Labour Administration Services in the Caribbean: a Guide

Samuel J. Goolsarran

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Preface

This Guide has been prepared essentially with a view to helping labour officials and practitioners in the labour administration field to have a better understanding of the range and scope of labour administration services, in keeping with ILO Convention No. 150 and ILO Recommendation No. 158 concerning *Labour Administration.* The aim is to motivate policymakers to provide the required resources, organizational structure and systems to enable the technical staff to deliver quality and effective services to the social partners, national community and to contribute to national planning and policy formulation.

This publication is also intended to guide the heads of department responsible for the management of the labour administration functions, as well as to provide resource material for basic training courses for newly appointed labour officials.

This is a revised, updated and expanded edition of the Guide which was first published in 2000. Additions in this edition include: the evolution of labour administration internationally and in the Caribbean; the professional responsibility of the Minister, the Permanent Secretary, and the technical staff; obligations of member States concerning ILO Conventions and Recommendations; CARICOM's labour policies; and industrial relations methods as alternative dispute resolution (ADR).

I would like to extend my gratitude and appreciation to Suzanne Joseph who principally prepared and designed both the first edition and this second edition for printing.

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Port of Spain
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Foreword to the first edition

An effective system of labour administration is essential for the promotion of sound industrial and labour relations and is an important element in national development. The preparation of this ***Guide*** therefore aims at contributing to, and motivating policy initiatives on labour and social issues in the furtherance of social justice, industrial democracy, development and social stability.

The ***Guide*** gives an overview of the key elements in labour administration and industrial relations. It focuses on: *tasks to be performed, capacity building, conflict management, dispute settlement machinery, and management issues in labour administration* with particular reference to international labour standards impacting on the labour portfolio. As a practical guide and reference, it is intended for use by policy makers, labour officials, trade unions'and employers' representatives, and adjudicators who function in the labour administration and industrial relations environment in the Caribbean. The guide is also intended to give labour administrators a deeper understanding of the scope and responsibilities inherent in their jobs and to assist them in establishing an effective system of labour administration at the national level.

Samuel J. Goolsarran, Senior Specialist on Industrial Relations and Labour Administration, ILO Caribbean Office and Multidisciplinary Advisory Team, prepared this ***Guide***.

Willi Momm
Director
ILO Caribbean Office and
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Port of Spain
June 2000

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1 Labour administration and international labour standards

Historical background

The international evolution of labour administration[1]

The emergence of labour administration is connected to the earliest worker protection measures in the following countries:

- United Kingdom in 1833 with the appointment of factory inspectors to enforce laws concerning working conditions in spinning mills (1802) and other industries;
- France in 1874 with the enactment of legislation concerning the employment of children and young girls in industrial enterprises and the establishment of labour inspectorates in 1892;
- Spain in 1883 with the establishment of the Institute of Social Reform; and
- United States in 1884 with the creation of a Labour Bureau.

These were followed by the creation of Ministries and Departments of Labour with responsibilities for labour issues as follows:

- Labour Office in Italy in 1902
- Ministry of Labour and Social Welfare in France in 1906
- National Department of Labour in Argentina in 1907
- Department of Labour in the United States 1913
- Ministry of Labour in the United Kingdom in 1916

[1] Promotion Guide: Labour Administration, ILO, 1998.

With the establishment of the International Labour Organization (ILO) in 1919 by the *Treaty of Versailles,* which refers to " *ministries of members which deal with labour questions",* labour administration systems were considered as driving forces and promoters of national labour policies, social justice and decent work through tripartite consultation and social dialogue.

The emergence of labour administration in the Caribbean [2]

Plantation life and poor social conditions for the national communities in the Caribbean provoked unrest and upheavals on a wide scale in the 1930's throughout the British West Indies. This led to the appointment of a Royal Commission under Lord Moyne in 1938 to investigate and report on the labour and social conditions in the British West Indian colonies. The Commission reported that the conditions were difficult for workers who were virtually unprotected. Among the Commission's recommendations was one for the enactment of labour laws. Labour Ordinances (Labour Acts) in the English-speaking Caribbean were consequently enacted in the 1940's and provided for the establishment of the Labour Departments under Commissioners of Labour *"for the regulation of the relationship between employers and employees and for the settlement of differences between them"*. This was against a background of on-going industrial conflicts and manifest adversarialism, which continued and still persists into the twenty-first century.

These developments contributed to the foundation and the institutionalized framework established for the conduct of industrial relations. Industrial relations is therefore located and institutionalized within the system of labour administration. The Labour Departments

[2] Goolsarran, Samuel J.,Caribbean Labour Relations Systems: An Overview, 2002. Chapter1.

and the social partners, represented by trade unions and employers and their organizations, constitute the tripartite pillars of the industrial relations system. At the national level, the trade unions are organized under national congresses, while the employers are organized under the banner of national employers' federations. The Labour Departments are required to provide effective labour administration services to workers, trade unions, employers and their organizations. This is done through the Labour Commissioners and the technical staff of the Departments of Labour in their various functions: technical, advisory, inspectorate, labour relations, conciliation/mediation and other labour administration functions.

