

# **TF-AMW**

Task Force  
On ASEAN  
Migrant Workers

Task Force on ASEAN Migrant Workers

## **SUMMARY REPORT**

### **Post 6<sup>th</sup> ASEAN Forum on Migrant Labour**

#### **GMS Consultation Workshop**

**on good practice to improve  
Existing Complaint Mechanism**

**15-16 August 2014, Phnom Penh, Cambodia**

**Supported by**

**Tripartite Action for the Protection and Promotion  
of the rights of the Migrant Workers  
in the ASEAN Region**

(ASEAN TRIANGLE PROJECT)



International Labour Office

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# Contents

## Introduction

### Summary of Proceedings

**Welcome Remarks:** Mr. Sinapan Samydorai, Convenor of the Task Force on ASEAN Migrant Workers

**Opening Remarks:** Mr. Choup Narath, Ministry of Labour and Vocational Training, Cambodia

**Welcome Remarks:** Mr. Manuel Imson, Senior Programme Officer, ILO ASEAN TRIANGLE Project  
**and Presentation:** The 7th ASEAN Forum on Migrant Labour (AFML)

**Presentation:** Mr. Sinapan Samydorai, Convenor of the Task Force on ASEAN Migrant Workers  
Conclusion: TFAMW Post-6<sup>th</sup> Regional Consultation on Existing Complaint Mechanism, Bangkok, 27-28 May 2014

## Brief Country Reports: Summary

Cambodia Country Report

Lao Country Report

Myanmar Country Report

Thailand Country Report

Vietnam Country Report

## Presentation on Complaint Forms and Procedures:

Cambodia Report: Prakas on Complaint Receiving Mechanism for migrant workers and Sample of (Government) Complaint Form by ILO Cambodia – Mr. Rim Khleang

Thailand Report: Sample of (NGO) Complaint Form (Procedures included in the Country Report)

## Workshop Reports: Brief Summary Report

Basic Guideline for Complaint Mechanism for Migrant Workers  
Principles to be encompassed in the Complaint Mechanism  
Complaint Forms, Filing and Processing the Complaint

## Participant List

**Annex 1:** Background Note: Complaints Mechanisms for Migrant Workers in the ASEAN Region  
ILO ASEAN Triangle Project

**Annex 2:** Concept Note and Agenda

## **Introduction**

### **GMS consultation on good practice to improve existing complaint mechanism**

TFAMW Post 6th AFML Regional Consultation, Bangkok, 27-28 May 2014, encourage the National CSO Stakeholders to develop activities to implement the 6<sup>th</sup> AFML recommendations especially on improving existing complaint mechanism, sharing of good practices, and to develop practical guidelines for CSO stakeholders reference.

Following up the recommendations of the Regional Consultation held in Bangkok, 27-28 May 2014 to document the various existing good practices CSO on the complaint mechanism, the forms and procedures used by CSO stakeholders, to support migrant workers to file complaints, claims, and appeals to seek remedies from injustice, unfair treatments, discriminations and exploitation at their workplace. The GMS consultation will provide the references materials to compile the CSO good practices and draft the practical guidelines on complaint mechanism.

The TFAMW is organizing the GMS consultation to review, discuss and exchange on good practices among civil society stakeholders on ways to effective implement and improve the existing complaint Mechanism. **The GMS consultation objectives are:**

- a. To provide space for the collection and documentation of the CSO good the practices, forms and procedures, in supporting the migrant workers to file complaints, claims and appeals.
- b. To collect and document the present forms and procedures used by governments and other stakeholders.
- c. To develop consensus on drafting the practical guidelines on Complaint Mechanism for CSO to effective implement at the country and cross-country level and to improve the existing complaint mechanism.

#### **Expected output of the Workshop:**

1. Document and compile CSO good practices of implementing the complaint mechanisms
2. Document the forms and procedures used by Stakeholder in support of migrant workers to file complaints, claims and appeals.

Consensus on the basic content to draft the practical guideline on complaint mechanism for CSO references

## **Welcome Remarks**

### **Mr. Sinapan Samydorai, Convenor of the Task Force on ASEAN Migrant Workers (TFAMW)**

The Convenor of the TFAMW warmly welcomed the 24 participants to the regional Consultation in Phnom Penh, Cambodia. The participants are CSO representatives from the Greater Mekong Subregion and resources person: Cambodia, Myanmar, Vietnam, Thailand, Laos, TFAMW, and ILO ASEAN Triangle Project.

The Convenor shared that ASEAN Economic Integration will happen by end of 2015 and the drafting of the a ASEAN framework Instrument to protect and promote the rights of migrant workers is in the process. The 7<sup>th</sup> AFML is scheduled for November 2014 and will result in recommendations to implement the ASEAN Declaration on the protection and promotions of the rights of the migrant workers (2007), The ILO ASEAN TRIANGLE project will share the results of the evaluation of the implementation of the past AFML Recommendations by the ASEAN governments and stakeholders.

### **Introduction to the Post 6<sup>th</sup> AFML Regional Consultation: GMS consultation on good practice to improve existing complaint mechanism:**

The Convenor introduce the aims and output of the regional consultation to develop follow-up activities based on the 6<sup>th</sup> AFML Recommendation focusing on developing effective complaint mechanism to ensure the protection of the rights of the migrant workers in ASEAN Countries.

The Regional Consultation also initiates the National Preparatory workshops for the 7<sup>th</sup> ASEAN Forum on Migrant Workers and the process to select the CSO National Representatives. The workshop will also determine what are the further research, reports, and guidelines to ensure effective implementation of the AFML Recommendation. Moreover, the TFAMW will document the experiences of CSOs implementing the 5<sup>th</sup> and 6<sup>th</sup> AFML to be shared at the 7<sup>th</sup> AFML. The Regional Consultation will result in a summary of the existing complaint mechanism, the forms required, the basic content of the forms to file complaints, and the procedures and support needed to file complaints.

### **Brief Country Reports**

The Brief Country Reports will be present by CSO National Representatives on the implementation of the 5<sup>th</sup> and the 6<sup>th</sup> AFML Recommendation.

### **Thanks to support**

The Convenor expressed thanks to the Canada-CIDA and ILO ASEAN TRIANGLE Project for the financial support for the TFAMW Regional Consultation: GMS consultation on good practice to improve existing complaint mechanism, Phnom Penh, Cambodia, 15-16 August 2014.

## **Opening Remarks**

**Mr. Choup Narath, Ministry of Labour and Vocational Training, Cambodia**

Welcome. He encourages ILO, TFAMW and GMS CSO participants to discuss the good practices on Complaint Mechanism. For a long time Migrant Workers crossing border has been an option for poor to seek a better future. Young people are driven to seek decent jobs in other countries – millions of young workers leave their country as the country lacks decent jobs.

In 2007, the ASEAN head of states adopted ASEAN Declaration on the protection and promotions of the rights of migrant workers (ADMW). In 2008, adopted the Term of References & Work-plan with 4 thrust including the ASEAN Forum on Migrant Labour (AFML) – to discuss and seek the way forward.

AFML discussion and make recommendations on implementing the articles in the ADMW and. Cambodia hosted the 5<sup>th</sup> AFML, Siem Reap, 2012. Last year, 6<sup>th</sup> AFML adopted recommendations on the data and the complaint mechanism. The MOL has taken action and development evidence-based policy on complaint mechanism and adopted Prakas after series of consultations with stakeholders.

The Migrant Resources Centre (MRC) received complaints/grievances. December 2013, we receive 65 cases from Migrant workers and/or their families – the CSO also work with the victims. The negotiation of the cases resulted in 45 resolutions and 20 cases are pending. The MOLVT also work with the Embassy officials on “common case”. Problems/Issues handled:

1. Missing migrant workers
2. Migrant workers complain of non-payment of salary by employer
3. Agency abuses/cheat eg Claim fees but no jobs
4. Migrant Workers in difficulties often request to communicate with their families
5. Problems of long wait for passport to be issued
6. Passport kept by agencies/employer
7. Contract related issues – migrant workers are not able to return home (when their contracts are rewritten by agent in Malaysia)

Mr. Choup Narath welcome CSO to the discussion on the complaint mechanism and also to prepare for the 7<sup>th</sup> AFML. The Cambodia will hold the National Prep Meeting for the 7 AFML in September 2014. The 7 AFML will be held in November 2014 in Myanmar.

## Welcome and Presentation

### **Mr. Manuel Imson, Senior Programme Officer, ILO ASEAN TRIANGLE Project**

Mr. Manuel welcomed all the participants and thanks the TFAMW for organizing the Regional consultation. The governments, Employers, and Trade Unions also have their own Post-AFML meetings. A Background Paper on the implementation of the past AFML Recommendation - evaluation of the the implementation of past AFML recommendations will shared at the 7<sup>th</sup> AFML by the ILO TRIANGLE project. Mr. Manuel welcomed the TFAMW initiative to take stock of the implementation of the 5<sup>th</sup> and 6<sup>th</sup> AFML recommendations and develop calendar of activities to implement recommendations.

There are more national CSO participating in the AFML process and the national preparatory meetings leads to better participations at the AFML by the stakeholders.

### **Summary of Presentation:**

#### **The 7th ASEAN Forum on Migrant Labour (AFML)**

by Manuel Imson, Senior Programme Officer, ILO ASEAN TRIANGLE Project

### **1. Regional trends in labour migration**

#### ***Global Trends***

- 232 million international migrants in 2013 – the number is expected to double to over 400 million by 2050 (UN)
- The ILO (2010) estimates there are 105.5 million migrant workers in the world
- 48% of the world's migrants are female
- 15% of the world's migrants are under the age of 20
- UN estimates that there are about 20 million irregular migrants•Half of the international migrants live in 10 countries: US, Russia, Germany, Saudi Arabia, UAE, UK, France, Canada, Australia, Spain

#### ***Asian Trends***

- Asia hosts 30% of the global migrants
- Over 40% is female
- 30 million migrant workers (almost 30% of the global migrant workers) are found in Asia (ILO 2010)
- Relatively easy for low-skilled migrants to enter but becomes harder for them to stay (migration is at a temporary basis)

#### ***ASEAN Trends***

- In 2010, almost 13 million workers from ASEAN left the region while 4.1 million migrated to another ASEAN country
- Total stock of 9.5 million migrant workers are found in ASEAN
- 3 countries host 80 percent of intra-ASEAN migrants – Thailand, Malaysia and Singapore; 3 countries account for 70 percent of the total emigration stock from ASEAN – Philippines, Indonesia and Viet Nam
- Most migrants in ASEAN (87%) are engaged in semi-/low skilled jobs (Orbeta 2012). Low wage migrants are vulnerable to labour exploitation.

- ASEAN is developing fast and increasingly integrated. Intra-regional labour mobility is growing and will continue to grow and requires adequate policies, underpinned by clear evidence.

