

ILO Technical Cooperation on Labour Inspection in Thailand

Prepared by the GMS TRIANGLE project, July 2014

INTRODUCTION

Labour inspection is globally recognized as a key tool in labour market governance, and ILO labour inspection conventions¹ are considered priority 'governance conventions', with the ILO Governing Body having launched a campaign for their universal ratification. Labour inspection is a public function organized by the national labour administration body that is responsible for the supervision and enforcement of relevant labour legislation and policies in workplaces. The labour inspectorate is the central body established by national legislation to secure the enforcement of the legal provisions relating to the conditions of work and the protection of workers, including safety and health conditions.²

In recent years, the Department of Labour Protection and Welfare (DLPW) and the ILO have been collaborating on a number of efforts to strengthen labour inspection to better protect vulnerable workers, including migrant workers, young workers and workers in hard to reach sectors. The need to improve labour inspection standards and procedures was explicitly mentioned in the Anti-Trafficking Action Plan of the Royal Thai Government in 2012 - 2013. ILO support has been provided through two technical cooperation projects: GMS TRIANGLE³ and the IPEC⁴, and with the support of the ILO Country Office for Thailand and the Labour Administration and Inspection Programme (LAB/ADMIN) in Geneva.

Snapshot of labour inspection in Thailand

- There are 605 labour inspectors in Thailand, responsible for monitoring conditions in 366,325 registered workplaces that employ 7,898,265 workers (2011).
- While all enterprises with one or more workers are subject to labour inspections, the scope of labour inspection does not adequately cover workers in the informal economy. There is an active labour force of 38.3 million in Thailand (Labour Force Survey 2014).
- The integrated labour inspection system covers general working conditions, occupation safety and health, labour welfare and labour relations.
- In addition to responsibility for monitoring working conditions, labour inspectors also act as mediators in case of disputes and carry out other functions related to the social welfare of workers. OSH inspection is only carried out by inspectors with at least three years of experience and that have been appropriately trained.
- Labour inspectors in Thailand carried out 43,833 visits (both formal and informal sectors) in 2011 (on average, 72 visits per inspector). The US State Department Trafficking in Persons Report 2014 stated that inspections in 40,963 workplaces did not result in the identification of any suspected cases of trafficking.
- The national labour inspection plan currently prioritizes inspection in sugarcane plantation, the garments and fisheries industries; and in workplaces with 1-49 employees. The 2014 target for the fisheries sector is to inspect 1,100 workplaces, employing 30,000 workers in 22 coastal provinces.
- The DLPW has agreements with the Marine Police and Royal Thai Navy to cooperate on labour inspections on fishing vessels at sea. Their inspections of 10,427 vessels have not resulted in the identification of any trafficking cases (US TIP Report 2014).

¹ Labour inspection (Industry and Commerce) Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

² *Managing labour inspection in rural areas*. ITC-ILO Curriculum on Building modern and effective labour inspection systems, ILO, 2011. Module 14, Section 1.2.

³ GMS TRIANGLE: Tripartite Action to Protect Migrant Workers from the Greater Mekong Sub-region from Labour Exploitation

⁴ IPEC: Combating the Worst Forms of Child Labour in Shrimp and Seafood Processing Areas in Thailand

IDENTIFYING THE TECHNICAL AND STRATEGIC NEEDS

The ILO and DLPW organized a labour inspection management workshop in June 2012 to facilitate a discussion on the technical and strategic needs in Thailand, and share information about global and regional developments, including new tools and methodologies in detecting child labour and forced labour. Participants included senior DLPW labour officers and ILO technical specialists from Geneva and Bangkok. The workshop resulted in a set of recommendations based around the following four themes: (1) the central authority: its coordination and integration role; (2) human resources: recruitment, training and improving performance; (3) inspection visits and techniques; and (4) preventive and enforcement functions.