The perspective, nature, and scope of the **labour administration** function are outlined in international labour **Convention No. 150** and its corresponding **Recommendation No. 158** on ***Labour Administration***, both of which include the following definitions:

- "the term *labour administration* means public administration activities in the field of national labour policy;"and

- "the term *system of labour administration* covers all public administration bodies responsible for and/or engaged in labour administration – whether they are ministerial departments of public agencies or any other form of decentralized administration – and any institutional framework for the coordination of the activities of such bodies and for consultation with the participation by employers and workers and their organizations".

The Convention and Recommendation establish and provide essential guidelines, principles and organizational framework for

effective labour administration within ILO member States. The guidelines permit the discretionary right to delegate certain activities of labour administration to non-governmental organizations, particularly workers' and employers' organizations. The principles require that employers' and workers' organizations participate in the formulation and regulation of national labour policy. The organizational framework calls for a system of coordination, monitoring, reviewing and reporting on the administration of national labour policy and in particular, employment policy and practices and international labour affairs.

The Convention and Recommendation also underscore the importance of effective implementation of the applicable principles. In this regard, the Convention and Recommendation enjoin member States to provide adequate suitably qualified persons with access to training and who are independent of improper external influences to be engaged in labour administration. In addition, member States are required to provide adequate material and financial resources for effective labour administration.

Labour administration is not isolated from the confines of public administration and government. It has a broader social and political function. According to Courdouan and Lecuyer[3], the efficacy of the labour administration system rests on its ability to bring about consensus between public authorities and employers' and workers' representatives; its relevance depends on its ability to reach the participants of all spheres of activities; and its quality is a function of the means available to the administration for ensuring that directives are applied correctly throughout national territory and within the structures making up the system. Crucial to its success is the

[3] Lecuyer, N.; and Courdouan J.: New Forms of Labour Administration - Actors in development, ILO, Geneva, 2002

participation of social partners, the reach of the system, and the resources made available to it.

Labour administration must take into account the evolving context within which it functions. It must function within the context of the new global economy, formulating a strategic response for the effective participation of Caribbean economies in developing labour and employment policies.

Mandate of labour ministries

Labour ministries provide the main labour administration services through various activities, and their mandate includes:

- responsibility for the national labour policy;
- providing advisory services to trade unions, employers and state agencies;
- promoting workers' fundamental rights;
- promoting collective bargaining;
- intervening to resolve labour disputes;
- providing a conciliation/mediation service ;
- setting up and servicing arbitration tribunals;
- facilitating settlement of trade union recognition claims ;
- providing effective labour and occupational safety and health inspections and enforcement;

- employment, recruitment and placement service;
- supporting/providing for human resource development in industrial and vocational training;
- researching, statistical information gathering, analy sis and publishing;
- promoting international labour standards through legislation and policy; and
- fostering active tripartite collaboration, consultation, social dialogue and social partnership.

The policy mandate which informs the labour administration function emanates from national labour legislation and international labour Conventions and Recommendations. These provide reference points for the labour ministries to exercise overall responsibility for the national labour force. This should be done by intervening in other government agencies and employers' organizations to influence them to adjust their labour policies in accordance with accepted labour standards. This is important since national labour policy is generally applied through labour ministries whose functions require them to consult with the social partners, and to ensure coordination with other agencies.

It is the responsibility of the labour ministry to promote the development and application of sound labour and employment policies. As the principal advocate of the labour force, the labour ministry must be equipped with **adequate resources, including a cadre of competent and suitably qualified staff and advisers** to enable them to effectively discharge labour administration and its technical and advisory services.

Labour standards impacting on labour administration

The scope for an effective labour administration system is *embodied in several ILO Conventions including:*

- Convention 29 - **Forced Labour, 1930**: The suppression of all forms of forced labour;
- Convention 87 - **Freedom of association and protection of the right to organize, 1948**: Workers' and employers' right to form and to join organizations of their own choosing without interference;
- Convention 98 - **Right to organize and collective bargaining, 1949**: Adequate protection for unions exercising their right to organize, and promotion of voluntary collective bargaining;

- Convention 100 - **Equal Remuneration, 1951**: Equal remuneration for men and women for work of equal value;

- Convention 105 - **Abolition of Forced Labour, 1957**: Prohibition of the recourse to forced or compulsory labour in any form for certain purposes;

- Convention 111 - **Discrimination (Employment and Occupation), 1958**: Equality of opportunity and treatment in respect of employment and occupation;

- Convention 138 - **Minimum Age, 1973**: The abolition of child labour, minimum age for employment not less than the age of completion of compulsory education (normally not under 15 years);

- Convention 182 - **The Worst Forms of Child Labour, 1999**: National and international cooperation and strong measures to eliminate the worst forms of child labour;

- Convention 150 - **Labour Administration, 1978**: The establishment of an effective system of labour administration whose functions and responsibilities are properly coordinated with the involvement of workers and employers and their organizations;

- Convention 135 - **Workers' Representatives**, **1971**: The protection of workers' representatives in the enterprise; and reasonable facilities to be afforded to them;

- Convention 144 - **Tripartite Consultation (International Labour Standards), 1976**: Effective consultation among the representatives of government, employers and workers on international labour standards;

- Convention 81 - **Labour Inspection, Labour Standards, 1947;**

- Convention 129 - **Labour Inspection Agriculture, 1969**: Regular inspection of work places, the enforcement of legal provision for the protection of employees;

- Convention 155 - **Occupational Safety and Health, 1981**: A coherent national policy on occupational health and the working environment;