## **2. Background information on the AFML**

- The ASEAN Forum on Migrant Labour (AFML) is the only known migration forum in Asia that brings together key stakeholders in labour migration in the ASEAN, including government, employers and workers' organizations- as well as the ASEAN Secretariat, civil society and international organizations such as the International Labour Organization (ILO)
- It gathers annually to discuss, share experiences, build consensus on the protection of migrant workers issues committed under the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Cebu Declaration, 2007) and results in the adoption of Recommendations that bring life to the provision of the Cebu Declaration.
- The Committee on the implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW), assisted by the ASEAN Socio-Cultural Community (ASCC) Department (ASEAN Secretariat), is responsible for the implementation of the Cebu Declaration and the drafting of an instrument that will give effect to this Declaration.

***The objectives of the AFML are threefold:***

- 1) To examine in detail Articles of the Cebu Declaration that pertain to the obligations of both countries of origin and destination. This is completed through the adoption of two Thematic Sessions in every AFML meeting
- 2) To share stakeholder experiences, challenges and good practices in implementation of the Recommendations at past AFML meetings. This is undertaken during the Review Session in each of the AFML meetings
- 3) To draft and agree on Recommendations arising from discussions of the thematic sessions

The progress made against these Recommendations in each country is reported on at the following years' forum and is being tracked bi-annually by the ILO.

**AFML, hosts, and past AFML themes:**

**1st AFML, 24-25 April 2008, Manila Philippines:** Institutionalization of the AFML

**2nd AFML, 30-31 July 2009, Bangkok, Thailand:** “ASEAN Declaration on Migrant Workers: Achieving its Commitment”

**3rd AFML, 19-20 July 2010, Hanoi, Vietnam:** “Enhancing Awareness and Information Services to Protect the Rights of Migrant Workers”

**4th AFML, 24-25 October 2011, Bali, Indonesia:** “Development of a public campaign to promote understanding, rights and dignity of migrant workers in countries of destination; Return and reintegration and development of sustainable alternatives in countries of origin” **Subthemes:**

- 1) Promotion of positive image, rights and dignity of migrant workers. 2) Promotion of strategies for effective return and reintegration, as well as sustainable alternatives for migrant workers.

**5th AFML, 9-10 October 2012, Siem Reap, Cambodia:** “The Protection and Promotion of the Rights of Migrant Workers: Towards Effective Recruitment Practices and Regulations”.

**6th AFML, 26-27 November 2013, BSB, Brunei Darulssalam:** “Enhancing Policy and Protection of Migrant Workers through Data Sharing, and Adequate Access to the Legal and Judicial System during employment, including Effective Complainants Mechanism”. Subthemes:

- 1) Enhancing policy and protection of migrant workers through data collection and
- 2) Enhancing policy and protection of migrant workers through adequate access to the legal and judicial system during employment, including effective complaints mechanisms.

**Participants to the AFML are key stakeholders** in discussions of labour migration in South East Asia

**Government:** 2 officials from each AMS coming from ministries and agencies responsible for migrant labour, not lower than Director in rank

**Employers:** 10 representatives from national employers’ organizations (one from each AMS), and 1 from ASEAN Employers Confederation (ACE)

**Workers:** 10 representatives from national trade unions (one from each AMS) and regional trade unions/organizations of workers representatives e.g. ASEAN Trade Union Council (ATUC)

**CSOs:** 10 representatives from national CSOs (one from each AMS), and up to 3 regional CSO representatives.

**Others:** the Socio-Cultural Community Department of the ASEAN Secretariat, the ILO, IOM, TFAMW, and UN Women. Selected resource persons and experts also attend AFMLs.

### **National tripartite preparatory meeting**

- Convened by the ASEAN Member States
- Tripartite participation plus CSO

#### **The objectives of the national tripartite preparatory meeting include:**

- Take stock of the progress of implementing the Recommendations;
- Discuss the themes of the coming AFML and prepare and adopt Recommendations endorsed by national partners on these themes
- Develop a report on the national tripartite preparatory meeting for sharing at the 7th AFML
- Confirm the government delegation to attend the coming AFML
- Employers’ and workers’ organizations as well as CSOs organize their own preparatory meeting with the support of ILO

### **Outcome document for each AFML**

- At each AFML, participants agree and adopt a set of conclusions and action points embodied in an outcome document called “Recommendations” to promote and protect the rights of migrant workers. *This* also assists the formulation of evidence based migration policies
- Recommendations are gender sensitive and are implemented in close cooperation among tripartite partners and CSOs
- Recommendations are discussed, finalized and adopted in a plenary session with all stakeholders attending the AFML.

**The past AFML's thematic discussions** across its six meetings to date have provided comprehensive Recommendations for AMS and social partners in the areas of:

- 1)Information services;
- 2)Return and reintegration;
- 3)Promoting a positive image of migrant workers;
- 4) Regulation of recruitment;
- 5)Labour migration data collection, analysis and sharing; and
- 6)Complaints mechanisms.

### **3. The 7th AFML**

•20-21 November 2014, Nay Pyi Taw, Myanmar. Hosted by the Ministry of Labour, Employment and Social Security, Myanmar

**Theme:** “Towards the ASEAN Community by 2015 with enhanced measures to protect and promote the rights of migrant workers” ***Subthemes:***

- 1) Promotion of fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers.
- 2) Coordination and role of key stakeholders to set up and implement policies and procedures to facilitate aspects of migration of workers, including recruitment, travel preparation, protection abroad, and return and reintegration.

### **4. The 7th AFML Background Paper**

•In 2012, the ILO prepared the first background paper to the 5th AFML. The purpose of this paper was to consolidate and summarize the activities, experiences, good practices and challenges of various stakeholders in implementing the Hanoi 2010 and Bali 2011 AFML Recommendations.

•The paper served as a marker as to what has been done, and what still needs to be carried out

•The paper can be found at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_219040.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_219040.pdf)

•The ILO will prepare a second background paper to review progress towards implementing the Recommendations from the 3-6th AFML

•The review will cluster the Recommendations under the following 5-6 thematic areas:

- labour migration data collection;
- facilitating access to complaints mechanisms;
- Regulation of recruitment;
- return and reintegration of migrant workers;
- information dissemination and public information campaigns;
- and partnerships, collaborate and exchange of information among key stakeholders in ASEAN

## **Summary of the Presentation**

### **Post-6<sup>th</sup> Regional Consultation conclusions on Existing Complaint Mechanism**

by Mr. Sinapan Samydorai, Convenor of the TFAMW

### **Conclusion: Regional Consultation on Existing Complaint Mechanisms**

Bangkok, 27 - 28 May 2014

#### **1. Mapping Current Complaint mechanisms:**

##### **Cambodia**

- Trade Union: Workers, union and employer negotiate, if there is no agreement, then migrant workers proceed to complaint to Ministry of Labour
- NGO have to set up helpline and help to process and to file complaints and refer migrant workers to relevant government agencies.

##### **Malaysia**

- The Bar council uses hotline to receive complaints from Domestic workers
- TU document case and files complaints on behalf of migrant workers

##### **Myanmar**

- The President's office provides hotline for complaints
- Ministry of Home Affairs (MHA) operates hotlines for complaints
- Ministry of Labour (MOL) uses complaint forms and also operates hotlines
- CSOs use hotlines to receive complaint and lawyers to document and file complaint

##### **Thailand**

- Ministry of Labour department dealing with recruitment, labour welfare, skill development and social security provide hotline service on trafficking (only Thai language)
- NGO have set up helpline to support Cambodian or Myanmar workers and provide translators to help to process and file the complaints to relevant government agencies.

##### **Vietnam**

- Use local online information services to promote public awareness on the complaint mechanisms.
- MOLISA and Trade Unions use forms and hotline to receive complaints
- MRC Migrant Resources Centre  
In Vietnam and Laos, there are one stop centre or Migrant Resource Centre (MRC) which receive complaints. The MRCs provide information, counseling and legal assistance and conduct outreach, information dissemination, training and organize activities.

## **2. Develop guideline for Complaint and grievance handling Mechanism**

- Guidelines to be precise based on labour and human rights
- Legal consultation for all migrant workers who make complaints
- To ensure Migrant Workers understand information provided (translation services)
- To work towards reducing the “waiting period” while cases are being process
- To develop channels to contact and inform the next of kin in their home country when migrant workers request assistance to contact them

## **Summary of GMS Country Reports**

### **Cambodia Country Report: Legal Support for Children and Women (LSCW)**

**Population:** 14.9 million of which 7.6 million female in 2012

**Labour Force participation rate:**

Age 15 or older at 68.8 percent (male 75.8 percent and female 62.4 percent  
(ILO Labour Force Survey, November 2013)

**Unemployment:** 2.7 percent (ILO Labour Force Survey, November 2013)

#### **RECEIVING COUNTRY AND THE SALARY SCALE:**

**Korea:**

- Factories workers
- Minimum wage: at least 930,000W (900\$US)/month

**Malaysia:**

- Domestic Worker (Maid)
- Minimum wage for DW: at least 520MYR (161\$US)/month

**Thailand:**

- Factory and fishing industries workers
- Minimum wage: 300baht (10\$US)/day

**Singapore:**

- Domestic Worker (Maid)
- Minimum wage: at least 260\$S (209\$US)/month

#### **MIGRANT RECRUITMENT PROCESS**

- Allow register recruitment to recruit migrant workers
  - Allow to charge migrant fee from migrant workers
  - Allow to reduce a salary from migrant for migrant fee (e.g.)
- To Malaysia: 6 months by Cambodian RA + 6-8 months by Malaysian RA  
To Singapore: 6 months by Cambodian RA + 2 months by Singapore RA
- Pre-departure orientation training, require at least 3 months

#### **KEY PROBLEM FACED BY MIGRANT WORKERS**

**Pre-departure**

- Lack of information on labor migration and policy among the community
- Lack of pre-departure training
- High recruitment fee
- Complicated long process for labor migration in Cambodia  
(high recruitment fee, passport fee and further documentation)
- False promise or underemployment

**Post -arrival:**

- Excessive working hour/long working hour
- Low paid and/or unpaid
- Limitation of communication
- Restriction of movement
- Less food
- Lack of consular support
- Lack repatriation system

## **MAIN ACTIVITIES OF LSCW**

- Awareness campaign on legal and safe migration
- Provide legal aid assistant
- Provide repatriation and reintegration assistant
- Vocational training and skill support