Institutional challenges to effective labour inspection in Thailand

- Labour inspectors are responsible for multiple functions, and there is a lack of specialization due to limited human and financial resources.
- Labour inspectors are selected through a process under the Committee of Civil Servants. There is no fixed requirement in terms of academic qualification or field of study. While some inspectorates may consider this diversity a strength, others may feel that an understanding of labour law is a prerequisite.
- Labour inspectors, as with all civil servants, are subject to being sued for abuse of power. In some cases, this fear of being sued seriously limits inspectors from carrying out their duties effectively – and is a symptom of limited capacity and specialization.
- While migrant workers may be particularly vulnerable to labour rights abuses, interpreters are not engaged in inspections of workplaces where there are predominantly migrants employed. This is due to budget limitations and the law preventing the government from recruiting non-Thais.
- Despite joint planning sessions and case management meetings, inter-departmental coordination and cooperation suffers because of the lack of continuity in agency representation, and lack of resources and time for travel.
- The DLPW system for submitting reports and indicating follow-up action is not utilized effectively to analyse trends and more effectively target the limited resources available.
- There is insufficient sharing between the government departments that host information registries and databases that could be used to better target labour inspection activities. Requesting information is a time-consuming process.
- Labour inspection targets set by the provincial offices are too high and may not take into account the specific features, priorities and economic and/or social issues of each area.
- The criteria for assessing performance focuses on quantitative rather than qualitative targets. It is expected that there is a compliance rate of 98 per cent among the workplaces that have been visited and are issued orders from inspectors. This could be expected to bias the type of establishments visited and the findings.

LEARNING FROM THE BRAZILIAN EXPERIENCE

The ILO acknowledges that the Brazil labour ministry is well-suited to share its good practices with labour inspectorates around the world, and has established a partnership to document and disseminate practices that can be replicated due to their proven relevance, impact and sustainability. In February 2013, the ILO invited a delegation from the Brazilian labour inspectorate to Thailand and Malaysia. The team comprised of officers experienced in inspections and raids of workplaces where forced labour and child labour are suspected of occurring, including in the maritime sector.

The DLPW and ILO organized a workshop for the Brazilian delegation to share their experiences and innovations in labour inspection. In order to ensure that their presentations took into account the specific interests of the DLPW and the Thai context, the workshop was preceded by a series of meetings with the central and provincial authorities, industry and NGOs.

Following the advisory mission, the Ministry of Labour presented the lessons learned from the Brazilian labour inspectors, to other government departments and in April 2013, a multi-sectoral mobile unit was established to reach out to fishing vessels in five pilot provinces. The team includes officers from the DLPW, Marine Police, Navy, Department for Special Investigation, and the Department of Fisheries. This initiative is still finding its feet due to challenges related to capacity, funding and cooperation.

The Brazilian Experience

Among the key measures adopted by Brazil in the fight against forced labour was the creation of a Special Mobile Inspection Group in 1995, under the Ministry of Labour. This combines the efforts of specially trained and equipped labour inspectors, labour prosecutors and police officers. Other activities have included the development of a database for the Labour Inspection Secretariat, the drafting of state-level plans of action against slave labour, and training of the judiciary and law enforcement agents in those parts of Brazil where the incidence of forced labour is most severe.

From 1995 to 2012, more than 44,000 slave workers were rescued by the Special Mobile Inspection Group. In 2012, it inspected 246 establishments, releasing 2,624 slave workers. The total compensation paid to these workers was 8.7 million Reals (over US\$4.3 million). Since 1995, the total compensation paid to freed workers is over 77 million Reals (over US\$38 million), with a significant growth in the amount of compensation paid each year over the period.

Teams of the Special Mobile Inspection Group respond to complaints and undertake unannounced inspections of estates in order to levy fines and free workers when irregularities such as severe forms of exploitation, slave labour or child labour are discovered. Some of the abuses that the teams look out for are: indebtedness; the presence of armed guards; evidence of ill-treatment or degrading working conditions, generally associated with lack of hygiene in workers' living quarters; lack of work safety; very low wages; and excessive working hours.

More of the specific good practices documented during the advisory mission have been documented and are available on the ILO webpage.

DEVELOPING TRAINING MATERIALS AND TOOLS

The DLPW has developed a handbook on labour inspection that establishes the main aspects of a visit from the preparation, the forms to use, reporting and issuing sanctions. At present, new recruits do not receive an induction course on labour inspection, but a general 3-5 day orientation. Training is carried out on-the-job, through pairing with more experienced inspectors, and through ad hoc training courses on the laws and specific themes. Each labour inspector is entitled to 10 days of professional development each year, though this may not be in a specific technical area related to labour inspection.