- Convention 161 - **Occupational Health Services, 1985**: The maintenance through preventive service of a safe, healthy, and well adapted working environment for the physical and mental health of all employees;

- Convention 88 - **Employment Service, 1948**: The provision of free public employment services;

- Convention 122 - **Employment Policy, 1964**: Active policy designed to promote full, productive and freely chosen employment;

- Convention 131 - **Minimum Wage Fixing, 1970**: Protection against excessively low wages through a system of minimum wages;

- Convention 95 - **Protection of Wages, 1949**: Provides for full and prompt payment of wages in a manner which provides protection against abuse;

- Convention 142 - **Human Resource Development, 1975**: The development of policies and programmes of vocational guidance and vocational training linked to employment;

- Convention 160 - **Labour Statistics, 1985**: The maintenance of regular series of statistics;

- Convention 151 - **Labour Relations, Public Service, 1978**: Protection of public employees' right to organize and collective bargaining, and procedures for dispute settlement through negotiation, conciliation, mediation and arbitration;

- Convention 154 - **Collective Bargaining, 1981**: The promotion of free and voluntary collective bargaining;

- Convention 158 - **Termination of Employment, 1982**: Protection against termination of employment without valid reason; valid reason must be connected with the conduct or capacity of the employee, or based on operational requirements of an enterprise;

- Convention 97 - **Migration for Employment, 1949:** Assistance, information, protection and equality of treatment for migrant workers without discrimination and for treatment no less favourable than that which they apply to their own nationals.

These standards together impact on, and cover the essential functions of an effective labour administration system and consequently the **tasks** to be performed by adequately trained labour administrators. These tasks encompass:

- preparation, administration, coordination and review of a national labour policy;
- consideration of international labour standards;
- preparation and implementation of laws and regulations;
- performing tasks in relation to national employment policy, conditions of work and working life, and terms of employment;
- services and advice to employers and workers and their organizations;
- tripartite consultation and social dialogue;
- promotion of sound industrial relations policies and practices through collective bargaining;
- representation of the state concerning international labour affairs;
- regular social and technical inspection of workplaces;
- promotion of an occupational safety and health (OSH) policy;

- undertaking research and the maintenance and publication of labour market information;

- the operation of public employment services.

A summary of labour administration activities in line with ILO Convention 150 and ILO Recommendation 158

Labour ministries/departments have responsibility for the following elements in the *system of labour administration* emanating from **ILO Convention 150**, and **ILO Recommendation 158** on *Labour Administration.* Under each of the essential elements hereunder, the required actions are listed:

Labour standards

- To be active in *responding to ILO questionnaires* leading to the preparation, development, and adoption of labour standards at the annual International Labour Conference (ILC).

- To *review and present ILO instruments* – Conventions and Recommendations to the national authority – Parliament, with appropriate recommendations after tripartite consultations.

- To *honour obligations* as members of the ILO by responding to requests, and by *providing reports to the ILO on Conventions*; and taking actions in line with the ILO Constitution, with respect to Conventions and Recommendations.

- To consider and promote the *ratification of Conventions*.

- To provide an *advisory service to employers' and workers' organizations* with the view to promoting the regulation of terms and conditions of employment through collective bargaining in line with acceptable labour standards.

Industrial relations/labour relations

- To promote the free exercise of *employers' and workers' rights of freedom of association*.

- To encourage better conditions of work and working life and *respect for the right to organize and collective bargaining*.

- To assist in the *improvement of labour relations* by working closely with employers' and workers' organizations.

- To promote the full development and utilization of *voluntary negotiations*.

- To contribute to improved workplace relations through effective inspections.

- To provide *effective conciliation/mediation services* for the resolution of collective industrial disputes.

- To facilitate the *machinery for arbitration* as appropriate or *reference* to other disputes settlement machinery for adjudication such as *industrial tribunals* or *labour courts.*

- To actively facilitate and promote *tripartite consultations* on:

  (a) general labour policies and issues
  (b) international labour standards and related matters.

- To promote *social dialogue and social partnership arrangements,* at different levels and forums, for improved labour and industrial relations.

Labour and safety inspections

The system of labour administration includes occupational safety and health (OSH) policies, and regular labour (social) and safety OSH inspections of work places/working environment, in particular to:

- promote a *coherent national policy on OSH*, and the working environment;

- provide for *protection against all forms of danger in the working environment* including exposure to certain agents (chemicals, radiation, asbestos, white lead, etc.) occupational cancer, handling dangerous machinery, air pollution, vibrations, noise and stress;

- provide for protection in *certain branches* of economic activity i.e. *construction, office, commerce, dock work, and in the field of agriculture;*

- *secure enforcement of labour laws* for the protection of workers, their safety, health and welfare;

- advise *employers and workers* on labour and occupational safety and health;

- ensure the *protection* of the following categories *of workers* in line with statutory requirements and good practices:
  - employment of *children and young persons* with respect to minimum age for admission to employment, hazardous work, hours of work and apprenticeship
  - employment of *women with respect to maternity protection, discriminatory practices, equality of opportunity in employment and occupation*
  - elimination of the worst forms of child labour.

Inspection attention should also be directed at:

- *working time:* maximum hours, night work, rest periods and vacations; and

- *minimum wages and remuneration* systems.

