manager  
Viet Nam Chamber of Commerce and Industry (VCCI)

- 
26. Ms Tran Thi Thuy Hang  
Deputy Chief of Industrial Relation Section  
Viet Nam General Confederation of Labour (VGCL)

#### **Japan**

27. Mr Eiki Inoue  
Deputy Director  
International Affairs Division  
Ministry of Health, Labour and Welfare (MHLW)
28. Mr Ikota Ryuichi  
Assistant Director, International Division  
Japanese Trade Union Confederation-Rengo (JTUC-Rengo)

#### **ASEAN secretariat**

29. Ms Sarah Choirinnisa  
Technical Officer  
Labour and Civil Service Division  
Human Development Directorate  
ASEAN Socio-Cultural Community Department (ASCC)

#### **ILO**

30. Mr Wim De Groof  
NIRF Programme Manager  
ILO Country Office for Viet Nam
31. Mr Pong-Sul Ahn  
Regional Workers' Education Specialist  
ILO Regional Office for Asia and the Pacific
32. Mr John Ritchotte  
Specialist on Labour Administration and Labour Relations  
ILO Decent Work Technical Support Team for East and South-East Asia and the Pacific
33. Ms Miaw Tiang Tang  
Senior Specialist on Employers' Activities  
ILO Decent Work Technical Support Team for East and South-East Asia and the Pacific
34. Mr Gary Rynhart  
Senior Specialist on Employers' Activities  
ILO Decent Work Technical Support Team for East and South-East Asia and the Pacific
35. Mr Sho Sudo  
Chief Technical Advisor and Overall Coordinator  
ILO/Japan Multi-bilateral Programme
36. Mr Hideki Chiba  
Programme and Operations Officer  
ILO/Japan Fund for Building Social Safety Nets in Asia and the Pacific
37. Ms Georgia Pascual  
Project Technical Officer  
ILO/Japan Project on Workplaces and Industries for Sustainable  
and Inclusive Growth through Sharing Good Practices  
of GBA, OSH and Industrial Relations Research Project (InSIGHT)
38. Mr Jared Nathan Bissinger  
Project Coordinator (Employers' Activities)  
ILO Liaison Office in Myanmar

---

**Observers**

39. Ms Onuma Kunwanitchalnam  
Labour Official  
Ministry of Foreign Affairs

**Logistic and administrative support**

40. Ms Huong Hoang Lan  
Project Assistant  
ILO Country Office for Viet Nam
41. Ms Tran Thanh Minh  
Official, ASEAN Cooperation Division  
International Cooperation Department  
Ministry of Labour, Invalids and Social Affairs (MOLISA)
42. Ms Vu Duc Dam Trang  
Official, Multilateral Cooperation Division  
International Cooperation Department  
Ministry of Labour, Invalids and Social Affairs (MOLISA)

# Report of the Eighth Tripartite Regional Seminar on Industrial Relations in the ASEAN Region

This volume represents the report on the Eighth Tripartite Regional Seminar on Industrial Relations in the ASEAN Region, under the ILO/Japan Workplaces and Industries for Sustainable and Inclusive Growth Through Sharing Good Practices of GBA, OSH and IR Project. There is interest and need in the ASEAN region to build better industrial relations and promote social dialogue. The seminar, attended by tripartite representatives from ASEAN Member States and Japan, took place in Hoi An, Viet Nam, 8–9 November 2017.

This report captures the practices and situations that were highlighted regarding industrial relations and social dialogue in the ASEAN region, particularly laws and regulations. The country profiles presented during the seminar cover recent developments and future initiatives in industrial relations. The report reflects the perspectives of ASEAN policy-makers, including workers and employers, in promoting social dialogue and harmonious industrial relations practices.

Workplaces and Industries for Sustainable and Inclusive Growth through  
Sharing Good Practices of GBA, OSH and IR Project  
ILO Regional Office for Asia and the Pacific  
United Nations Building, 11th Floor  
Rajdamnern Nok Avenue, Bangkok 10200, Thailand  
Tel.: +66 2288 1234; Fax: +66 2280 1735  
Email: [BANGKOK@ilo.org](mailto:BANGKOK@ilo.org)



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