



RECOMMENDATIONS

THE 8th ASEAN FORUM ON MIGRANT LABOUR 26-27 OCTOBER 2015, KUALA LUMPUR, MALAYSIA

The 8th ASEAN Forum on Migrant Labour which carried the theme “Empowering the ASEAN Community through Protection and Promotion of the Rights of Migrant Workers” was held on 26-27 October 2015 in Kuala Lumpur, Malaysia. Representatives of the governments, employers’ organisations, workers’ organisations, and civil society organisations from ASEAN Member States, the ASEAN Secretariat, International Labour Organization (ILO), International Organization for Migration (IOM), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), ASEAN Confederation of Employers (ACE), ASEAN Trade Union Council (ATUC), ASEAN Services Employees Trade Union Council (ASETUC), and the Task Force for ASEAN Migrant Workers (TFAMW) participated in the Forum. A representative of the Government of Canada was present as an observer.

The 8th ASEAN Forum on Migrant Labour was convened as part of the 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 participants shared information and exchanged views on issues concerning occupational safety and health of migrant workers in the workplace and labour inspection in ensuring labour law compliance especially in migrant-reliant, hazardous, and hard-to-reach sectors. The progress of implementation of the Recommendations of the previous ASEAN Forums on Migrant Labour was also shared.

The participants agreed to recommend the following actions to promote and protect the rights of migrant workers to occupational safety and health (OSH) particularly in relation to fulfillment of the commitments of ASEAN Member States in the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, and in line with standards and policy guidance, where relevant to ASEAN Member States, provided by the ILO Conventions No. 81 (labour inspection), 129 (labour inspection, agriculture), 155 (OSH), 187 (promotional framework for OSH), 161 (occupational health services), 121 (employment injury benefits), 19 (equality of treatment, workplace

accident compensation), and other OSH-related Conventions, as well as guided by the World Health Assembly Resolution on Workers' Health: Global Plan of Action (WHA 60.26, 2007), World Health Assembly Resolution on Health of Migrants (WHA 61.17, 2008), and all other relevant international codes/ norms:

Promotion of occupational safety and health awareness among employers and migrant workers in the Sending and Receiving States:

1. Integrate and/or strengthen OSH training and materials in pre-employment, pre-departure and post-arrival orientation programmes which should be contextual to occupational areas, compulsory, comprehensive, available in languages understandable to employers and migrant workers, free of charge for migrant workers as far as possible, and provided in a timely manner;
2. Develop OSH guidelines, including on access to employment injury benefits, which should be available in languages understandable to employers and migrant workers, and ensure implementation by employers;
3. Promote OSH prevention culture in the workplace through continuous improvement on OSH trainings and equipment, provision of OSH guidelines; information materials and instructions in languages understandable to employers and migrant workers; sensitivity to women workers' needs; positive encouragement through awards to employers with inclusive OSH programmes; awareness raising through conventional and social media and other means by civil society, trade unions, and employers' organisations; and promotion of hotline number to migrant workers;
4. Strengthen OSH policy implementation through awareness-raising on OSH among stakeholders, including governments, employers and workers, and clear actions taken for non-compliance by employers including on the provision of OSH training and measures to minimise OSH risks, statutory working hours, working environment and employment conditions and, where applicable, accommodation for migrant workers;

Role of stakeholders to improve compliance with OSH and employment conditions legislations and ensure effective labour inspection:

5. Encourage the formation of an OSH committee and/or management system at enterprise level with the involvement of migrant workers or trade union;
6. Strengthen OSH policy implementation by the labour department in coordination with other relevant government agencies (health and foreign affairs) and stakeholders (embassies/labour attaché, trade unions, employers' organisations, overseas placement agencies, civil society organisations) within and across ASEAN Member States;

7. Raise awareness of migrant workers on the role and purpose of labour inspection through information in languages understandable to migrant workers to ease their fear of reporting or making complaints, and provide contact information in relevant government departments and embassies;
8. Strengthen labour inspection for decent employment and working conditions and OSH through capacity building and enhanced number of labour inspectors including women labour inspectors, setting up gender responsive and multidisciplinary teams for labour inspection, adequate resources for periodic inspections to vulnerable and hard-to-reach sectors and workplaces (e.g. fishing, mining, forestry, agriculture, and domestic work); and cooperation with employers' organisations, trade unions, civil society organisations and other relevant entities in hard-to-reach sectors;
9. Strengthen the role of labour attaché by providing them with OSH trainings, and promoting their gender responsiveness, access to information, referral systems with the labour inspection and relevant authorities of the Receiving States, and regular dialogue platforms with migrant workers (face-to-face or online);

Cooperation between the Sending and Receiving States to improve compliance with OSH and employment conditions legislations and ensure effective labour inspection:

10. Strengthen complaint mechanisms on OSH and employment conditions violation to include improved accessibility of the mechanisms, speedy settlement process, confidentiality of the source of information, protection from employers' reprisal, support to stay and, where applicable, work in the Receiving States while complaints are being processed, and investigation without the presence of employers, in language understandable to migrant workers, and preferably by women labour inspectors in cases of women migrant workers;
11. Ensure the inclusion of OSH, employment conditions and, where possible, roles of labour inspection and labour attaché in bilateral and multilateral memorandum of understanding (MOU) concerning migrant workers to promote OSH preventive measures and to ensure legal protection of migrant workers in time of OSH and employment conditions violation;
12. Improve collection and sharing, where available, on disaggregated statistical data on OSH related injuries, diseases and casualties (e.g. occupational areas, types of injury, country of origin, age and gender), share best practices, and undertake research on causes of injuries and casualties for improved OSH policies, training, and enforcement;
13. Improve data collection on reported cases on non-compliance with employment standards such as contract substitution and non-payment of salaries. Efforts should be made for timely access to information on the progress of complaints filed;

14. Encourage non-discrimination on access to healthcare and provision of workers' compensation for occupational injuries, diseases, disabilities and casualties irrespective of occupational areas, nationality and status of migrant workers;
15. Improve mechanisms of claiming and payment of workers' compensation benefits in a timely manner, even after returning to their countries of origin, through effective procedure to verify the beneficiaries; assistance of embassies/ labour attaché, trade unions and civil society organisations; and provision of clear information on OSH protection, workers' compensation, and the beneficiaries, for example through an employment contract.

The participants extended their appreciation to the Government of the Malaysia, particularly the Ministry of Human Resources, for the excellent arrangements of the Forum and warm hospitality accorded to them, and the support of the ASEAN Secretariat, ILO, IOM, UN Women, and TFAMW;

The participants also congratulated the Government of Lao PDR for its role as the incoming ASEAN Chair in 2016 and expressed appreciation of its confirmation to host of the 9th ASEAN Forum on Migrant Labour next year.