Employment, manpower planning and employment services

The *aim* is to promote full, productive and freely chosen employment. The responsibility requires labour ministries/departments to:

- *participate in the development of national employment policies,* and programmes for human resources development, and self-employment;
- *work closely with agencies* which are concerned with particular aspects of employment policy – both short-term and long-term employment;
- *coordinate or participate in the coordination of employment services,* employment promotion and job creation programmes, vocational guidance and vocational training programmes;
- *participate in national manpower planning bodies* through representation and provision of technical information and advice; and
- *participate in the coordination and integration of national manpower plans with economic plans.*

The labour administration system also provides for the effective operation of a free public employment service in terms of:

- *recruitment, placement and training of workers*, in particular, technical vocational training;

- *linking and collaborating* with national training institutions/agencies; and

- *career guidance and counselling service.*

Where they exist, the *private employment services* should be monitored and regulated by the labour administration authority.

The labour administration system is further required to ensure the *protection of migrant workers* – fair employment practices, and enrollment for social security.

Research and labour statistics

- *To carry out research on labour issues* as one of its important functions.

- *To gather, collate, analyze and publish a regular series of labour statistics* in order to monitor trends and to initiate remedial action.

Apart from the size and composition of the workforce and its employment, the statistical information in the labour field includes occupational safety and health, wages, hours, industrial relations and vocational training.

Regional and international labour affairs

The labour department, through its technical staff, is responsible for preparing itself and its minister to participate actively in:

- the annual *International Labour Conference* (ILC) including the preparation for the Conference in relation to its delegates, reviewing reports and agenda items, and meetings with Caribbean delegations;

- the meetings of *CARICOM Council of Ministers* responsible for labour; preparation and follow up at the national level;

- conferences of the *regional and hemispheric labour ministers and ILO sub-regional conferences* and other meetings, and prior preparation for such events;

- meetings of *CARICOM Officials* on the harmonization of labour legislation and national labour policies.

Coordination and requirements for labour administration

Coordination

The effective coordination of the various functions and responsibilities of the system of labour administration is an essential task for labour ministries or labour departments to ensure:

- proper coordination of the tasks and responsibilities associated with labour administration;

- that state agencies act in conformity with legislation and accepted labour standards;

- the evaluation, publication and dissemination of information of general interest on labour matters;

Adequate resources

- Adequate financial resources are required, taking into account the importance of the duties to be performed, as well as the material means placed at the disposal of the staff, and their own remuneration.

- An adequate number of suitably qualified staff who should receive initial and further training.

ILO's technical assistance

ILO provides technical assistance at the national and sub-regional levels in several areas aimed at capacity-building, including:

- the organization and functions of labour departments;

- an evaluation of the effectiveness of the services of labour departments;

- training of labour administrators through national, regional and international training events;

- access to reports, publications, documentation and databases;

- assistance in the implementation of ILO Conventions;

- revision of labour laws, and drafting new laws;

- providing the fora for policymakers – ministers and senior officials to meet and confer on regional and international labour affairs.

Responsibility of the labour ministry

The critical responsibility of labour ministries must be emphasized. They must function in line with **ILO Convention 150 and ILO Recommendation 158** on ***Labour Administration.*** These instruments provide the reference points for the labour ministries to exercise overall responsibility for the national labour force by intervening with other government agencies and employers to influence them to adjust their labour policies in accordance with accepted labour standards.

This task of exercising responsibility is important since a national labour policy is generally applied through labour ministries, which are expected to arrange for the necessary consultation with the social partners, and coordination with other agencies. It is therefore important for labour departments to be kept abreast of developments since the responsibilities for labour are in fact, not exclusively, within the domain of labour ministries. Ministries of finance, economic planning, education, immigration, commerce and industry and statutory agencies are among others who share responsibilities for labour matters.

Some state agencies, other than the labour ministries, are often involved in the establishment of *export processing zones*, and new large scale economic activities in mining and forestry. The questions relating to working conditions, occupational safety and health, labour standards, labour laws, and the environment are issues that challenge the labour ministry as the principal policy adviser to government on labour and employment matters.

Export processing zones are not "republics"; labour standards and labour legislation apply equally to all workers in a country. There must be minimum acceptable labour standards for employees' safety and health, regulated hours of work, and minimum wages. The ministry of

labour cannot turn a blind eye to unacceptable labour conditions without abdicating its responsibility. The ministry's input into agreements with investors is important for labour coordination, and to safeguard fair employment practices.

The Ministry of Labour should not abdicate its responsibility. It should reassert its authority, recapture lost grounds, and discharge its mandate and statutory responsibility in an impartial, professional manner in line with ILO Convention 150 on Labour Administration.

The responsibility of the minister and the permanent secretary [4]

Ministries of Labour/Departments of Labour would need strong internal management support, oversight and direction from senior policy-makers. This support naturally can come from the Permanent Secretary, the Deputy Permanent Secretary/Principal Assistant Secretary, and the Minister with responsibility for labour through an effective management system for labour administration.

