



Workshop on Strengthening Capacity and Coordination on Prevention and Investigation of Trafficking in Persons for Forced Labour

----- Concept Paper

27-28 May 2019, Luang Prabang, Lao PDR

Introduction and Rationale

In the changing situation caused by the global economic crisis, natural disasters, increases in population in the least developed and developing countries, and the shortage of labor in modern industrialized countries, there is also the increase in labor migration between countries globally. Almost all countries are affected by labor migration either as the origin, transit or destination country. Migrant workers are moving in search of new opportunities for decent work and human security. This has brought about the interest of policy makers and multilateral cooperation in most parts of the world.

According to most recent estimates, around 16.5 million women and men in Asia and the Pacific work in conditions of forced labour. This constitutes two thirds (67%) of total 25 million victims of forced labour globally. Migration can increase vulnerability to trafficking in persons for forced labour, and migrant workers are vulnerable to human trafficking throughout their migration process.¹ In the ASEAN region, the research findings suggest that labour rights abuses against migrant workers are common regardless of the type of work they are employed in. For example, previous studies in Thailand and Malaysia have documented that women and men migrant workers may face exploitative working conditions in the fishing sector, domestic work, construction industry, poultry industry, tourism sector, electronics manufacturing, palm oil plantations, and others.² On the darker end of the spectrum, many of these abuses constitute trafficking in persons for forced labour.

There is an increasing trend of labor migration within ASEAN that creates both challenges and opportunities in economic development. With proper management of labor migration and respect for the rights of migrant workers, labor migration can significantly contribute to the movements of regional economic systems. Labor migration is seen as a driver of change in labor markets, and it can help reduce unemployment in the countries with labor surplus. Concurrently, the money sent home by migrant workers can contribute as an important factor to support economic development of their home countries.

Migration is not a new phenomenon for the ASEAN; it has been occurring for many years. People living near the border have a long history of migrating for work. More recently,

¹ ILO and Walk Free Foundation. *Global estimates of modern slavery: forced labour and forced marriage* (Geneva, 2017).

² ILO and IOM. *Risks and rewards: Outcomes of labour migration in South-East Asia* (Bangkok, 2017).

migration has become more common in rural areas throughout the country. Women and men are migrating to earn more, to escape poverty and to gain other experiences.

Labour migration mostly brings economic stability to migrant workers, many migrant workers face many problems, including being risk of human trafficking, labour exploitation, forced labour and sexual exploitation.³

These issues are cross-sectors in ASEAN such as labour sector, economic sector, social welfare and development. When encountering an abusive situation in a work place, the first responders – be they labour inspectors, police or NGO case workers – cannot instantly know the scope of rights violations and abuse suffered, nor which legal remedies are best suited to deliver justice. Depending on the situation, preference of individuals, and available evidence, the best remedy may be under civil or administrative law or under criminal law. For this reason it is necessary that authorities responsible for enforcing criminal law, including anti-trafficking law, and authorities responsible enforcing labour law and monitoring of recruitment agencies work in close cooperation in handling of such cases. Both labour administration and law enforcement operators should be familiar with each other's mandates to ensure appropriate referral and coordination in cases of suspected forced labour and human trafficking.

The Government of Lao PDR will host the **Workshop on Strengthening Capacity and Coordination on Prevention and Investigation of Trafficking in Persons for Forced Labour in Luang Prabang, Lao PDR, on 27-28 May 2019**, to improve mutual understanding and facilitate effective cooperation and referrals between labour inspectors and criminal law enforcers in investigating labour rights abuses including trafficking in persons. This workshop is an activity led by the Government of Lao PDR under the ASEAN Committee on Migrant Workers (ACMW) Work plan 2016-2020 (project 14). This workshop builds upon a previous ACMW activity, the regional workshop on effective investigation and prosecution of trafficking in persons for labour exploitation, hosted by the Government of the Philippines in Manila, The Philippines, on 6-8 June 2017, and seeks to support implementation of many good practice recommendations adopted at the workshop in Manila. (See Box 1 below.)