## **LEGAL FRAMEWORK TO PROTECT CAMBODIAN MIGRANT WORKER ABROAD**

### **- GOVERNMENT POLICY TOWARDS SENDING MIGRANTS ABROAD**

#### **International**

- ratified all 8 Cores Labour Convention (ILO C87: Convention on the freedom of association and protection of the right to organize,ILO C98: Convention on the Right to Organize and Collective Bargaining convention, ILO: C 29, Forced labor Convention, ILO C 105 on Abolition of Forced Labor, ILO C100 on Equal Remuneration Convention,ILO C111 on Discrimination (Employmentand Occupation), Convention, ILO C 138 on the minimum wage and ILO C182 on the worst Forms of Child labors).
- signed UN Convention (C 90) on the protection of the rights of all migrant workers and members of their families

#### **ASEAN**

- signed ASEAN declaration on protection and promotion of the right of migrant workers (CEBU 2007)

#### **Bilateral**

- Embassy note between Malaysia and Cambodia (1996)
- Record of meeting between Cambodia and Japan(2002)
- signed MoU with Thailand in 2003, Korea in 2006, and Kuwait in 2009 on sending Cambodian migrant workers
- Under pilot project scheme, Cambodian send migrant domestic worker to Singapore (2013-2015)
- Draft MoU between Cambodian and Malaysia

#### **National**

- Issued a Sub-degree 57 on sending Cambodian migrant workers abroad (1995)
- Issued Sub-degree 70 on Creating Manpower Training and Overseas sending board (2006)
- Issued Prakas (circulation) on Education on HIV/AIDS, safe migration and labor rights for Cambodian migrant workers going abroad (2006).
- Issued Sub-degree 195 on Issuance of Normal Passport to Cambodian Migrant Workers legally employed abroad (2013)
- Issued Sub-degree 205 on the reduction of passport fee to 4\$ (June 20, 2014)
- Issued Private recruitment agencies code of conduct (2009)
- Adopted minimum service standard contract (between potential migrant and pre-recruitment agency) (2012)

**Issued Sub-degree 190 on the Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (2011) and supplement by 8 Prakas (Ministerial Orders) (2013):**

1. On the use of Terms
2. On private recruitment agency
3. On recruitment process and pre-departure orientation training
4. On complaint receiving mechanism receiving migrant workers
5. On promulgation of minimum standards of Job placement service contract
6. On inspection on private recruitment agency
7. On penalty and reward to the private recruitment agency
8. On site service of the private recruitment agency and

**GOVERNMENT IMPLEMENTATION OF POLICIES ON SENDING MIGRANTS ABROAD**

- Established Manpower Training and Oversee Sending Board (MTOSB) in 2007
- Established Labor Migration Taskforce in 2007
- Established an Inter-Ministerial Task Force for Migration (IMTM) in 2006
- Established a working group for implementation of MoU with Thailand and Korea in 2006
- Draft MoU between Cambodia and Malaysia
- 49 registered private recruitment agencies in Cambodia to send workers to Japan, Korea, Malaysia and Singapore (2014)

**PERCEIVED GAPS**

- Domestic work not recognized as “work”
- No protection for domestic worker, including internal and migrant worker
- Need to amend the Labour Code which should include protection of domestic worker
- Lack of standard employment contract (between employer and employee)
- Cambodia should sign or ratify C 97 (Migration for employment), C 142 (Migrant workers), C 181 (Private Employment Agencies)
- Lack of bilateral MOU or proper agreement between Cambodia and Malaysia, and others countries where Cambodians migrate on victim protection

## **Lao Country Report: Lao Federation of Trade Unions**

### **Population and Economic**

- The population is 6,256,000 (2011-2012), women 52%, total labour force aged 18 years old to 55 around 3.9 million.
- The GDP increase to 8.3% ; agriculture 3.5%; industrial 16.8%; services 6.7%; total investment is 33% of GDP and total capital about 23,300 billion kips. The rate of poverty is targeted to be reduced from 24% in 2010-2011 to 22% of population throughout the country and rate of household poverty reduced from 19% in 2010-2011 to 17% of the total household in 2012.
- Promotion of Labour skilled jobs in coordination with Vocational training centers operated by the public and private sectors, training provided for 2,000 persons (women 827); secured jobs for 6,105 persons (women 2,310); registered 1,783 (women 634), foreign workers 4,069 persons (registered 1,684), improved minimum wage throughout the country 626,000 kips equals 78 US dollars.
- Challenges includes: Lao young people seeking jobs in neighboring countries, mostly as undocumented labour. Labour skills development is growing as much as the market demands. Employers demand on workers to do longer hours of work, there are many labour disputes and conflict of interest across the country.

### **Laos Workers statistics**

#### **1. Lao Workers in Thailand**

<b>year</b>	<b>Registration</b>	<b>Having been defined as Nationality</b>	<b>Received full documents</b>	<b>Total</b>
2003	0	0	0	
2004	179.887	6.164	6.164	6.164
2005	96.000	48.000	28.316	28.316
2006	48.000	8.000	7.684	7.684
2007	0			
2008	14.000	2.500	3.673	3.673
2009	120.580	61.929	12.825	12.825
2010	120.000	62.729	38.653	38.653
<b>Total</b>	<b>587.467</b>	<b>189.322</b>	<b>97.315</b>	<b>97.315</b>

## 2.Lao workers going abroad

year	Malaysia		Japan		Thailand		All Total	
	Total	Female	Total	F	Total	F	Total	F
2003	99	10	3	3	0		102	13
2004	58	10	3	0	0		61	10
2005	0		16	2	0		16	2
2006	0		50	19	5.133	1.635	5.183	1.654
2007	0		63	24	2.650	926	2.713	950
2008	0		122	31	2.833	861	2.955	892
2009	0		95	24	2.623	1.297	2.718	1.321
2010	0		75	17	6.950	3.305	7.025	3.322
<b>Total</b>	<b>157</b>	<b>20</b>	<b>427</b>	<b>120</b>	<b>20.189</b>	<b>8.024</b>	<b>20.773</b>	<b>8.164</b>

## Activities of LFTU on the Protection of Migrant Workers

### Workshops to build the capacity of Trade Union on the protection of migrant workers

- Workshop on ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers’ at Khammaun province in 2010 with support from TFAMW
- Workshop on ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers at Xayabuly province in 2011, with supported from TFAMW
- Training and consultation on migrant workers at Champasak province in 2012 and 2013 at Xayabuly, LuangNamtha, Xekong and Xiengkhuang provinces, participants were from district trade union federation, supported by Triangle Project of ILO
- National Follow-up workshop on post 6<sup>th</sup> AFML , 15 May 2014, Vientiane. Lao PDR with support from TFAMW and the World Vision – Laos.

### Migrant Resource Centre

The Launch of MRC and Information sharing workshop in Savannakhet Province , Lao PDR with its TRIANGLE Project on 29 November 2011

#### Roles of Migrant Resource Centre includes:

1. Conducting to campaign, providing information and organize activities on safer migration, and legal channel;
2. Provides information, consultation service, providing suggestion and assistance who is willing to work overseas or who need return home including documented undocumented workers,
3. Assigned coordinator who will coordinate with local authorities such as: Head of villages, youth union and women union at villages .

#### Task of Migrant Resources Centre includes campaigning on:

- Radio of province
- Television of province

- Newspaper of province
- Printing and providing brochures, posters
- Organizing the training activities
- Service consultation at the center
- Service consultation on hotlines
- Conducted mobile campaign at villages
- Providing legal aid and complaint mechanism,
- Participation with tripartite system at provincial level,
- There are 7 committee staff at the centre ( 2 women), and three fulltime staff (1 woman)

#### **Migrant Resources Centre (MRC) Activities in Savannakhet province:**

- The MRC has conducted campaign providing information to the local people at five targeted districts along Mekhong river such as: Xaybully, Kaysone Phomvihane, Champhone and Songkhone districts, which reach-out to 150 villages
- There are people visiting the MRC to consult and some are calling the 24 hours hotline regarding financial issues, labour disputes, process of obtaining travelled documents, and searching for jobs
- Radio on air through AM system 720 times and FM system 720 times.
- Print such as: posters and brochures around 1, 500 copies.
- Cooperated with authorities to received 320 Lao returnees (276 women) who return by Thai authorities at the international checking point at Savannakhet and Mukdahane. Most of them were from rural areas and lack legal information and documentation
- Visited Thailand to monitor Lao workers working and living conditions in 2013

#### **Health Check-Up Centre in Champasak province**

LFTU is also operating Health Check-Up Center in Champasak province supported by Alliance Anti Trafficking (AAT). This centre promotes awareness and assist Laotian workers. It was established in 2011 and provides support to undocumented workers returned by Thai authorities numbering a total of 12,933 (7,216 women).

#### **LFTU conducted on site training for Garment Factory Workers**

Training and consultation were conducted to campaign in garment factories migration and to prevent human trafficking issues

#### **LFTU provides hotline services**

Since 2013, LFTU Labour Protection Department has provided hotline 24 hours for workers in difficulties to call for workers in Laos and overseas.

#### **Existing Complaint Mechanism**

- There are 3 MRCs established in 3 provinces. Two are run by the MoLSW and 1 by the LFTU.
- The MoLSW has established labor protection offices at district level
- Each enterprise in Laos has a trade union representative operated help desk to mediate disputed
- Recruitment agencies also required to accept complaints of migrant workers
- ‘Protection Centre’ is established by LFTU in Champasak

## **Thailand to protect Lao migrant workers**

- NGO in Thailand cooperate with the Laos PDR government to resolve migrant worker's claims
- One labour attaché had been appointed in the Embassy in Thailand; consular officials
- MRCs in Thailand could receive complaints by Laos migrant workers
- Representatives of recruitment agencies based in Thailand also receive complaints

## **Recommendations on how to improve existing complaints mechanisms**

- Disseminate information to migrant workers on existing complaints mechanisms (e.g. by radio, newspapers).
- Consider reviewing the Labour Law to provide further protection for the rights of both women and man migrant workers, including specific provision on collection and processing of complaints
- Consider revising Decree on sending migrants to work abroad, to include sending workers to work as domestic workers. Consider ratification of ILO decent work for Domestic Workers Convention No. 189.
- Improve recruitment services for sending migrant workers abroad (including development of standard contracts and specify minimum wage)

## **Information dissemination on complaint mechanisms**

- Recruitment Agencies are currently required to deliver pre-departure orientation, however there is no standardized curriculum.
- Standard Pre-departure orientation materials are being developed in Laos and will inform migrant workers on dispute resolution, develop good communication skills between workers and employers, and where to seek help in Thailand.
- Regularly update information on complaints mechanisms e.g new hotline numbers
- Those organizations receiving complaints need to follow up with their clients on a regular basis
- Clarify the role of labour attaché in Thailand in receiving complaints of migrant workers

## **Support required from international organizations to strengthen complaint mechanisms**

- Funding and technical support to build capacity of concern staff at national and local level on recording complaints
- Share information and lessons learned on complaints mechanisms established in other sending countries
- Enhance labour migration programs in sending countries, especially information dissemination to citizens about legal migration.
- Develop and provide funding support for initiatives targeted at returning migrant workers (e.g. livelihood support, job creation, grants or loans)
- Develop information materials for potential migrant workers on the challenges and benefits of legal migration procedures.
- Integrate information on legal labor migration into school activities.