The public administration systems in the Caribbean mandate that where any Minister has been charged with the responsibility for any department of government, he/she shall exercise *general direction and con-*

[4] Goolsarran, Samuel J. The System of Industrial Relations in Guyana, 2002. P. 35-36.

trol over that department and, subject to such direction and control, every department of government shall be under the *supervision* of a public officer whose office is referred to as the *Permanent Secretary.*

This *direction and control* is of a general and policy nature. While the Minister is primarily concerned with the determination of policy, the Permanent Secretary and the technical and other staff under the Permanent Secretary, faithfully implement the policy decisions of the government of the day in an impartial and professional manner. The Permanent Secretary prepares papers for Cabinet, and is also the accounting officer who manages the funds voted by Parliament for the ministerial departments, and answerable to the Public Accounts Committee of Parliament for public expenditure. The Permanent Secretary and the Minister's principal technical staff are further concerned with providing advice and assistance in policy determination and formulation. This calls for an excellent working relationship between the minister and the permanent staff of the civil service in a spirit of mutual respect and confidence between the Minister and the staff.

2 Fundamental principles and rights at work

In June 1998, the International Labour Conference (ILC) adopted the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, as an expression of committment to uphold certain basic values that are embodied in eight fundamental ILO Conventions.

Fundamental Conventions

- No. 29 - Forced Labour, 1930
- No. 87 - Freedom of Association and Protection of the Right to Organize, 1948
- No. 98 - Right to Organize and Collective Bargaining, 1948
- No. 100 - Equal Remuneration, 1951
  No. 105 - Abolition of Forced Labour, 1957
- No. 111 - Discrimination (Employment and Occupation), 1958
- No. 138 - Minimum Age, 1973
- No. 182 Worst Forms of Child Labour, 1999

The Declaration places an obligation on all member States, even if they have not ratified these Conventions, to respect *"in good faith and in accordance with the Constitution, the principles concerning the fundamental rights, which are the subject of these Conventions"*. States that have not ratified the core Conventions will be requested also to submit annual reports on the progress made in implementing the principles of these core Conventions which establish a *"social minimum at the global level"* in relation to:

- freedom of association and effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour;
- the elimination of discrimination in respect of employment and occupation.

The Declaration stresses that *"labour standards should not be used for protectionist trade purposes"*.

Follow-up to the 1998 ILO Declaration

The Follow-up to the Declaration, also adopted in 1998, helps to determine the needs of states in improving their application of the principles and rights of the Declaration. Member states that have not ratified one or more of the fundamental Conventions, are required to submit annual reports, identifying areas where assistance may be required. The reports are examined by the Governing Body with the help of a panel of independent experts.

In addition, the Director-General prepares a Global Report on one of the four sets of principles and rights each year to analyse the situation around the world, both for ratifying and non-ratifying countries, and to suggest avenues for ILO's technical assistance.

The first Global Report on freedom of association and collective bargaining was presented to the International Labour Conference in June 2000 for discussion. The Global Report examined forced labour in 2001, child labour in 2002, and discrimination in employment and occupation in 2003. The rotation for reporting on the four key principles started once again in 2004.

Convention 182: The Worst Forms of Child Labour and its corresponding Recommendation 190

At its 87th Session, June 1999, the ILC unanimously adopted a new **Convention, No. 182 and Recommendation No. 190** - concerning **the Worst Forms of Child Labour** applicable to all persons under the age of 18. The Convention requires ratifying states to take immediate and effective measures to prohibit and eliminate the worst forms of child labour as a matter of urgency. The worst forms of child labour include:

- *"All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;"*
- *"The use, in procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;"*
- *"The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs;"*

- *"Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children"* (Article 3).

The Convention calls for international cooperation and assistance among States in eliminating the worst forms of child labour; effective measures to implement and enforce the provisions of the Convention; and recognition of the importance of education in eliminating child labour. *Special measures are also required to identify and reach out to children at risk, and to take account of the special situation of girls* (Article 7). This Convention now forms part of the fundamental labour standards.

International obligations

Obligations of ILO member States concerning Conventions and Recommendations

In accordance with Article 19 of the Constitution of the ILO, member States are required to submit Conventions and Recommendations to the competent authorities, in keeping with the following guidelines:

- Copies of newly adopted Conventions and Recommendations are sent to all member States so that they can consider them for appliation in their countries and for ratification.

- Each member State is required to bring adopted Conventions and Recommendations before the competent authority/authorities (usually Cabinet and/or parliament) for appropriate actions - enactment of legislation or otherwise. The competent national authority should normally be the legislature to ensure that there is public attention and discussion.

- The presentation to the competent authority/authorities is to be done within twelve months or, in exceptional circumstances, eighteen months from the closing of the session of the International Labour Conference (ILC) which adopted the Convention and/or Recommendation.

- Member States are required to inform the Director-General of the International Labour Office of the measures taken in line with Article 19 of the ILO Constitution to bring Conventions and Recommendations to the competent authority/authorities and the action taken by such authority/ authorities.

- Since ratification is not an obligation, governments are free to decide on the nature of their proposals on Conventions and Recommendations, including whether or not to propose ratification.

Ratification of Conventions

If the competent authority consents to ratification, member States will advise the Director-General formally of the ratification of the Convention and will take such action as may be necessary to give effect to the provisions of ratified Conventions by bringing their legislation and practice in line with the Convention.

