



International  
Labour  
Organization

# Labour Monitoring & Inspection as Prevention

**Labour Dimensions of Human Trafficking,  
Understanding the Issue & Effective Responses –  
Lessons from the Greater Mekong Sub-Region,  
Bangkok, 21-25 July, 2008**



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# Content of session

- **WHAT** is labour inspection?
  - **WHY** should we do labour inspection?
  - **HOW** do it?
    - (Investigation, indicators of exploitation)
  - **WHOM?** (coordination)
  
  - **Challenges**
  - **Alternatives**
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# Content of session

- Group work
  - How would you respond to a workers call for help?
- Travel to Brazil
  - (mobile inspection units – sharing a good practice)

# What is labour inspection?

- ***Enforcement of the legal provisions relating to conditions of work and the protection of workers.***
  - ***Relating to hours, wages, safety, health and welfare, the employment of children and young persons.***
- ***To supply information and advice to employers and workers concerning the most effective means of complying with the labour standards and legal provisions;***
- ***To bring to the notice of the competent authority defects or abuses.***

*(Art. 3, 81 Labour Inspection (in Industry and Commerce) Convention, No. 81, 1947)*

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However, one does not have to wait for

labour rights abuse situations to deteriorate into a forced labour/trafficking situation.

There is a point at which a business crosses a line into forced labour.

Preventing trafficking is about ensuring a line into forced labour.

Working conditions in sectors where they easily can

take advantage of legislative weaknesses and is

rights and creating better decent work opportunities.

further enabled by a socio-cultural context that tolerates discrimination and exploitation.

By concentrating primarily on the forced labour outcome it is possible to effectively tackle the human rights violations of trafficking.

No Exploitation

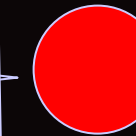
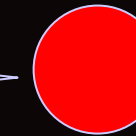
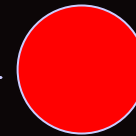
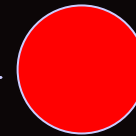
Slave-like Exploitation

Manufacturing

Entertainment industry

Fisheries / Agriculture

Domestic work



# Why labour inspection?

## Factory A:

- Regular labour inspection
- Transparent labour practices
- Collaboration from employers
- A community that cares

## Factory B

- Absence of labour inspection
- Hidden labour practices
- Non collaboration/hostility from employers
- A community that “turns the blind eye”

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# Why labour inspection?

Trafficking for labour exploitation is the antithesis of decent work, and freedom from forced labour is one of the four fundamental labour rights which labour inspectors are supposed to promote and safeguard. Working towards a healthy well regulated and standardised labour market and general non-discrimination is also working against labour exploitation and trafficking.... The trafficking weed does not grow well in such an environment.

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# Why labour inspection?

- Regular inspections on health and safety and/or illegal employment can reveal indicators of labour exploitation and trafficking and Worst Forms of Child Labour (WFCL)
  - Labour inspectors can enter workplaces without a search warrant. This makes them an important partner of criminal law enforcement authorities.
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# Investigation techniques

- Labour inspectors have at their disposal a wide range of investigation techniques:
  - power to enter freely at any time of the day or night any workplace liable to inspection without prior notice (Convention No. 81).
  - carry out inquiries freely and in particular speak with persons alone, examine documents and take samples.
  - power to issue orders with a view to remedying defects
  - decide whether it is appropriate to give warning and advice, or to institute or recommend proceedings.
  - inspectors are required to investigate any complaint concerning labour law violations without revealing the source of the complaint, thus encouraging victims to come forward.

# Investigation techniques

## ***Intelligence and information sources:***

- Testimonies of victims and witnesses
- Information from trade union organisations
- NGOs or other community based organisations, such as vigilance committees or religious groups
- Information of tax and customs authorities
- Information of social security authorities
- Information retrieved from databases maintained by other government agencies
- Media reports or other public reports
- Environmental authorities and satellite monitoring of at-risk-activities, e.g. deforestation or mining
- Information received from hotlines/spontaneous informants (escaped migrant workers)
- Internet monitoring, e.g. dubious job offers

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# Indicators of trafficking

## ***Physical violence, including sexual violence***

- Does the worker have any sign of maltreatment, such as bruises?
- Does the worker show signs of anxiety?
- Is there any other sign of mental confusion or traces of violence?
- Do supervisors/employers demonstrate violent behaviour?