## **Myanmar Country Report: World Vision Myanmar**

**Population:** 60 million (*preliminary data from 2014 census*)

**Labour Force:** 31 million (*MoLES*)

**Unemployment:** 37 % (*Planning and Finance development committee of parliament*)

### **Migration Workers going overseas/crossing borders to other countries:**

#### **To Thailand**

- 2.3 million Myanmar migrants in Thailand (1.2 million register)
- 30% are between 15 to 24 years
- The majority of migrants workers are male

#### **To Malaysia** (Mahidol Migration Center and other sources)

- More than 700,000 (330,000 have work permits)

#### **To Singapore:**

- 100,000 - 200,000

### **Recruitment Process:**

- G to G channel (MoU process)
- Registered Recruitment Agencies (202)
- Experienced Migrants
- Broker

### **Key problems faced by Migrant Workers at: Source**

- Lack of knowledge on Overseas Employment Agencies and which one is the registered agencies and which one is not.
- Lack of knowledge on nature of Job (*Job Letter/ Demand Letter/ Agreement/ Contract*)
- Lack of knowledge on Visa Type
- Lack of preparation for further unexpected situation & Language barriers
- Keeping Original documents (NRC and TP ) by Agents/broker
- Inappropriate living condition
- Health and Social problems while waiting to get job

- Difficult to turn back themselves when they are not willing to continue the process when they knew the actual situation
- Most of the migrant workers have debt for their migration and job seeking
- Agencies took the major role for decision making and influence upon migrant workers
- Misuse the name of registered agencies and recruit
- Lack of pre-departure information (Need to provide orientation on Labor Rights, Rules and Regulation)
- Weak of knowledge on formal procedure of legal documents step-by-step and don't know the actual expense and they rely on the agent/broker (need to provide the procedure)

#### **Key problems faced by Migrant Workers at: Destination**

- Cannot differentiate Passport validity & visa validity (can't read English)
- Employers are not supportive to issue recommendation to apply passport.
- Exploitive brokers/agents/recruiters to get temporary passport at Thai side and ask extra charges.
- For Visa, need to get work permit from MOL(Thai)
- Some Thai Immigration Officials are involving in illegal recruiting
- Kept in Detention Centre and Deport through border and trafficked by the broker
- No legal rights (*irregular migrant worker*)
- Do not have financial resources to go back to get legal documents and work visa; instead they choose to continue their quest to find employment as illegal migrants and trafficked.
- Agent kept passport & 1 month salary as deposit.
- Have to stay under control of Agent/Broker and threaten by them

#### **What are the existing Complaint Mechanism and grievance handling mechanism?**

- Have to stay under control of Agent/Broker and threaten by them
- President Office or Parliament
- Labour Complaint numbers (hotline)
- Labour Attaché at Embassy (Thailand, Malaysia, Korea) (Ministry of Labour)
- Anti-trafficking hotlines (Ministry of Home Affairs)

- ILO Complain Channel
- MRC (6 locations with the support of ILO & IOM)
- Migrant Worker reporting counter established (at YGN Inl't airport)

**Recommendations:**

- Through promoting awareness and campaigns.
- World Vision Myanmar to facilitate reports to government (DoL/ MoHA) or ILO complain channel.
- Directly send complained letter to President Office or Parliament House or Human Right Commission through Political league.
- Coordinate with family for the migrants complaint filing
- Broadcast in TV channel to promote the hotlines
- Setting up billboard to create public awareness

## **Thailand Country Report: Human Rights and Development Foundation**

### **Background Information**

Population: 64,871,000

Labour Force: 38,930,000

Unemployment: 448,000

### **Migration Workers leaving (Sending Country) and arriving (Receiving Country)**

Total: 1,936,185 (Women and Men)

Documented: 1,400,461

Undocumented: 535,724

To /from which country: Myanmar, Lao, Cambodia

### **Key problems faced by Migrant Workers at**

#### **Pre-departure - Recruitment stage at home country**

- Agent will find jobs for migrant workers
- Workers will receive unclear information on types of jobs they will be working on (which it should be clear according to system since it is already indicated by employers)
- Procedure at the country of origin is complicated which resulted in long period of time in implementation and high cost
- Preparation system before they travel to work oversea still lacks as the country of origin do not recognize the importance.
- Country of origin may have law or policy to control these companies but it was found that the controlling system usually fails as some have seek benefits from the job-seeking process.

#### **Post –arrival in receiving country:**

- Lack of translator , hotline, friendly service, proper communication during the complaint process
- Unfriendly service and opportunity for abuse of authority
- Status of person who file the complaint
- Unable to travel when complaint procedure is required physical present
- Ineffective of complaint mechanism including time, barrier, enforcement of the result, mechanism to follow up with employer
- The case who access the complaint mechanism still in need the accompaniment/support of non government agency.

#### **Any changes in labour laws, policies, MOU, Migrant protections measures etc:**

- In 2013, Thailand, Myanmar, Laos and Cambodia agreed to adjust the MOU for workers working in the borderline.
- In March 2014, Thai Government approved the workers who complete their work in Thailand for four years to continue staying in Thailand for another 180 days in order to prepare the documents to submit to get the visa extension.

- Following the military coup in Thailand, the National Council for Peace and Order (NCPO) has set out a guideline on security measures, including a search and a raid of places owned by political movement groups and influential persons. The NCPO has also indicated the need to manage problems involved migrant workers as one of its policy priorities.
- In addition, on June 10, the NCPO appointed a policy committee led by the NCPO vice commander and the NCPO head security. Comprised of permanent secretaries of relevant ministries, as well as representatives from armed forces and security agencies, the committee will be responsible for solving problems related to migrant workers, including revision and implementation of policy. Further, the NCPO designated a sub-committee to coordinate and manage issues concerning migrant workers, with the chief of Joint Staff acting as a chairperson and the director of Employment Department as a vice chairperson. The main roles of the sub-committee include proposing new policies and measures for the committee to review and then provide suggestions and amendment to the concerned agencies.
- The 60 days registration through One stop service (start at Samutsakorn, 6 sea coast provinces, 6 centers in BKK and Ayuthaya and nationwide in august). Then workers need to go through National Verification process.
- Set up 4 Cambodia centers ( processing registration and matching employer and employee)
- NCPO announcement to register migrant workers at the one-stop service centers are entitled to stay in Thailand until 31<sup>st</sup> March, 2015. (In this period, the workers can enter to the process of national verification and get the legal document from the Thai government).
- In the NCPO meeting on 29 July 2014, they agreed to give up the regulation relevant to the repatriation fund.
- NCPO approved to set up the committee relevant to special economic zone in eight provinces and set up the subcommittee to be responsible for the administration of one-stop service concerning to the labour issues.

### **HRDF 3 KEY PROGRAMMES**

- 1.The Labour Law Clinic (LLC) in Mae Sot, Tak, since 2006
2. Migrant Justice Programme (MJP) in Chiang Mai Province and Sumut Sakorn Province, since July 2007
- 3.Anti-trafficking Programme for migrants in Thailand, since 2009

### **Challenges faced by Migrant Workers**

- Fear of being arrested and face corrupt police officer in case of undocumented entry of migrant workers who are not confident to seek assistance by themselves especially if they have to seek assistance from the police officer.
- Lack of interpreter working in the officials office

- Not confident to challenge their cases at the Court due to the delay of the trial. So the case end in negotiation and workers received very low compensation
- Insecure with Government policy relating to extension of work permit and visa.
- Many hundreds of workers completed their work contract and over stay in Thailand. The Thai government has no clear solution on whether to allow the workers to continue working in Thailand.
- Workers in some sector such as fishing, agriculture, and domestic work face obstacle to access the workmen compensation fund. Many suffer accident at workplace and receive improper compensation from the employer
- Exploitation by brokers

### **ACTIVITIES to facilitate access to Justice for Migrant workers**

1. Provide Legal assistance and strategic litigation
2. Legal empowerment by
  - 2.1 providing legal knowledge through migrant community program in Thailand and cross border
  - 2.2 providing paralegal training to support workers in their own community
3. Advocacy through case work and HRDF activities by
  - 3.1 update the case work through website and network
  - 3.2 Release urgent appeals to urge the government to improve the condition of migrant workers
  - 3.3 Hold dialogue through the stake holder
  - 3.4 Issue newsletters to update situation of migrant workers access to justice
4. Networking

### **Organizing Migrant Workers**

- Migrant are organized by MWRN and MWF
- Migrant workers who are members of the MWRN and MWF enjoy their services such as libraries, legal training,
  - Vocational training, and language training
- Receive complaint and providing legal assistance to the workers and coordinate with NGO such as HRDF to provide the
  - legal support and hold dialogue between workers, employers and officials in labour disputes

### **Community base organization or CBO**

- Receive the complaints from migrant community
- Provide legal advice or suggestion to access to rights mechanism and protection of the workers.

## **Vietnam Country Report: Institute for Population Family and Children Studies**

### **Background Information** (released by GSO on 20 June 2014)

Population: 91 million

Labour Force: 53,715,000

Labour force participation rate (%): 77.5

Unemployment (%): 1.84

### **Statistic: Vietnamese Overseas Migrant Workers**

Total: 500,000

2013: 88,155

Women: 31,769

Men: 56,386

Documented: 88,155 (2013)

Undocumented: no data

**Main countries of destination:** Malaysia, Taiwan, South Korea, Japan, United Arab Emirates, Saudi Arabia, Macao, etc.

### **Labour migration:**

- National strategy for poverty elimination and development

### **State management of international labour migration**

- Various government Ministries involve include the Ministry of Public Security, Ministry of Labour, Ministry of Foreign Affairs, Ministry of Finance, Ministry of Health, Ministry of Planning and Investment, and the State Bank of Vietnam.
- Provincial and district steering committees for labour export
- Manpower supply companies

### **CSOs in Viet Nam**

- Working along with the Government
- NGOs as part of or extended arms of Government
- NGOs working at grassroots level or advocating for changes regarding laws and policies

### **Development in the migration process**

- The new development in the migration process is the increase in “undocumented migration” .
- Since these migrant workers have no legal status in the host countries, their rights are subject to abusive conditions under the threat of repatriation.
- Incidents of abuse are widespread, but estimating their prevalence is difficult given the lack of reporting mechanisms and restrictions on the freedom of movement of domestic workers. Never the less, Vietnamese embassies and consulates in countries of destination receive many such complaints per years.
- The authorities do not have a full account of the number of Vietnamese citizens cheated by individuals or organizations seeking overseas jobs using tourist visas.