Reports on Unratified Conventions and Recommendations

Member States are required to report on the status of their law and practice in relation to unratified Conventions and Recommendations, to the Director-General of the ILO at appropriate intervals as requested by the Governing Body. They are required to indicate the extent to which effect has been given or proposed to be given to any of the provisions of the Conventions not ratified, as well as of Recommendations, by:

- legislation
- administrative action
- collective agreement or otherwise

Reports on Ratified Conventions

In accordance with Article 22 of the Constitution of the ILO, each member State agrees to report regularly to the International Labour Office on measures taken to give effect to the provisions of the Conventions to which it is a party, as requested by the ILO's Governing Body. The Governing Body has decided on two-year and five-year reporting cycles for different groups of Conventions.

CARICOM's labour policies

At the regional level, the Caribbean Community's (CARICOM) Labour Policies commit member states to observe the labour policies of CARICOM as set out in its ***Charter of Civil Society,*** and its ***Declaration of Labour and Industrial Relations Principles***, 1999.

Article XIX of the *Charter of Civil Society* provides for the right and protection of every worker to:

- freely belong to and participate in trade union activities;
- negotiate and bargain collectively;
- be treated fairly at the work place, and to enjoy a safe, hygienic and healthy working environment;
- reasonable remuneration, working conditions and social security; and
- utilize/establish machinery for the effective conduct of labour relations.

CARICOM's Declaration of Labour and Industrial Relations Principles outlines the general labour and industrial relations policy to which the CARICOM states aspire. The *Declaration* is informed by ILO's labour standards (Conventions and Recommendations) and affirms commitment to the principles of the standards relating to:

- *consultation and tripartism;*
- *freedom of association;*
- *collective bargaining;*
- *non-discrimination in employment and occupation;*
- *employment policy;*
- *labour administration; and*
- *industrial dispute settlement.*

3 Training overview and priorities for labour administrators

Training is an essential requirement in labour administration in line with ILO **Convention 150** and **Recommendation 158 - Labour Administration**.

"The staff of the Labour Administration system shall be composed of persons who are suitably qualified..." and "who have access to necessary training" (C 150). They "should receive initial training and further training at levels suitable for their work" and permanent arrangements for training and development throughout their career (R 158).

These instruments require the establishment of an effective system of labour administration whose functions and responsibilities are properly coordinated with the involvement of employers' and workers' organizations, and a system with adequate resources.

Staff development and training interventions are geared to:

- ensure that the labour department has competent, well-trained staff;
- have a shorter learning time so that new staff in the labour department can be trained as quickly as possible;

- develop staff capabilities to meet future challenges in labour administration; and

- provide opportunities for personal growth and career development in the labour field.

Successful maintenance of a strong labour administration depends upon:

- the transference of knowledge, skills, and attitude of currently serving employees to future ones at all levels;

- acquisition of new knowledge, skills and attitude as changes in employment relations and other conditions demand; and

- positive changes in work ethic and job behaviour of labour officials.

Training is the systematic development of:

- **Knowledge:** what the labour administrator needs to know
- **Skills:** the expertise that the labour administrator needs and uses to achieve results, and the effective use of knowledge
- **Attitudes:** the disposition of labour officials to behave or to perform in accordance with the requirements of their work

Systematic training in the Department of Labour is training which is specifically intended to meet defined needs. It calls for a systematic approach in:

- defining the training needs of the labour department;
- deciding on the kind of training necessary;
- planning and delivering appropriate training;
- using suitable resource personnel to plan and conduct training; and
- reviewing and evaluating training to ensure that it is effective.

Training involves learning of various kinds, and can take place in various situations: on the job, off the job, in ministry/department, out of ministry/department. It can involve the use of many techniques: demonstrations, practice, coaching, guided reading, role playing, assignments, discussions, case studies, lectures, talks, projects, group exercises, programmed learning, and discovery method. These techniques can be used by trainers.

Fundamental principles and concepts

There are certain fundamental concepts and principles upon which all training should be based:

The first is *learning theory,* because all training is or should be based upon an understanding of how people learn, adult learning in particular, as training will be conducted for adults.

The second is the *essential component of the sequence of training:*

- identification and analysis of training needs in labour administration – all training must be directed towards the satisfaction of defined needs;
- the definition of training objectives – training to be directed to achieve measurable goals;
- the preparation of training courses - including an overall scheme of training and its costs and benefits;
- the delivery of training courses;
- the measurement and analysis of results, validation of achievements of each course against its objectives and the evaluation of the effect of the whole training programme;
- feedback of the results of validation and evaluation; and
- the maintenance of training records.

Why training?

- Public administration - including labour administration - the economy, and industry require adequately trained professionals with an ability for independent thought and creativity, analytical and problem-solving skills and initiative.

- Middle and upper level labour administrators will require broader training and knowledge in several fields – in political and economic trends, national, regional and international developments impacting on and influencing labour.

What kind of training in labour administration?

- *Induction and orientation* - a broad orientation in all the elements of labour administration, institutions of labour, employers' and workers' organizations and their activities, and the general labour environment.

- *Basic job-related training* - thorough grounding for the job to be performed.

- *Performance improvement* - refresher courses to keep staff up-to-date.

- *Staff development* - for improvement of supervisory and management skills, preparation for greater responsibility, and developing top leadership skills.

Training generally falls under one of two headings:

- training for immediate needs
- training for development

Training for immediate needs include:

- introducing new staff to the ministry/department;

- introducing new staff to work procedures, processes, legislation and regulations, and the labour environment;
- providing staff with the knowledge they need to make decisions and do their work competently;
- training in particular skills e.g. conciliation/ mediation, interviewing, prosecution; and
- training in the fundamental principles of an academic discipline.

