Facilitating access to justice for migrant workers: development of a complaint mechanism in Cambodia

Until 2013, there was no specific complaints channel for hundreds of thousands of Cambodian migrant workers. Instead, these workers had the opportunity for redress only through the regular justice system, something that is exceedingly difficult for the average Cambodian to access, and often lacks the specific understanding of migration management, human rights, recruitment regulation and practices.

While many Cambodians who migrate overseas for work each year have positive experiences, there are numerous reports of exploitation and abuse, and countless other cases that go unreported. When the ILO GMS TRIANGLE project began in 2010, in response to workers being unable to access channels to complain or seek redress for violations of their rights, the project sought ways to create a framework for managing complaints and redressing harm. Mechanisms for workers to lodge complaints also serve to strengthen recruitment regulation by identifying unethical recruiters and allowing for sanctions for non-compliance with Cambodian law.

Technical assistance with legislation
In 2012, the Ministry of Labour and Vocational Training (MOLVT), requested technical assistance from the ILO GMS TRIANGLE project to draft prakas (ministerial orders) to support a clear and accessible framework for workers who have experienced exploitation or abuse to lodge complaints and seek redress from unscrupulous employers and recruitment agencies. Sub-Decree No. 190 on The Management of Sending of Cambodian Workers Abroad through Private Recruitment Agencies, which was passed the previous year, alluded to a complaints mechanism but this was yet to be operationalized and implemented.

In response to MOLVT’s request, the ILO proposed the formation of a tripartite group (with representatives from Government, workers’ and employers’ organization, and civil society) to draft content for the prakas. One of the key goals was to create a new mechanism for the MOLVT to receive complaints from migrant workers and to link complaints to the regulation of recruitment agencies.

Prakas No. 249 on Complaint Receiving Mechanism for Migrant Workers broadly outlines the complaints process and the rights and responsibilities of the MOLVT and Provincial Departments of Labour and Vocational Training (PDOLVT), the complainant and respondent. To operationalize this prakas the MOLVT then requested ILO GMS TRIANGLE support to draft complaints forms to be used throughout the process, and to input into the design of a complaints database. After a series of consultations with the tripartite working group, the complaints forms were finalized in June 2014.

Technical assistance with training
After the adoption of prakas No. 249, the ILO GMS TRIANGLE supported MOLVT to conduct trainings on the complaints process with all members of the Association of Cambodian Recruitment Agencies (ACRA), Governors, Chief of Bureaus of PDOLVTs, and provincial chairpersons of the National Committee to Combat Trafficking (NCCT) in all 25 provinces, NGOs and staff from GMS TRIANGLE supported-Migrant Worker Resource Centres (MRCs). In January 2014, GMS TRIANGLE supported the opening of the MOLVT-run MRC in Phnom Penh, whose primary function is complaints resolution in line with prakas No. 249.

Complaints process in action
Currently, MOLVT and the PDOLVTs in the three target areas, in collaboration with trade unions and civil society organizations, are collecting and responding to complaints against recruitment agencies.
The complaints process is already showing results. From October 2013 to September 2014 the PDOLVT in Prey Veng received complaints from 234 people, and at the PDOLVT in Kampong Cham, 114 people registered complaints. The MRC run by Phnom Srey Organisation for Development (PSOD) in Kampong Cham received complaints from 187 people between December 2012 and March 2014. These complaints enable the MOLVT to take action against recruitment agencies that violate Sub-Decree 190, prakas No. 249, and criminal laws.

Key achievements taken from cumulative data up to May 2014 include:
- Strong uptake of complaints procedures among both men and women: legal assistance was provided to 272 people, 116 of whom were women (42 per cent of the total)
- A high rate of resolution: the majority of the grievances were resolved through an order by labour authorities, while sanctions for offending agencies varied by provinces
- Tangible results: almost US$5,500 in financial compensation ordered for 88 migrant workers
- Better access to regular migration: 129 passports provided to migrant workers
- Eight missing migrant workers reconnected with their families.

As a result of prakas No. 249, the requirements surrounding recruitment agency practices have become clearer and more enforceable, and the consultative nature of its development means that the capacity of Government agencies and service providers has been built alongside the creation of these country-specific tools.

**Assessment of the complaints mechanism**

The implementation of a functioning complaints mechanism also means there is a greater wealth of information on the issues faced by migrant workers. ILO is collecting information on the complaints received, in terms of the kinds of grievances, the outcomes, and the challenges in lodging and resolving the complaints.

In cooperation with MOLVT, ILO GMS TRIANGLE will undertake a more in-depth analysis of the complaints process to work on recommendations for how procedures could be improved to ensure more just outcomes are achieved for migrant workers, and to work on recommendations on policy or procedures for more effective management or deterrence strategies for exploitative private recruitment agencies and employers. Linking the findings of this analysis to licensing sanctions of private recruitment agencies remains a goal for future efforts supported by ILO GMS TRIANGLE. In 2015, training will be provided to Government officials and migrant worker representatives, including legal aid providers, in negotiation skills and dispute resolution tactics.

For more information on the GMS TRIANGLE Project, visit [www.ilo.org/asia/triangle](http://www.ilo.org/asia/triangle) or email Max Tunon, GMS TRIANGLE Project Coordinator: [TUNON@ilo.org](mailto:TUNON@ilo.org)