The DLPW and ILO decided to jointly develop a set of training materials and tools to enable labour inspectors and other authorized officers to carry out their duties more effectively, particularly with regard to the protection provided to children and young workers, migrant workers, and those in child

labour and forced labour in hard to reach sectors. The materials draw on existing DLPW⁵ and ILO materials⁶, as well as a new set of case studies from Thailand. Throughout 2013, a technical working group appointed by the Director General of the DLPW met to consult on the materials, and a pilot course was organized with experienced labour inspectors to test the material in terms of relevance and practicality.

In addition to a set of training modules to ensure conceptual clarity on forced labour, trafficking and child labour, the materials developed also include a set of guidelines for conducting inspection in the fishing sector, as well as a protocol for officers to follow in the event that they uncover cases of forced labour and child labour. The DLPW has indicated the need for training specific to other hard to reach sectors, including agriculture.

In 2014, the DLPW and ILO will co-organize and jointly fund a series of four training programmes for 120 labour inspectors based in the 22 coastal provinces (this accounts for 20 per cent of the total number of labour inspectors nationwide). The training programme runs for five days, including field inspections in seafood processing plants and fishing vessels – reflecting the priorities of the Thai Government and the two ILO projects. The trainings will include resource persons with different backgrounds to lend various perspectives, including from industry, lawyers and NGOs.

The agenda of the labour inspection training programme covers the following:

- Day 1** Introduction; current situation on labour practices in the fishing and seafood processing sectors; relevant national laws and international labour standards
- Day 2** Conceptual clarity; roles of labour inspectors; case studies
- Day 3** From Principles to Practice: Tools and networking
- Day 4** Tools and planning for inspection
- Day 5** Field inspection and summary

MONITORING PROGRESS IN INSPECTION

From mid-2014, monitoring missions from a central-level technical working group will be organized to visit selected provinces. These missions will track progress in terms of the number of inspections that have been carried out in the target sectors, the findings of the inspections, the orders issued and follow up action taken. The technical working group will identify the specific indicators and targets. The monitoring team will be made up of senior labour inspectors and civil society partners, and will also be able to provide coaching to the provincial labour officers to further build their capacity. Because of budget limitations and coordination challenges, the focus will be on inspecting vessels on-shore, prior to and after the fishing.

FUTURE PRIORITIES

At the labour inspection management workshop, the participants identified a number of recommendations to improve Thailand labour administration and inspection, including:

- Enhancing the capacity of labour inspectors through the establishment of a training centre at the central level and a training curriculum. This training needs to be comprehensively delivered to new recruits, and other courses targeted to further build the knowledge and skills of inspectors aimed at basic, intermediate and advanced levels. The training methodology

⁵ Section 4.3 of the DLPW's *Labour Inspection Handbook* on 'Procedures to prevent, prosecute and assistance to victims of labour trafficking'.

⁶ In particular, Module 9 of the *ILO-ITC Curriculum on Building modern and effective labour inspection systems* on 'Dealing with vulnerable groups of workers'; and the Special Action Programme on Forced Labour's *Forced Labour and Human Trafficking: A Handbook for Labour Inspectors*.

should include on-site visits, sharing international experiences, self-learning and remote-learning. In particular, more guidance must be provided to inspectors on when and how it is appropriate to sanction labour violations.

- Incentives should be introduced to motivate inspectors to perform at a high level. Promotion to higher grades should be linked to testing, both theoretical and practical, and other criteria established by the DLPW. Inspection targets and performance appraisals should be reviewed.
- At the highest levels, policies need to be introduced to require coordination among various units involved in conducting effective inspection.
- The DLPW database needs to be revised to allow for easier sharing of information. The format needs to be compatible with that of other departments, for example, the Department of Employment and the Social Security Office. Data also needs to be inserted in a timely manner for analysis.
- The analysis of information from labour inspections needs to feed into national, provincial and local level inspection plans and in development of preventive and advisory strategies around key emerging themes.
- Greater cooperation is required with social partners and NGOs at local levels, in order to provide advice and information to employers and workers on the law. These groups can also serve as watchdogs to inform labour inspectors of non-compliance and severe labour rights abuses.
- The budget for labour inspection should be increased and systematically allocated. The request for data can be justified through the provision of data and reports for partner organizations.
- More advanced technologies are required in the inspection process to enhance their performance, and inspectors need to receive training on how to use them. This could include the use of tablets that automatically triggers warnings, highlights the need for follow up action, and uploads information to the database.