Training for development inlcude:

- preparing able young labour administrators for senior positions;
- introducing new techniques and skills;
- preparing senior labour administrators, whose management responsibilities are increasing, in managerial techniques; and
- improving technical training for specialist groups.

It is not enough to leave staff development to chance or to trial and error. Labour administrators are no longer simply tending the department; they are involved in a continuous process of change - change in the working environment, and in the labour and employment relations fields. Leaving staff development to random events or to the staff themselves is simply not done in well-run ministries/departments. There is a great need for better trained labour specialists.

Some important concepts

Learning is a lifelong process – it never ceases. All learning takes place through the environment, colleagues, supervisors, subordinates; and all acquire some kind of exposure that is educational. The question is whether it is organized, deliberate, well thought out, purposeful, and skillfully executed.

The labour administration job itself is a powerful instrument for training. It provides for growth through job rotation in the various aspects of labour administration. It calls for taking every opportunity to sharpen the interest of staff members by exposing them periodically to a fresh set of responsibilities.

Another instrument of training is found in the very process of administration. This refers to the degree of delegation and confidence reposed in staff. Employees learn as they bear responsibilities, and they learn more when colleagues give them some feeling of confidence. In the end, the objective of any training exercise is to strengthen the capability and effectiveness of the staff of labour departments to improve the technical and advisory services in labour administration.

4 Managing training interventions in labour administration

The need for good management of training and development functions in labour administration should be advocated and emphasized in the Caribbean. Activities which demand planning, control, evaluation and auditing, in addition to their actual execution, need to be managed effectively in the system of labour administration by senior labour administrators themselves.

The department ought not to depend on the public administration ministry to provide adequately for its staff training needs. The officials in central government are generally concerned with functional areas in government ministries, and not specifically labour administration training and staff development. For this reason then, attention has to be paid to the management of training and personnel within labour departments if there is going to be the development of a cadre of suitably qualified and competent staff, as is required in labour administration.

In terms of managing the training and development functions, the aim is to provide the bridge between the general skills and theories of management and their special use in training and development of labour administration staff. We can therefore focus on two aspects:

1. the management of training - job-related training interventions/activities; and

2. the management of staff development initiatives - developing the potential of staff for higher leadership, and managerial responsibilities.

In the Caribbean, the public service ministry is responsible for training of public administration staff. The trainers in public service ministries are versed in administrative practices and in civil service personnel work. However, there is no emphasis on the role of training and development functions within labour administration. At the department level there is clearly the need to see the relationship between training and other functions and activities in public administration. The training function in the public service concentrates on training administration and fellowships, and is somewhat remote from labour administration. The need therefore for an internal training capability within labour administration is important for more focused training and development of its staff.

In many ministries, the training function concerns itself with courses, seminars, training programmes, on and off-the-job training at all levels in the organization. This is a matter of routine and good housekeeping – one aspect of the management of every department - that at any one moment, all these tasks are successfully planned and carried out. But the questions that must be asked of the training specialist are: What should the labour administration trainer be doing? What is the labour administration trainer doing? In large organizations it is easy to find opportunities for training. But what are the critical training needs in labour administration which should be identified?

The identification of training needs in labour administration is a prime responsibility of the head of the department and the labour administration trainer. It is a prerequisite also of good training management. The identification of training needs provides the basis for further planning decisions, and the setting of objectives.

The proper management of those training activities which were already launched, based on decisions in the past, may merit praise for good performance, but not necessarily for the best contribution to the continuing well-being of the ministry/department which lies in the future. This is important in the context of rapid changes impacting on labour, and if the ministry/department is to be responsive to the changes in the internal and external environments. There are therefore two distinctions we have to make in managing training in any department:

1. the training which is performed today, for today's and tomorrow's requirements; and

2. the training, which is yet to be started to meet the requirements of the near, middle and long-term future.

In relation to the middle and long-term, the reference is to national, longer-term objectives and plans, *manpower planning*, and *career development*. It has to do with decisions and actions relative to management – the management of training activities and staff development.

Change

One question with which management in labour administration must deal, and which demands good training direction is that of *"change"*. *Changes are imposed on organizations by environmental influences of an economic, social and political nature at the national, regional and international levels;* and some are self-imposed by the organization itself for its own internal purposes. The processes of training can therefore never be static or regarded as meeting tomorrow's training requirements fully, even if today they seem very adequate. It is clearly unsatisfactory to have training which is

insensitive to, or only partially aware of these environmental changes which are actually taking place, and those predicted to happen in the future.

Status of the training function

Keeping the training and development function sufficiently in the picture is a problem. It relates to the position and status of the training function in the ministry, and access to resources and confidential information, or the absence of a training function.

An integrated management view of training and development avoids this communication problem as top management places a high premium and priority on the training function, and places the training responsibility in the hands of the head of department.

Training and development

These two words are frequently used side by side.

(a) The apprentice undergoing three or four years apprenticeship is, in fact, on a development programme.

(b) The potential manager undergoing a long training programme will also be placed in a range of work situations and responsibilities. At the end of the programme, he will not only develop technical ability; he may have, in addition, gained in human and organizational sensitivity and judgement.