### **Access to Justice**

- All too often, throughout the migration cycle, migrant workers encounter the denial of their rights, exclusion from labour and social protections and a lack of legal assistance. Many migrant workers consistently lack access to justice, especially where they have suffered human rights violations and need to remain in countries of destination to seek redress. When a Vietnamese migrant worker can access justice at all, it generally takes the form of either 1) access to assistance from Vietnamese representative missions in the destination country, and/or 2) access to redress upon return home.
- Through increased understanding of the process for lodging complaints, and the obstacles to access and just outcomes that occur for migrant workers attempting to navigate the system, policy-makers, service providers, non-governmental organizations and employers will be better able to make informed adaptations of policies and programmes. In fact, the complaint mechanisms available for migrant workers in Viet Nam are complex and often inadequate.
- Challenges remain in providing for fair hearing and resolution of grievances. Coordination with the criminal system and judiciary branch is not clearly defined in law, and the investigation of brokers remains difficult within the framework of the mechanisms available.
- Much needs to be done to improve the effectiveness, expand the coverage and strengthen the complaint mechanisms available to migrant workers as part of efforts to make the recruitment process safer. This includes evaluating the compensation process for complainants and punitive actions taken against recruitment malpractice.
- Complaints relating to the recruitment of migrant workers have been documented, but few studies have been able to review the data related to outcomes of complaints and bring together interview research with legal analysis.

### **PRESENT COMPLAINT AND GRIEVANCE HANDLING MECHANISM**

- Law on Complaints (2011)
- Law on Inspection (2010)
- Law on Handling of Administrative Violations (2012)
- Labour Code (2012)
- Law on Social Assurance (2006)
- Law on Vocational Training (2006)
- Law on Sending Vietnamese Guest Workers on Contract (2006)
- Law on Organization of People's Councils and People's Committees (2003)
- Criminal Code (2009) and the Criminal Procedure Code (2003)
- Law on Human Trafficking (2011)

### **GOVERNMENT DECREE ON COMPLAINT AND GRIEVANCE HANDLING MECHANISM**

#### **(Draft)**

- Labour Code (2012)
- Law on Vocational Training (2006)
- Law on Sending Vietnamese Guest Workers on Contract (2006)

### **Laws and policies on international labour migration to be amended**

- Law on Sending Vietnamese Guest Workers on Contract (2006)

### **Policies and Practices**

- Improving complaint mechanisms
- Increasing protection
- Develop a sustainable system to record sex-disaggregated data on migration, destination and return;
- Improve information on rights and redress, and workers' access to documents required to substantiate claims;
- Support Legal Research and Strategic Litigation

### **International and Regional Frameworks**

- Encourage international and regional organizations and networks to provide support to migrant workers who seek redress and access to justice;
- Ensure that accessible systems are in place in all receiving countries and territories for Vietnamese migrant workers to seek redress and access to justice in cases of labour or rights violations;
- Adhere to the principles of the ASEAN Declaration on the Promotion and Protection of the Rights of Migrant Workers and other ASEAN commitments related to migrant workers;
- Support the development of further regional/ASEAN mechanisms on the promotion and protection of migrant workers;

### **International and Regional Frameworks**

- Develop and strengthen the existing complaint mechanisms for migrant workers in ASEAN Member States to ensure that they are transparent and accessible throughout their recruitment cycle, employment and in case of termination and deportation;
- Consider developing regional guidelines and tools on the establishment of key aspects and standards of complaint mechanisms for migrant workers;
- Promote the sharing of experiences and information between Viet Nam and destination Countries in implementing their respective complaint mechanisms;
- Ensure timely notification and communication between Viet Nam and destination countries on judicial cases of migrant workers and extend cooperation to providing access to migrant workers to file cases for violation of rights in the country where the violation took place;

## National Frameworks

- Strengthen Vietnamese national laws, policies, regulations, procedures and practices on the protection of rights and the handling of rights violation, including a Right to Access to Justice for Migrant Workers;
- Establish an accessible and straightforward grievance redress mechanism for migrant workers;
- Guarantee the availability and access to timely and effective redress mechanisms and legal remedies for migrant workers;
- Ensure that complaint mechanisms are responsive to the vulnerability of migrant workers;
- Strengthen the complaint redress mechanisms and legal assistance systems for addressing the needs of migrant workers who seek redress and access to justice;
- Explore dispute resolutions mediation, and other alternative dispute settlement mechanisms before administrative or judicial litigation processes;
- Adopt measures to protect migrants, including those in irregular situations, against all forms of discrimination and violence;
- Standardize and regulate the administrative mediation procedures;
- Support the development of “one –stop” service centre like the Migration Resource Centres (MRC) for migrant workers that facilitates access to complaint mechanisms and assistance, including through interpretation and free legal counseling/referral;
- Ensure that complaint redress services are accessible to all migrant workers and use new, web-based technology;
- Promote dialogue and partnerships between government agencies, NGOs, the private sector and other stakeholders through national and sub-national consultations to exchange experiences, good practices and build consensus on key issues on access to justice;
- Ensure and strengthen the roles of labour attaches and embassies officials to include support services on complaint mechanisms and procedures for migrant workers;
- Promote inter-country trade unions collaboration to support migrant workers to file complaints;
- Research and disseminate good practices to inform policy and strategy development and advocate for policy and legal/judicial reforms that empower, protect and reduce migrant workers’ vulnerabilities;
- Ensure that information on the availability of such service centres and complaint mechanisms is disseminated to Vietnamese migrant workers and their families through appropriate communication channels, such as electronic and print media, migrant workers resource

centres, information outreach programmes, pre-departure trainings, pre-employment orientation seminar, and diplomatic missions;

- Improve migrant workers' access to information on rights and redress, and to documents required to substantiate claims;
- Support legal research and strategic litigation;
- Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfil the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;
- Provide migrant workers who may be victims of discrimination, abuse, exploitation, violence with adequate access to the legal and judicial system of the receiving states;
- Encourage migrant workers to build up their own peer support structures and networks;
- Create systems that allow institutions and family members to file a complaint on behalf of the migrant workers.

## **Summary Report on Complaint Mechanism**

**Cambodia: Prakas on Complaint Receiving Mechanism for migrant workers  
by ILO Cambodia – Mr. Rim Kleang**

### **Introduction to Prakas on Complaint Receiving Mechanism:**

- The MoLVT and PDoLVT receive complaints concerning migrant workers. MoLVT and PDoLVT will invite concerned parties to cooperate and advise, resolve, conciliate or send complaints to the institution which has responsibility in each case.
- In Cambodia, all complaints relating to migrant workers are to be submitted to MoLVT Building #3, Russian Boulevard, Sangkat Teuk Laak I, Khan Tuol Kouk, Phnom Penh, or to the PDoLVT in each province. Social service providers – such as LSCW, Migrant Worker Resource Centres, NACC – can also record complaints with migrant workers then lodge them at MoLVT or PDoLVT
- When a complaint is filed, in order to follow up on the claims, the migrant worker's information may be shared. Migrant workers must be informed that they may request for their identity to be kept confidential, and that if there is a need to disclose their identity, their permission will be requested in advance.
- Even if a migrant worker cannot give their name, it is still valuable to lodge a migrant workers complaint so that the amount of complaints against a PRA can be measured, and MoLVT can be requested investigate if needed

### **Complaints relating to migrant workers can be verbal or written.**

Any complaint must cover the following:

- **Subject of complaint** - complaints can be about, but are not limited to, lack of pay for hours or overtime worked, unsuitable food and accommodation, unsafe working environments, job duties, work days and leave entitlements, insurance, workers' compensation, harassment, exploitation or forced labour, disciplinary actions or termination of employment, delay in deployment or no job provided, contract substitution, and missing migrant workers. If a migrant worker has been treated badly, then they have the grounds to lodge a complaint.
- **Name and address of complainant** (person lodging the complaint)
- **Name and address of respondent** (person the complaint is about)
- **Cause and background of complaint**
- **Date and place of case**
- **Amount of money claimed for compensation** (if any)
- If possible, every complaint should provide **supporting documents** and other certificates.
- After receiving a written complaint, the **MoLVT/PDoLVT must take action within 10 working days** by preparing a letter to invite **the complainant/s (people complaining) and respondent/s (the person or agency you are complaining about)** to provide information and evidence needed to resolve the dispute at a conciliation meeting which will be overseen by MoLVT/PDoLVT dispute resolution officials.

- Complainants and respondents **must respond to the invitation letter within 3 days**. If they do not, another invitation letter is issued which they also have 3 days to respond to. If they do not respond to the **second invitation letter** by the deadline, dispute resolution officials will notify each party of the nullified complaint via a **warning letter**. Each party has 3 days to respond to the warning letter by providing their last statement to the MoLVT/PDoLVT.
- If complainants do not respond at third request without informing why they cannot attend, the complaint will be nullified. **If respondents do not respond at third request, the case will be determined as unable to be resolved determining that the respondent will be responsible for violations alleged and the MoLVT/PDoLVT will take action in accordance with procedure.**
- Upon request for help by both parties, **a third party can accompany or represent any disputing party**.
- Every dispute resolution will have a clear conciliation minute outlining the proceedings of the conciliation, and will be signed by the official who has mediated the dispute. **This official has a duty to act impartially**. A copy of this conciliation minute will be distributed to all parties.
- **All agreements made in front of the dispute resolution officials are binding.** This means that an agreement has been made by all parties, and that certain actions are now required or prohibited. All agreements should include a timeline for follow up actions and / or compensation payments.
- If a case **cannot be resolved by the PDoLVT within 20 working days**, the case will be referred to the MoLVT. If the case is still **unresolved by MoLVT within 30 working days**, MoLVT will announce to all parties that the case was not able to be resolved and this will be included in the official conciliation minute signed by dispute resolution officials and disputing parties. The dispute resolution officials will inform each party on their rights and legal procedures. This conciliation process does not preclude either party seeking a judicial remedy through the regular court system.
- **This conciliation process does not preclude either party seeking a judicial remedy** through the regular court system.
- **In a case where the dispute occurred outside the country**, duration for resolution shall be prolonged in accordance with the law of the destination country.
- Outside Cambodia, all complaints will be submitted to the permanent office of the PRA's representative, Embassy of Cambodia in the destination country or to the Competent Authority of the destination country.

