

Task Force on ASEAN Migrant Workers Cambodia Working Group on ASEAN Migrant Workers

One Community, One Destiny for ASEAN 2012

Cambodia Workshop Report 23 November 2011

The Cambodia Workshop on the Implementation of the 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ADMW) involved over 80 participants from the Ministry of Labour and Vocational Training (MoLVT), the Ministry of Interior (MoI), ILO, IOM and over 46 civil society organisations (CSOs) working with migrant workers (NGOs, trade unions, recruitment agencies and the media). The core objective of the workshop is to provide space through social dialogue for the tripartite plus – Government, Employer, Trade Union plus Civil Society – using the rights based approach to arrive at recommendations for effective implementation of the ADMW.

The Workshop was officially opened by His Excellency CHAP Rithy, Under Secretary of State, MoLVT, who welcomed participants and urged greater collaboration among civil society in the coming year as Cambodia assumes chairmanship of ASEAN. His call was echoed by Convenor of the Workshop, Mr Sinapan Samydorai, from the Task Force for ASEAN Migrant Workers (TF-AMW), who expressed support towards building the capacity of CSOs in Cambodia to better co-organise the 5th ASEAN Forum on Migrant Labour (AFML) in 2012.

Mr. Navuth Ya on behalf of the Cambodia Working Group on ASEAN Migrant Workers (CWG-AMW) also welcomed all the participants and acknowledge the financial support from Open Society Foundation (OSF). The CWG-AMW express support to collaborate with the TF-AMW to build the capacity of CSOs in order to engage with the MoLVT in protecting the rights of migrant workers through effectively implementing the civil society proposal on the ASEAN Framework Instrument on the protection and promotion of the rights of the migrant workers.

Key findings of the Workshop

Limited awareness of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers and its related implementation process among CSOs in Cambodia.

1. Apart from a few key partners of the TF-AMW, most civil society groups including trade union leaders and NGOs working with migrant workers have limited awareness of the ASEAN Declaration on the protection and promotion of the rights of Migrant Workers.
2. Awareness of the TF-AMW Civil Society Proposal: ASEAN Framework Instrument on the protection and promotion of the rights of the migrant workers is similarly limited to key partners of the TF-AMW.
3. Participants were mostly unaware of the ASEAN Forum on Migrant Labour – Recommendations 2010 and 2011.

Key areas and challenges for the protection and promotion of the rights of migrant workers from Cambodia:

Pre-Departure

Create more awareness on safe migration and protection against trafficking through:

- more effective dissemination of “Safe Migration” messages through mass media (television, radio, newspaper, posters, etc)
- provision of relevant technical skills training to potential migrants
- Inclusion of knowledge of rights and protection mechanisms in pre-departure training in Cambodia and post-arrival orientation session in destination countries.

Recruitment practices

Ensure effective monitoring of recruitment agencies and recruitment practices to overcome:

- false and misleading advertisement
- private recruitment companies making potential workers sign contracts without the workers knowing the charges and fees that they will incur (leading to debt bondage)
- corrupt practices among recruitment agencies and inspecting officials.

Post-Arrival situations

Provide better government protection mechanisms in receiving country by:

- establishing labour attaché at the Cambodian Embassy in receiving countries to protect and provide services for migrant workers facing difficulties
- preventing migrant workers’ passports from being taken away by employers
- ensuring that migrant workers are not forced to work 12-hours a day, and have rights to leave their working/living place on days off
- ensuring that migrant workers have one rest day per week
- providing complaint and redress mechanism

Policy and legislative frameworks

Provide Domestic Workers with recognition and protection under the Labour Laws of both countries of origin and destinations to overcome:

- limited capacity to enforce laws
- loopholes in existing laws and policies
- lack of political commitment and responsibility
- lack of health care
- lack of standard employment contracts
- lack of social security
- lack of protection for victims of trafficking

Cambodia Labour Legislation

Recent changes in labour legislations and policies in Cambodia to better protect and promote the rights of the migrant workers include the following:

- New sub-degree 190
- Labour migration policy
- Labour Code
- Penal Code 2010
- Trafficking Law 2008

- Draft of anti-smuggling law
- Sub-decree on free of charge passport
- Sub-decree on marriage to foreigners
- Ban on domestic workers to Malaysia (October 14 2011)
- Prakas on pre-departure training, safe migration, HIV/AIDS
- Establishment of ACRA – Association of Cambodian Recruitment Agencies
- Code of Conduct for ACRA
- National Plan of Action to Suppress Trafficking
- Prakas on inspection of Recruitment Agencies 2011
- Anti-corruption law