Regional and international normative framework

The prevention and investigation of labour exploitation, including human trafficking is crucial in ASEAN, including impacting on the implementation of ASEAN Community Building, ASEAN Declaration on Protection and Promotion the Rights of Migrant Workers and ACMW's work plan.

The regional normative framework for this ACMW workshop is set in the **ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers** (Cebu Declaration, 2007) and the **ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers** (2017), which lay down commitments of ASEAN Member States to take measures to ensure effective prevention and suppression of trafficking in persons, establishment and implementation of systems to identify victims, stiffer penalties for those who are involved in these practices, and provision of support for victims. Regional framework for strengthening criminal enforcement measures to combat trafficking in persons

³ The Global Report on Trafficking in person 2014, pp 09,10 by UNODC

is provided in the **ASEAN Convention Against Trafficking in Persons, Especially Women and Children** (ACTIP, 2015), which entered into force in March 2017.

The ASEAN recognizes the need for a multi-sectoral response to trafficking in persons, and for this reason it has adopted a Multi-Sectoral Work Plan, also referred to as the **Bohol TIP Work Plan** (2017-2020). This Work Plan has been developed by the Senior Officials Meeting on Transnational Crime (SOMTC) through the collaborative efforts of relevant ASEAN sectoral bodies and organs, and it highlights harmonised regional activities to combat TIP in the four thematic areas. This activity is one of the multi-sectoral Bohol Work Plan activities.

At international level, legal framework for criminal enforcement measures to combat trafficking in persons is established in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to the UN Convention against Transnational Organized Crime (2000). The role of labour inspectors in prevention of forced labour and trafficking in persons is outlined in the ILO Protocol of 2014 to the Forced Labour Convention, 1930. The 2014 Protocol stipulates that the measures to be taken for the prevention of forced shall include efforts to ensure that:

- (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
- (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened.

Workshop objectives

- A. Labour inspectors will improve their understanding of law enforcement officials and where their engagement with the criminal justice system should occur, and improve their knowledge as well as strengthening their capacities in preventing and investigating labour rights abuses including on trafficking in persons to facilitate effective cooperation and coordination;
- B. Participants will understand international and regional definitions of forced labour and trafficking in persons; and
- C. Participants discuss and identify red flags that require referral of a case from labour officials to police (indicators of TIP/forced labour) and from trafficking police to labour officials (indicators of labour right violations).
- D. Participants identify guidelines and key actions needed to improve cooperation between labour and law enforcement.

The Venue and date: 27-28 May 2019, Luang Prabang], Lao PDR (1.5 days)

The workshop will consist of presentations and sharing information from key resource persons, including from ASEAN Members States labour inspectorates, law enforcement agencies, including special anti-trafficking units, civil society, the ILO and ASEAN experts. The workshop will be conducted in a participatory manner.

Participation

One persons each from technical departments responsible for labour inspection and regulation of recruitment agencies. Participants should be mid to senior level officials and

participation of women is strongly encouraged. The ILO's TRIANGLE in ASEAN programme requires 50% participation from women, and requests further information if delegations are not able to meet this requirement.

Sectors	Number of Participants	TOTAL
Labour officials from all AMS, including labour inspectors and officials responsible for monitoring of recruitment agencies	2 persons from all AMS	20 persons
Anti-trafficking police and other specialist criminal law investigators	2 person from all AMS, including: 1 from Thailand (DSI), 1 from and the Philippines (NBI) and others TBD	20 persons
Chair / Lead Shepherd / Representative from ASLOM, ACMW, SOMSWD, ACWC, SOMTC, AICHR	6 persons	6 persons
ASEAN Secretariat	3 Persons	3 Persons
ILO	3 Persons	3 Persons
The Asia Foundation	2 Persons	2 Persons
AACT (former AAPTIP)	2 persons	2 Persons
DFAT	1 person	1 person
GAC	1 person	1 person
IOM Lao	1 person	1 person
Organising committee	6 Persons	6 Persons
Provincial Staff assistance	3 Persons	3 Persons
Total:	68 persons	