- **The representative of the Cambodian PRA based in the destination country must coordinate and assist the worker to lodge a complaint at the Consulate or Embassy of Cambodia and to the destination country's Competent Authority.**
- Migrant workers can lodge complaints at a **Migrant Worker Resource Centres (MRC) or other service providers listed below:**

**MRC MoLVT**

Building #3, Russian Boulevard, Sangkat Teuk Laak I, Khan Tuol Kouk, Phnom Penh  
 Email: [Chuop\\_narath@yahoo.com](mailto:Chuop_narath@yahoo.com)  
[Email: Ouk.ravut@yahoo.com](mailto:Ouk.ravut@yahoo.com)

**MRC Phnom Srey Organization for Development**

No. 126, St Pheah Monivong, Kampong Cham City  
 Ms Hany Fiya -- 012 440 808  
 Mr Se Sareoun – 088 711 5590  
 Email: [mrc@psodcambodia.org](mailto:mrc@psodcambodia.org)

**MRC Cambodian Labour Confederation**

No. 190, Village No. 4, Prey Veng City  
 Mr Tep Sopheap – 097 776 5858 / 012 267 302  
 Email: [Sopheaptph88@gmail.com](mailto:Sopheaptph88@gmail.com)

**MRC Battambang Job Centre**

Polytechnic Institute of Battambang Province, Battambang  
 Mr Mom Pov – 092 450 405 / 053 733 111  
 HOTLINE – 097 369 7779  
 Toll free Job Centre number – 016 926 555  
 Email: [Pov\\_mom@yahoo.com](mailto:Pov_mom@yahoo.com)  
 Email: [Jc\\_battambang@nea.gov.kh](mailto:Jc_battambang@nea.gov.kh)

**National Union Alliance Chambers of Cambodia Organisation (NACC)**

#18MG, Street K4A ,Sangkat Teuk Thla Khan Sen Sok ,Phnom Penh  
 Mr Neak Heang: 012 853 254  
[Email: nacc007cambodia@gmail.com](mailto:nacc007cambodia@gmail.com)  
 Tel: 023 65 09 607

**Legal Support for Children and Women (LSCW)**

#132E-F, Street 135, Phasar Doeum Thkov, Chamkarmorn, Phnom Penh  
 24/7 HOTLINE – 077 455 516

## **Cambodia: Sample of (Government) Complaint Form**

### **FORM 1: Migrant Worker Complaint Form**

**Kingdom of Cambodia**

**Nation Religion King**

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**Migrant Worker Complaint Form**  
**to Department of Employment and Manpower of the Ministry of Labour / Provincial**  
**Department of Labour and Vocational Training**

**Individual Complainant**

My name.....sex.....age.....ID card No.....date of  
issuance.....  
Address, village.....commune.....district.....provinc  
e/town.....Contact No.....Migrant worker's representative  
name:.....Contact  
number:.....

**Group Complainants**

My name.....sex.....age.....ID card No.....date of  
issuance.....  
Address, village.....commune.....district.....province/town.....  
Contact No.....representing.....persons whose name list attached to  
complaint form.

**Complainants from other sources**

Complaint from source.....No ..... Date of  
issuance.....Address: Village.....  
Commune.....district .....  
province/town.....  
Contact No.....

**Subject matter of the complaint is (tick all that apply):**

<input type="checkbox"/> Remuneration	<input type="checkbox"/> Workers' Compensation
<input type="checkbox"/> Claim money that paid to PRA	<input type="checkbox"/> Harassment

<input type="checkbox"/> Food and Accommodation	<input type="checkbox"/> Disciplinary Actions / Termination of Employment
<input type="checkbox"/> Occupational Safety and Health	<input type="checkbox"/> Delay in Deployment/ Job Not Provided
<input type="checkbox"/> Job Duties	<input type="checkbox"/> Contract Substitution
<input type="checkbox"/> Work Hours	<input type="checkbox"/> Missing Migrant Worker-Want migrant worker return home country
<input type="checkbox"/> Days Off	<input type="checkbox"/> Missing Migrant Worker-Want to know information about migrant worker
<input type="checkbox"/> Leave	<input type="checkbox"/> Forced Labour
<input type="checkbox"/> Insurance	<input type="checkbox"/> Other

Other facts of the complaint including place and date or period of time and destination country (if more space needed please attach):

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### Respondent

Name: ..... Address .....  
 ..... Contact  
 Number: .....

**Remedy you are seeking for the complaint (check all that apply, more details beside):**

- Monetary Compensation
  - Amount owed (if known) \_\_\_\_\_
  - How calculated (hours / days): \_\_\_\_\_
- Reimbursement
  - Amount owed (if known) \_\_\_\_\_
  - How calculated (hours / days): \_\_\_\_\_
- Find migrant worker to return home \_\_\_\_\_
- Want to know information of the migrant worker \_\_\_\_\_
- Want to get passport and other documents \_\_\_\_\_
- Ask the PRA to clearly determine the date of departure to work abroad \_\_\_\_\_
- Better Working Conditions \_\_\_\_\_
- Better Living Conditions \_\_\_\_\_
- Changes in Company Policies and Practices \_\_\_\_\_

- Re-instatement of Job Lost \_\_\_\_\_
- Employment as Promised \_\_\_\_\_
- Deployment to Destination Country \_\_\_\_\_
- Enforcement of Original Contract \_\_\_\_\_
- Apology \_\_\_\_\_
- Locate Missing Migrant Worker \_\_\_\_\_
- Other (Explain) \_\_\_\_\_

If you would like to pursue compensation, PDOLVT/MOLVT can assist by holding a reconciliation with the respondent to reclaim it. If you would like to pursue a criminal case, PDOLVT/MOLVT can refer you to an individual within a relevant department or NGO.

Please attach **photocopies** of the following documents if you have them:

<input type="checkbox"/> passport / ID card photocopy <input type="checkbox"/> certification of employment/training Original <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> work permit Original <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> visas; <input type="checkbox"/> resident cards	<input type="checkbox"/> pay slips; time sheets <input type="checkbox"/> “foreign workers’ affidavits”; <input type="checkbox"/> letters/declarations from witnesses or others who can corroborate your claims <input type="checkbox"/> any other evidence of abuse (e.g. hospital receipts)
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If you are not attaching copies of your contract or any of these documents, please explain why (e.g. you were not provided copies, or you did not sign a contract): .....

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
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 .....

Please contact  migrant worker  migrant worker’s representative when following up this case.

Made ... .... Day..... Month..... Year 20.....

Signature or thumb print

Name:.....

## Thailand: Sample of (NGO) Complaint Form

### Thai NGO Complaint Form – Human Rights and Development Foundation (HRDF)

		
<p>คลินิกกฎหมายแรงงาน 14/12 ถนนประสาทวิถีเดิม ต.แม่สอด อ.แม่สอด จ.ตาก 63110          Tel. (055) 535 994 Fax. (055) 536 015 E-mail: laborlawclinic@yahoo.com</p>		
<p>แบบบันทึกข้อเท็จจริง          Recording Format</p>		
รหัส Case	Case No.	
วัน/เดือน/ปี	Date/Month/Year	
ผู้อัมภาษณ์	Interviewer	
ล่าม/แปล	Interpreters	
Personal Data of the Complainant		
ข้อมูลส่วนตัวผู้ร้อง		
No. of Complainant	ชื่อ (พ.ร.38/1) : _____ คำนำหน้าชื่อ : ..... คน ผู้ติดตาม : ..... พัน	
Recommendation by which organization		
ชื่อ (พม่า) : _____	Name in Origin Country	
อายุ : _____	เพศ : _____	เพศ : _____
เชื้อชาติ : _____	สัญชาติ : _____	สถานภาพ : _____
ชื่อบิดา : _____	ชื่อมารดา : _____	จำนวนบุตร : _____
จำนวนพี่น้อง : _____	เบ็นคนที่ : _____	Order of Birth
บิดา/มารดาประกอบอาชีพ	Occupation of the parents	
มีชีวิตอยู่หรือไม่	Are the parents alive or not?	
ภูมิลำเนาเดิม	Address from the country of origin	
การศึกษา	Education	
สามารถพูด/อ่าน/เขียน ภาษา :	Ability to speak/read/write in language...	
Legal Status		
สถานภาพทางกฎหมาย		
เลขที่ตั้งร่องรอยติด	บุคคลที่ทำบัตรให้	Issued by
เสียค่าใช้จ่าย (บาท)	โดยวิธี	Way to get the work permit (officially, broker,etc)
ประจำการถือครอง (ฉบับจริง, สำเนาในอนุญาติ, สำเนาในรัฐวิณัย)	How do you carry the work permit? (original, receipt, copy, etc)	
ที่อยู่ (ตามแบบ พ.ร.38/1)	Address according to TorRor 38/1	
ที่พักอาศัย	Address in Receiving country	
พกอาศัยอยู่ด้วยกันกี่คน	No. of people you are sharing	
Information about the immigration		
ข้อมูลเกี่ยวกับการเข้าเมือง		
ระยะเวลาที่เข้าเมือง (ปี)	Duration of immigration	ด่านที่เข้าเมือง :
วิธีการ	How do you enter?	ค่าใช้จ่าย (บาท) :
อาชีพก่อนเข้าเมือง	Occupation prior to entry	รายได้ :
สาเหตุที่เข้าเมือง	Reason for immigration	

**Information about Employer**

ข้อมูลเกี่ยวกับนายจ้าง / สถานประกอบการ

ชื่อนายจ้าง / สถานประกอบการ :	Name of Employer/Work Sector
สถานที่ทำงาน :	Address of the workplace
นายจ้างประจำกิจการประเภท :	Type of the work sector
มีแรงงานทั้งหมดกี่คน (ไทย/พม่า ระบุ) :	No. of worker

**Working Information**

ข้อมูลเกี่ยวกับการทำงาน

ประเภทงานที่ทำ :	Type of work		
แผนก :	Department	หัวหน้าแผนกซึ่ง :	Head of the department
เวลาทำงาน :	Working hours	วันหยุด :	Day-off
ได้รับค่าจ้างแบบ (รายวัน, รายเดือน, รายเหมา ระบุ)	Wages (daily/monthly/lumpsum pay)		
จ่ายค่าจ้างทุกวันที่ :	Period of payment	จ่ายเป็น :	Type of payment
ระยะเวลาทำงาน :	Duration of work	บุคคลที่รักษา :	How you get the job?
การเข้าทำงาน (มีกิจวัตร, ตอกตัว, เชื่อชื่อ ระบุ)	Work attendance (sign/name/card)		
รายได้เฉลี่ยต่อเดือน	Income per month	รายจ่ายเฉลี่ยต่อเดือน	Expenses per month
วิธีการส่งเงินกลับบ้าน	Way of remittance		

**Contact Information**

การติดต่อ

เบอร์โทรศัพท์มือถือ :	MOB	เบอร์โทรศัพท์บ้าน :	Home
บุคคลที่ติดต่อ :	Friend/Relative contact	เกี่ยวพันเป็น :	Relation of the contact person

**Fact**

ข้อเท็จจริง / กรณีร้องทุกษ์

ความต้องการของผู้ร้อง : Request from the complainant

.....  
.....  
.....  
.....