## ***Restriction of freedom of movement***

- Is the worker locked up at the workplace?
  - Is the worker forced to sleep at the workplace?
  - Are there visible signs which indicate that the worker is not free to leave the workplace due for example to barbed wire or the presence of armed guards or other such constraints?
  - Is the worker threatened not to leave the workplace?
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# Indicators of trafficking

## **Threats**

- Does the worker make statements which are incoherent or show indoctrination by the employer?
- Do the workers report any threat against themselves, their co-workers or family members?
- Is there any sign that the worker is subject to racketeering or blackmailing (with or without the complicity of the employer)?
- Does the worker show anxious behaviour?
- Are workers forced to work excessive (unpaid) overtime or to carry out tasks that they prefer not to do, and are the workers threatened if they refuse?
- Is the worker in an irregular situation (e.g. migrant workers) and threatened with denunciation to the authorities?

## **Debt and other forms of bondage**

- Does the worker have to repay high recruitment or transportation fees? If so, are these deducted from the salary?
- Is the worker forced to pay excessive fees for accommodation, food or working tools that are directly deducted from the salary?
- Has any other loan or advance been paid that make it impossible to leave the employer?
- Are work permits bound to a specific employer? Has there been any complaint about the employer before?

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# Indicators of trafficking

## ***Withholding of wages or no payment of wages***

- Does the worker have a regular employment contract? If not, how are wages being paid?
- Is there any illegal wage deduction?
- Has the worker received any wage at all?
- What is the amount of the wage in relation to national statutory requirements?
- Do the workers have access to their earnings?
- Have the workers been deceived about the amount of their wages?
- Are wages paid on a regular basis?
- Is the worker paid in-kind?

## ***Retention of identity documents***

- Do the workers possess their identity documents?
  - If not, are they kept by the employer or supervisor? Why?
  - Does the worker have access to the documents at any time?
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# Coordination of inspections

- Forced labour and human trafficking are complex crimes that need holistic responses. Cooperation and coordination between different departments and actors is necessary. This vary across countries, from sharing information participation in inter-agency commissions, joint investigations.
  - ....But there are many obstacles to coordination, such as language barriers, competing mandates and lack of resources
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# Coordination of inspections

## Government partners:

### ■ **Police**

- Support of the police when they are obstructed or threatened

### ■ **Judiciary**

- Close coordination between labour inspectorates and the judicial authorities (e.g. labour or criminal courts) can be helpful to ensure effective sanctions which, could be enforced on the spot. (Brazil case)

### ■ **Immigration authorities**

- Close cooperation with immigration authorities is necessary to protect potential victims of human trafficking from deportation. They will also be involved in granting temporary residence permits for victims. Close coordination between immigration authorities and labour inspectors is necessary to avoid possible tensions in the enforcement of different laws.

### ■ **Border guards, customs and tax authorities**

### ■ **Social security and social insurance institutions**

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# Coordination of inspections

## Social partners:

- **Workers' organisations**
  - Trade unions can play a key role in the identification of possible victims, lodging complaints that victims themselves are too afraid to put forth.
- **Employers' organisations**
  - Employers can cooperate with inspectors in various ways, e.g. informing inspectors of likely offenders. (help wipe out the “rotten apples” in an industry)

## Other partner organisations:

- **NGOs**
    - NGOs are essential in economic sectors difficult to reach for labour inspectors or the police. Examples are domestic service, sex and entertainment. NGO's can also, have direct access to information from vulnerable workers and receive complaints and call for assistance.
  - **International organisations**
    - International organisations advocate for more effective action against forced labour and trafficking and help draw international attention to specific sectors and/or cases.
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# Labour inspection challenges:

- Many sectors are difficult to reach and monitor for labour inspectors
  - May not cover sectors in which forced labour practices tend to occur, such as agriculture, domestic work and the sex industry.
  - Seasonal nature of work, (agriculture)
  - Complex sub-contracting arrangements and changing work places (e.g. supply chains)
- With regard to human trafficking, labour inspectors often lack a clear mandate because trafficking often are seen as a criminal offence that are primarily investigated by the police.
- Other??

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# Labour inspection challenges:

- Often a gap between legal provisions and their application in practice.
  - Providing labour inspectors with a mandate to combat forced labour requires:
    - Strong political will to strengthen the labour inspection systems.
    - Increasing the number of inspectors.
    - counter corruption
    - Training of labour inspectors and providing them with adequate resources.
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# Labour inspection alternatives:

- Community based watch dogs and labour protection networks and complaints establishments (e.g. LPN)
  - Their role and advantages:
    - Good local outreach and networking
    - Can reach information from informal sectors
    - Trust with migrants and vulnerable groups
    - Other??

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# From “friendly” to forced inspection... the last resort

- When investigating potentially serious cases of labour law infringements, labour inspectors may have no choice but to resort to some form of force...
  - More on raids etc.
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Thank you  
ILO Regional Office for Asia and the Pacific

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