Technical and financial support

The Workshop will be hosted by the Ministry of Labour and Social Welfare (MOLSW) of the Government of Lao PDR with support from the Australian Government, through the Asia Foundation. Technical support is provided by the International Labour Organization's (ILO) TRIANGLE in ASEAN programme, the ASEAN-Australia Counter-Trafficking (ASEAN-ACT) programme, and the Asia Foundation. TRIANGLE in ASEAN programme is a partnership between the Australian Department of Foreign Affairs and Trade (DFAT), the Global Affairs Canada (GAC) and the ILO. The ASEAN-ACT is a successor project of DFAT funded project – AAPTIP. TAF is currently implementing DFAT funded project to support ASEAN to implement the ASEAN Convention against Trafficking in Persons especially women and children and the ASEAN cross-sectoral TIP Bohol Work plan.

Papers

Participants will be sharing their experiences about emerging good practices and lessons learned from their countries. Further information about preparation will be communicated to participants.

Box 1. Linkages to good practice recommendations from ACMW workshop in Manila, 6-8 June 2017.

These objectives A, B and C of the Workshop on strengthening cooperation between labour officials and criminal law enforcers in the prevention and investigation of trafficking in persons facilitate implementation of good practice recommendations related to labour inspection and investigation adopted at the Regional workshop on effective investigation and prosecution of trafficking in persons for labour exploitation, hosted by the Government of the Philippines in Manila, The Philippines, on 6-8 June 2017.

As regards objective A, of particular relevance are the following good practice recommendations:

- Encompass multi-agency collaboration between relevant entities to maximize the capacity to identify victims and perpetrators and to ensure that all available civil, criminal and administrative sanctions are identified and applied to perpetrators of all forms of labour rights abuses, not only trafficking for the purposes of labour exploitation (Section 3, Recommendation 12).
- Undertake early and close collaboration between respective legal and prosecution colleagues to ensure that both operational practitioner and legal expertise can be combined at the earliest possible point in the investigative process (Section 4, Recommendation 2).
- Multi-agency cooperation between labour inspection and criminal justice practitioners should be agreed and applied through the development of agreement mechanisms setting out the methodology to be applied to achieve a mutually-beneficial, collaborative process (Section 3, Recommendation 13).

As regards objectives B and C, of particular relevance are the following good practice recommendations:

- Jointly identify and enhance collaborative cooperation to ensure that all parties concerned develop highly specialised knowledge of both the criminal justice and civil law requirements relative to trafficking for the purposes of labour trafficking (Section 4, Recommendation 1).
- Within the context of building prosecutions for trafficking for the purposes of labour exploitation, the attention of all parties concerned should focus on identifying and securing evidence in respect of the six core ILO - Special Action Programme against Forced Labour indicators of forced labour; that is to say: Use or threat of physical, psychological and or sexual violence; Restriction of movement; Debt bondage; Withholding or refusing to pay wages; Retention of passports and identity documents; and Threat of denunciation of illegal status to the authorities. (Section 4, Recommendation 2).

Further, the following two recommendations are also highly relevant for the current workshop:

- Ensure that the relevant governmental licensing authorities apply a pro-active and continuous approach to the initial licensing and subsequent follow-up monitoring of recruitment agencies and that the licensing authorities maintain close collaboration with their labour inspectorate colleagues (Section 3, Recommendation 7).
- Ensure the application of an adequate and appropriate system of labour inspection in order to extend coverage to all workplaces in the informal economy and strengthen the follow up and monitoring of informal workplaces, including domestic workplaces (Section 3, Recommendation 8).