การใช้คำแนะนำ / ช่วยเหลือ : Legal Advise

.....  
.....  
.....  
.....

สรุปประเด็นที่ผู้ร้องถูกกล่าวหา : Concluding of the human rights violation

.....  
.....  
.....  
.....

พยานบุคคล / เอกสาร ประกอบการร้องทุกษ Witness/Documents relating to the case

.....  
.....  
.....  
.....

ปัญหาและอุปสรรค Obstacle in the case

.....  
.....  
.....  
.....

ความเห็นของเจ้าหน้าที่กฎหมาย Comments by the officer

.....  
.....  
.....  
.....

## **Brief Summary of Workshop Reports**

### **Basic Guideline for Complaint Mechanism for Migrant Workers**

#### **Complaint Form**

1. Simple Format
2. Not too long, 2 pages maximum
3. Language accessible (translated)
4. Simple options

#### **Principles to be encompassed in the Complaint Mechanism**

1. Cover all migrant workers and must be open to all migrant workers
2. Be open to 3<sup>rd</sup> party inclusion like family, NGOs, Agencies
3. Clarity on rights of undocumented MW to access Complaint Mechanism
4. Consent of Migrant Workers must be sought.
5. Privacy of the complaint.
6. Negotiations between MW and Employer/Agent should be balanced. Possibly proper representation to balance the power of negotiation.
7. Transparency in the process of complaint handling and resolution.
8. Best interest of the MW and Case specific.
9. Standards of minimum compensation for various cases. Not leaving it all on negotiation.
10. Monitor/Enforce until compensation stage.
11. Flexible to access Complaint Mechanism wherever they are. Returned home. In new employment. (JWB example)

## **Complaint Forms, Filing and Processing**

### **Information to be included in the Complaint Form:**

1. Name, address, age, gender, nationality, race, occupation, family/next of kin contact details
2. Nature of complaint: Salary, working condition, living condition, medical issues, Claims etc..

### **Filing the Complaint and Processing the Complaint**

3. Translation/interpreters
4. Complaint make by the migrant workers / Family
5. Interview questions / interpreter (information)
6. Support from NGO/legal assistance/ to file report (eg workers may not read and write)

### **Additional Workshop Recommendations:**

1. Study Cambodian Prakas on complaint mechanism and recently adopted forms.  
To better understanding the application and how CSO could support migrant workers to file complaints.
2. Study the Sending and Receiving State Complaint forms. To better understand the different country specific contents, requirements and processing of complaints.
3. Study on the Cambodia Migrant Workers who cross-borders with their ID cards to find legal employment in Thailand. But they are seen in Cambodia as undocumented migrant workers as they did not go through the channels provided by the recruitment agencies.

# **Task Force on ASEAN Migrant Workers**

Post 6th AFML GMS Consultation on CSO good practices on  
implementing effective complaint mechanism  
15 - 16 August 2014, Phnom Penh, Cambodia

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## **Annex 1: Background Note**

### **Complaints Mechanisms for Migrant Workers in the ASEAN Region**

#### **ILO ASEAN TRIANGLE PROJECT**

The establishment of effective complaint mechanisms for migrant workers has been formally recognized within the ASEAN region as key to the protection of migrant workers' rights. Complaint mechanisms now exist in varied form in most countries of origin and destination, as do support services to assist migrant workers in accessing these complaints mechanisms.<sup>1</sup> Telephone hotlines, labour attaches and consular officials, migrant worker resource centers, non-government organizations, and government offices currently provide avenues for the submission of complaints. Yet, in many cases, their coverage is limited and their effectiveness not properly assessed, leaving workers without access to legal and administrative remedies for cases of exploitation and abuse during recruitment or employment.

In 2012, the 5<sup>th</sup> ASEAN Forum on Migrant Labour (AFML) addressed the development and promotion of effective complaint mechanisms through regulation, licensing and monitoring of recruitment agencies and other means. More recently the 6<sup>th</sup> AFML in 2013 focused on more substantive components of complaints mechanisms, calling for increased transparency, accessibility, advocacy and simplification of such mechanisms.

More specifically, the Recommendations of the 6<sup>th</sup> AFML call for the following with regard to operation of complaints mechanisms:

- Gender-sensitivity and responsiveness to vulnerabilities of migrant workers;
- Development of 'One-stop' service centers that facilitate and support access to complaint mechanisms;
- Improved dissemination of information relating support services to migrant workers;
- Greater involvement of labour attaches and consular officials in providing support to workers in accessing complaints mechanisms;
- Promoting the joint accountability of employers and recruitment agencies

Many examples of achievements in implementing the above Recommendations already exist in the region. Some examples include:

In **Cambodia**, a migrant workers complaints mechanism has recently been formalized via ministerial regulation: *Prakas 249 on Complaint Receiving Mechanism for Migrant Workers*.<sup>2</sup>

In **Indonesia**, the Ministry of Manpower and Transmigration has established a call centre facility, "hello TKI" where Indonesian migrant workers and their families can complain or seek assistance, both in Indonesia and from overseas, through a toll-free number, a hotline number, or an SMS facility.<sup>3</sup>

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<sup>1</sup> Larga R, Tunon, M, Baruah N, 2013, 'Background Paper: Progress on the implementation of the recommendations adopted at the 3<sup>rd</sup> and 4<sup>th</sup> ASEAN Forum on Migrant Labour'

<sup>2</sup> See <http://apmigration.ilo.org/resources/cambodian-prakas-ministerial-orders-2>

<sup>3</sup> Farbenblum et al., 2013, Migrant Workers' Access to Justice at Home: Indonesia, p.67

In **Malaysia**, trade unions and NGOs such as Tenaganita and Taliens Nur provide assistance to migrant workers in filing complaints such as non-payment of wages, late or partial payment, excessive working hours, refusal to provide paid leave, lack of medical benefits, failure to provide support and compensation in cases of occupational accidents.<sup>4</sup>

In **Myanmar**, three migrant resource centres are being established in Kyaing Tung, Shan State, Mandalay, Mandalay Division and Dawei, Tanintharyi Division. Migrants and their family members will also be able to request legal assistance and referrals in resolving disputes related to their employment and migration.<sup>5</sup>

For **Filipino** workers, the 28 Philippines Overseas Labour Offices (POLO) located abroad staffed with labour attaches and welfare officers assist workers with filing complaints while on-worksites. Workers are also entitled to file a complaint with the National Labour Relations Commission (NLRC) to seek redress upon returning to the Philippines. The complaints are issued against both the employer and the private licensed employment agency; the agency is held equally responsible for the violation of employment contracts by foreign employers under the joint and solidarity liability principle.<sup>6</sup>

In **Singapore**, the Ministry of Manpower (MoM) and NGO HOME run 24 hour helplines for distressed foreign domestic workers and other men and women migrant workers who are in distress. Workers can submit complaints through the toll-free helplines, or follow-up with feedback forms and pre-paid envelopes provided by MoM service centres.<sup>7</sup>

In **Viet Nam**, migrant worker resource centres have been established in Battambang, Prey Veng, Kampong Cham and Pnomh Penh. Migrant workers and their family members can lodge complaints and receive legal assistance in these centers. Complaints are submitted and recorded via standardized forms and managed in accordance with an established complaints process flowchart.

### **Good practices for handling migrant complaints**

Awareness-raising: Awareness-raising campaigns targeting migrants are regularly carried out on how to file complaints and clearly communicate the message that irregular migrants have the right to register complaints as well.

Interpretation and translation: Interpreters are competent, available, and have clear and appropriate job descriptions (including outreach in migrant communities and staffing of

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<sup>4</sup> Background Paper: progress on the implementation of the recommendations adopted at the 3rd/4th ASEAN Forum on Migrant Labour, p.11

<sup>5</sup> Opening Remark by Mr. Steve Marshall, ILO Liaison Officer at Consultation on the Establishment of MRCs  
[http://www.ilo.org/yangon/country/WCMS\\_237332/lang--en/index.htm](http://www.ilo.org/yangon/country/WCMS_237332/lang--en/index.htm)

<sup>6</sup> Larga, R, 2012, 'A review of the emigrations procedures in the Philippines', p.23

<sup>7</sup> Yeo, D, 2013, 'National Policy and Practice on Complaints Mechanisms and providing access to the judicial system', presentation delivered at the 6<sup>th</sup> AFML, 26-27 November 2013, Brunei Darussalam  
[http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/presentation/wcms\\_234235.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/presentation/wcms_234235.pdf)

hotlines). Outreach materials and official forms for registering grievances and claiming benefits are provided in migrant languages.

Administrative channels for resolving complaints: Mediation, conciliation, or arbitration procedures for settling grievances have been established to expedite the process and avoid the necessity of adjudication in courts for less severe and compoundable offences.

Networking and referral: Regular meetings are held with labour authorities, employer and worker representatives, and CSOs to coordinate activities and monitor progress. A referral mechanism from MOL offices to other service providers has been established (e.g. hospitals and health centres, One-Stop Service Crisis Centres, Social Development and Human Security Offices, police, labour attaches, CSO service providers, etc.)

Target setting and collection of data: Goals related to registration for Funds, complaints, claims and outreach activities are set and progress is monitored through network meetings and reporting. Disaggregated data on migrant registration for Funds, complaints, claims and outreach is collected, (e.g. sectors, locations, legal status, nationality, outcomes, durations, repeat offenders, etc.) analysed, and used to inform targeting of labour inspections, severity of sanctions, locations for information campaigns, and other responses.

Training of officers: Labour officers receive training on the rights of migrant workers to file complaints and claim benefits under Thai laws (including access for irregular migrants), jurisdiction and standard operating procedures for common violations and forms of non-compliance by employers, and Thailand's international obligations to provide equality of treatment for workmen's compensation benefits.

Protection from retaliation: Measures are in place to protect complainants and claimants against reprisals for their actions to encourage more migrants to denounce abuses and assert their rights (ensuring confidentiality whenever possible, prohibiting retaliatory dismissal, providing greater flexibility in transfer of work permits, sheltering irregular migrants from deportation, etc.).

Facilitating access for women: Awareness-raising campaigns specifically targeting women migrants are carried out (particularly for domestic workers and others not working in formal sector workplaces). Procedures for handling complaints of discrimination or abuse of workers based upon gender have been developed and implemented.