Better protect and promote the rights of the migrant workers

Cambodia should deliver comprehensive pre-departure education, not only on culture and social norms, but also on working and living conditions, laws and procedures, rights and responsibilities of migrant workers. The government should also take steps to effectively promote safe migration by using the following tools:

- IOM Safe Migration Manual (3 booklets – Thailand, Malaysia and Kuwait)
- Organising Training of Trainers, including recruitment agencies, to disseminate safe migration information
- Promoting safe migration based on real findings to the general public through TV, radio and social media

Civil society in Cambodia (trade unions, NGOs, workers' groups) should engage the government to implement legislation and policies, particularly to:

- conduct effective pre-departure training
- monitor, investigate and follow-up complaints on irregular recruitment practices
- suspend, punish, withdraw licence of recruitment agencies
- establish watchdog community groups
- bring legal cases to courts
- respect and observe ACRA's code of conduct
- review and update legislation
- better collaborate with CSO
- establish hotlines and inspection committee

Engaging ACMW Cambodian Representative (MoLVT)

The Cambodian Working Group on ASEAN Migrant Workers will *engage* the ASEAN Committee on Migrant Workers (ACMW) Cambodia Representative (MoLVT) on the drafting of the ASEAN Framework Instrument on the protection and promotion of the rights of migrant workers.

The Cambodian Working Group on ASEAN Migrant Workers will *support and provide recommendations* to MoLVT/ACMW on the drafting of the ASEAN Framework Instrument on the protection and promotion of the rights of the migrant workers.

Key principles of the TF-AMW Civil Society proposal:

1. ASEAN Framework Instrument shall be a legally binding agreement among all ASEAN states
2. All migrants in ASEAN shall be covered by the Framework Instrument, regardless of legal status

3. The protection of the rights of migrant workers is a joint responsibility of both sending and receiving states, and migration should benefit both receiving and sending countries
4. Non-discrimination and “national treatment” for migrant workers, and reduction of all forms of stigma faced by migrant workers and their families
5. Gender-sensitive policies, processes and practices on migration
6. Ratify all eight ILO Core Labour Standards (CLS), and ensure that their national labour laws, especially those laws governing migrant workers, are harmonized with the standards contained in those core ILO Conventions
7. Ratify key ILO conventions related to migration, specifically ILO Conventions 97 and 143, and the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
8. Cooperation with civil society in ASEAN

Plan of Action to protect and promote the rights of migrant workers.

Participants of the Workshop drafted a Plan of Action as follows:

- Social dialogue/forums among stakeholders – government, CSO/NGOs, trade unions, employers and recruitment agencies
- Increase awareness and knowledge on ADMW and TF-AMW CSO Proposal – wider distribution of the Khmer version and capacity building workshops
- Dissemination of Safe Migration and Protection from Trafficking information at community level
- Develop standard employment contract in collaboration with MoLVT, ILO and TF-AMW
- Built capacity at MoLVT, local authorities, recruitment agencies to protect migrant workers’ rights
- Set up one-stop Migration Resource Centres to provide information and services at provincial level
- Integrate Safe Migration information into secondary school curriculum
- Promote Safe Migration through radio and television talk shows
- Publish news on migrant workers – sending of migrant workers, information on safe migration, prosecution of fraudulent and exploitative recruitment practices
- set up hotlines and maintain existing ones
- provide information on living conditions, education and training to prospective migrant workers
- publish more information on CSO Civil Society Proposal (“Blue Book”).

Promoting the Positive Image of Migrant Workers: International Migrant Day

The 4th ASEAN Forum on Migrant Labour was held on 24-25 October 2011 in Bali, Indonesia. The Forum provided a platform for information sharing and exchange of views on the two enduring challenges identified in the ASEAN Declaration of the Protection and Promotion of the Rights of Migrant Workers: promoting understanding, rights and dignity of

migrant workers in destination countries; and, increasing return and reintegration support, as well as development of sustainable alternatives to migrant workers in the countries of origin.

The Cambodian Working Group on ASEAN Migrant Workers will implement the positive image, rights and dignity of migrant workers through:

- disseminating factual information through the media and other channels on the contributions of migrant workers to the economy and society in destination countries (e.g. individual stories, economic and employment data, statistics on social impact) with the long term objective of promoting a positive image of migrant workers;
- joint efforts in ASEAN Member States to present a positive image of migrant workers with various stakeholders; e.g. migrant workers and their associations, academia, youth and student groups, tripartite parties, by using various means such as TV, commercials, exhibitions, radio talk shows, cultural performances, and the commemoration of International Migrants Day
- production of documents
- awareness raising for people in rural area
- information on radio & TV
- gathering of important information on migrant workers

The Cambodia Working Group on ASEAN Migrant Workers undertakes to organise and invite participants to the 2011 International Migrant Day activities on December 18.