## **Further Information**

**In 2013, a number of useful publications relating to complaint mechanisms for migrant workers in the ASEAN were developed, including two-country specific reviews and one migrant worker resource centre manual:**

*Regulating Recruitment of Migrant Workers: An assessment of complaint mechanisms in Thailand* provides a comprehensive review of complaint outcomes data for outbound Thai migrant workers, and inbound migrant workers in Thailand. It finds that complaint mechanisms

available for these workers are complex and often inadequate, particularly for inbound migrant workers who face specific challenges which are quite different to outbound workers.<sup>8</sup>

*Migrant Workers' Access to Justice at Home: Indonesia* provides the first comprehensive study of Indonesian migrant workers' access to justice in their country of origin. It identifies the systemic barriers that prevent workers from receiving redress for harms they suffer before, during and after their work abroad.<sup>9</sup>

*Migrant Worker Resource Centre: Operations Manual* provides a resource for Migrant Resource Centres in Viet Nam, and other organizations that provide services to migrant workers, provides tools and templates to assist resource centres in receiving and handling complaints. It maps the process for receiving and addressing complaints, while also providing standardized formats for case management and complaint submissions for service providers and complainants.<sup>10</sup>

## References

- Farbenblum, B, Taylor-Nicholson, E, Paoletti, S, 2013, *Migrant Workers' Access to Justice at Home: Indonesia***
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- International Labour Organisation, Cambodian Ministry of Labour and Vocational Training, 2013, *Migrant Worker Resource Centre: Operations Manual***
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- Larga R, Tunon, M, Baruah N, 2013, 'Background Paper: Progress on the implementation of the recommendations adopted at the 3<sup>rd</sup> and 4<sup>th</sup> ASEAN Forum on Migrant Labour'**
- Marshall, S, 2014, 'Opening Remark', *Consultation on the Establishment of Migrant Resource Centres*, 28 February 2014, Nay Pyi Taw, Myanmar,  
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[http://www.ilo.org/wcmsp5/groups/public/-/-asia/-/-ro-bangkok/documents/presentation/wcms\\_234235.pdf](http://www.ilo.org/wcmsp5/groups/public/-/-asia/-/-ro-bangkok/documents/presentation/wcms_234235.pdf)**

<sup>8</sup> ILO et al., 2013, *Regulating Recruitment of Migrant Workers: An assessment of complaint mechanisms in Thailand*

<sup>9</sup> *Migrant Workers' Access to Justice at Home: Indonesia*

<sup>10</sup> Manual produced by the ILO GMS TRIANGLE Project, with input from the Cambodian Ministry of Labour and Vocational Training. For more information, see  
[http://www.ilo.org/dyn/migpractice/migmain.showPractice?p\\_lang=en&p\\_practice\\_id=84](http://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=84)

**Annex 2: Task Force on ASEAN Migrant Workers**  
**Post-6<sup>th</sup> ASEAN Forum on Migrant Labour**  
**GMS Consultation on good practice to improve Complaint Mechanism**  
**15-16 August 2014, Phnom Penh, Cambodia**

## **Concept Note**

TFAMW Post - 6th AFML Consultation Workshop to improve existing Complaint Mechanism in GMS countries by the sharing of good practices to promote decent work. The GMS Consultation Workshop will facilitate the documentation of forms and procedures in use to file complaints, claims and appeals, against abuses and discrimination during the full cycle of migration. The full cycle of migration includes pre-departure – recruitment agencies, training, various fees paid for the legal processing to work overseas; post-arrival – working and living conditions, terms of employment, and returning – unfair dismissals, non-payment of due wages and other claims.

### **Background Information:**

The AFML is the primary platform for the ten ASEAN member states' labour ministries, trade union and civil society representative to meet on an annual basis. The forum is conceived as part of the effort to implement the 2007 Declaration on the Protection and Promotion on the Rights of Migrant Workers made in Cebu, Philippines. The Cebu Declaration is described as serving to promote the potential and dignity of migrant workers in accordance with the respective laws, regulations, and policies of respective ASEAN states; it also defines the obligations of the sending and receiving states and the commitments of the entire ASEAN community in protecting and promoting the rights of migrant workers

The actual organization of the forum is supported by the ASEAN secretariat, the presiding, the Taskforce for ASEAN Migrant Workers (TFAMW), and supported by the International Labour Organization (ILO). Participants of the forum comprise the tripartite representative from the government, national trade unions and employers associations. The unique feature is that civil society representatives, organized via the TFAMW, plays a very active role in the process.

### **The 6th ASEAN Forum on Migrant Labour**

The 6th ASEAN Forum on Migrant Labour was convened as an implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, ASEAN Labour Ministers' Work Programme 2010-2015 and ASEAN Socio-Cultural Community (ASCC) Blueprint (Action Line C.2.ii) which called for a regular ASEAN Forum on Migrant Labour as a platform for broad-based discussions on migrant labour issues under the auspices of the ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) which reports to the ASEAN Senior Labour Officials Meeting (SLOM).

The 6th AFML participants recommended concrete actions to promote and protect the rights of migrant workers in ASEAN Member States, that includes an adequate complaint mechanisms and grievance handling mechanisms. CSO Stakeholders have important role to ensure effective implementation and

directly involve in the implementing recommendations of the various activities that covers all migrant workers including migrant domestic workers.

The 6th AFML recognized the importance of and access to effective complaint mechanisms by migrant workers in sending and receiving countries in order to promote and protect the rights of migrant workers in line with international human rights and labour standards. For better access to complaint mechanisms, where appropriate, family members may file a report or complaint on behalf of migrant workers.

## **GMS consultation on good practice to improve existing complaint mechanism**

TFAMW Post 6th AFML Regional Consultation, Bangkok, 27-28 May 2014, encourage the National CSO Stakeholders to develop activities to implement the 6<sup>th</sup> AFML recommendations especially on improving existing complaint mechanism, sharing of good practices, and to develop practical guidelines for CSO stakeholders reference.

Following up the recommendations of the Regional Consultation held in Bangkok, 27-28 May 2014 to document the various existing good practices CSO on the complaint mechanism, the forms and procedures used by CSO stakeholders, to support migrant workers to file complaints, claims, and appeals to seek remedies from injustice, unfair treatments, discriminations and exploitation at their workplace. The GMS consultation will provide the references materials to compile the CSO good practices and draft the practical guidelines on complaint mechanism.

The TFAMW is organizing the GMS consultation to review, discuss and exchange on good practices among civil society stakeholders on ways to effective implement and improve the existing complaint Mechanism. **The GMS consultation objectives are:**

- d. To provide space for the collection and documentation of the CSO good the practices, forms and procedures, in supporting the migrant workers to file complaints, claims and appeals.
- e. To collect and document the present forms and procedures used by governments and other stakeholders.
- f. To develop consensus on drafting the practical guidelines on Complaint Mechanism for CSO to effective implement at the country and cross-country level and to improve the existing complaint mechanism.

### **Expected output of the Workshop:**

- 3. Document and compile CSO good practices of implementing the complaint mechanisms
- 4. Document the forms and procedures used by Stakeholder in support of migrant workers to file complaints, claims and appeals.
- 5. Consensus on the basic content to draft the practical guideline on complaint mechanism for CSO references

**Task Force on ASEAN Migrant Workers**  
**Post-6<sup>th</sup> ASEAN Forum on Migrant Labour**  
**GMS Consultation on CSO good practices on complaint mechanism**  
**and in support of drafting basic guideline on complaint mechanism**  
**15-16 August 2014, Phnom Penh, Cambodia**

**Tentative Agenda**

Time	Description	Responsible
14 Aug 2014	<b>Arrival of GMS Participants</b>	
14 Aug 2014	<b>Dinner for GMS participants</b>	
<b>15 Aug 2014</b>	<b>15 Aug 2014</b>	
08:30-09:00	<b>Registration</b>	<b>CWG-AMW</b>
09:00-09:15	<b>Opening Welcome:</b> <b>Cambodia Working on ASEAN Migrant Worker (CWG-AMW)</b> <b>Ministry of Labour Vocational Training (MOLVT)</b> <b>ILO ASEAN Tripartite Project</b>	<b>CWG-AMW (LSCW)</b> <b>Mr.Choup Narath (TBC)</b> <b>ILO Representative</b>
09:15 – 09:40	<b>Presentation on the 7<sup>th</sup> AFML themes</b>	<b>ILO Repesentative</b>
09:40-10:00	<b>Presentation:</b> <b>TFAMW Post-6<sup>th</sup> Regional Consultation Conclusion</b>	<b>TFAMW</b> <b>Sinapan Samydorai</b>
10:00 – 10:10	<b>Photo Session</b>	
10:10-10:30	<b>Coffee break</b>	
10:30-10:45	<b>Session 1 (Plenary):</b> <b>Introduction to objective and agenda of the consultation</b> <b>Introduction of Participants</b>	<b>TFAMW</b> <b>National Representatives</b> <b>CWG-AMW</b>
10:45-12:30	<b>Session 2 (Plenary): Power-Point in English</b> - one report per country (15 Minutes each) (Cambodia, Laos, Myanmar, Thailand, and Vietnam) <b>Brief Country reports on CSO good practices on the existing complaint mechanism (English)</b>	<b>Workshop</b>  <b>National Representatives</b> <b>CWG-AMW</b>
12:30-13:30	<b>Lunch</b>	

	<b>Session 3 (Workshops)</b> <ul style="list-style-type: none"> <li>- What are the Forms and Procedures used for processing complaints?</li> <li>- How are the CSO training to use the forms and procedures? What are the training modules and the contents?</li> <li>- What should be in the content of the basic guideline for Complaint Mechanism for Migrant Workers?</li> </ul>	<b>Workshop</b>  <b>National Representatives CWG-AMW</b>
13:30-14:30		
14:30-15:30	<b>Session 4 (Plenary)</b>  <b>Reporting workshop discussion and recommendations</b>	<b>Plenary</b>  <b>TFAWM / CWG-AMW</b>
15:30-16:00	<b>Coffee Break</b>	
16:00-17:00	<b>Conclusions</b>	<b>Plenary Moderator</b>  <b>TFAWM / CWG-AMW</b>
17:00	<b>Closing session for Day One</b>	<b>TFAWM / CWG-AMW</b>
<b>16 Aug 2014</b>	<b>16 Aug 2014</b>  <b>TFAMW Internal Meeting</b>	
09.00-9.30	<b>Session 6 (Plenary)</b>  <b>Recap Key points (Day one) on Good Practices on Complaint Mechanism and basic guideline for Complaint Mechanism</b>	<b>National Reps from GMS</b>  <b>TFAMW</b>
09:30-10:30	<b>Plenary Discussion</b>  <b>7<sup>th</sup> AFML CSO Preparations</b>  <b>Discussion on the 7<sup>th</sup> AFML themes</b>	<b>National Reps from GMS</b>  <b>TFAMW</b>
10:30-11.00	<b>Coffee break</b>	
11.00-12.00	<b>TFAMW Organisation Matters</b>	<b>National Reps from GMS</b>  <b>TFAMW</b>
12.30-13:30	<b>Lunch</b>	
	<b>All participants check-out of Hotel</b>	
	<b>Departures to Airport</b>	

# **TF-AMW**

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