The training and development specialist and others have to acknowledge that the management development programme, like the apprentice programme, has a large ingredient which is training, and needs to be managed - not just placing a person on a programme without managing, monitoring and evaluating.

Responsibility for training

Who is responsible for the management of training and staff development programmes in the labour department? The management of training is something for senior labour administrators' consideration, not merely to enable them to call their training specialist to account, but to ensure that they can fully meet a complex responsibility with the same effort and dedication that they give to other activities. Senior staff has the inherent responsibility for training and development of the staff they supervise as part of their personnel management responsibility, which also includes:

- introduction and orientation to the working environment; and
- supervision, counselling, appraising, inculcating a responsible work ethic, and work discipline.

Training function

Discussion on the need for a training function in departments of labour and of how the training function itself is staffed and managed has been left until now. Every director of labour/chief labour officer/labour commissioner has the inherent task of promoting training interventions, and ensuring that trainers within the department are assigned to a training committee/unit in addition to other responsibilities.

How many trainers?

The number of trainers needed in a department depends on its size. In addition, the education and training resources available and accessible outside the department will influence the rate of change and growth; new policies and legislation, regulations and procedures, and the rate of staff turnover will also influence the resources to be employed. To do all of these things requires trainers with capabilities and with clearly defined training responsibilities in a training unit within departments of labour.

Staff and organizational development

A common impact of manpower development on an organization arises from the deliberate provision of places for trainees. Labour administration has to deal with the labour officer/labour inspector requiring real experience, the graduate who needs to gain wide experience with minimum delay, the head designate who requires exposure to apposite aspects of the labour environment, and the small number of "high flyers" who should build up expertise faster than others. These officials could only get what they require in the way of work experience by special arrangements.

Some positions or special assignments may have to be created or isolated for development purposes; and this has *an effect on organization structures and the distribution of responsibilities*. Thus, organization and manpower development must, in these circumstances, be linked. The work for any individual must not greatly exceed his initial capability, yet it must provide room for *stretching* and the development of new interest.

However, in ministries where a great deal of teaching, learning and personnel development is taking place, it is usual to expect, not only the growth of personal ambition, but also the assumption of a great deal of expectations. Some disappointments will occur at a time when there is every reason to maintain the stimuli of training and other educational processes, and this may produce in turn some frustrations amongst the employees who associate training and education with rapid promotion and salary advancement.

5 Labour dispute settlement and international labour standards

In the field of industrial relations, effective means of settlement of labour disputes have evolved through third party interventions, namely conciliation/mediation, adjudication by way of arbitration, and labour courts or other judicial means of settlement.

Since conflicting demands in industrial relations often result in disputes, it is important to utilize methods of dispute settlement. These *"should aim at peaceful and orderly settlement of disputes so as to make it unnecessary to resort to strikes and lockouts*" [5] or other forms of industrial action.

Conciliation, mediation, and arbitration are valued dispute resolution methods used in the settlement of industrial disputes and have special significance for the social partners. These methods have been frequently and intensively utilized in industrial relations and have been permanently established in many countries with a long tradition and history of success. Conciliation/mediation and arbitration have also been used in the field of international relations, civil society, family and community relations, and in the commercial world in place of costly and time-consuming litigation.

Frequent and prolonged labour disputes could have a negative impact on industrial growth, economic development and overall socio-political stability of any country. Effective and improved dispute settlement procedures and machinery are crucially important for the national economy and the general good of the population.

[5] "ILO: Conciliation and arbitration procedures on labour disputes - A comparative study". Third impression, 1989.

In many countries, the labour relations policy of the state is concerned not only with the settlement of labour disputes through established dispute resolution machinery, but also with the prevention of disputes. Some states are actively involved in the promotion of improved relations among the social partners and their organizations and institutions.

Conciliation/mediation

Conciliation/mediation in industrial disputes, whether it is a dispute of interest or a dispute of rights, is an essential process in the field of industrial relations. The conciliation process seeks to encourage disputing parties to discuss their differences with a view to assisting them to develop their own proposed solution, as an extension of negotiations.

The ministry/department of labour in the English-speaking Caribbean, as in many other countries, is the principal third party dealing with individual and collective labour disputes and provides a free, voluntary conciliation service. The Dutch-speaking countries in the Caribbean provide this service through a state-funded independent mediation service.

The ministry or mediation service **embodies the concept of non-political conciliation/mediation** and must maintain a **role of non-partisan conciliation/mediation** if it is to enjoy the confidence of the social partners. It must function with **credibility, impartiality, professionalism and integrity** whether or not the service is located within or outside the ministry of labour.

From the ILO perspective, *"conciliation and mediation are regarded as equivalent terms referring essentially to the same kind of third party intervention to promote voluntary settlement of disputes"*. Technically, conciliation is limited to encouraging employers and unions in developing their own proposed solutions through rational discussion of their differences. Mediation, on the other hand, is a stronger form of third party intervention in which the mediator can offer to the parties, proposals for settlement of any industrial dispute.

In practice, however, the technical distinction is blurred or disappears as both words are used interchangeably in some countries to express the same process of third-party intervention. In some other countries, the two words – *conciliation and mediation* - denote different forms of intervention for voluntary settlement of disputes in which mediation is the stronger form of third-party intervention than pure conciliation. The Dutch-speaking Caribbean countries use the term "*mediation*". It should be noted that ILO guidelines use *conciliation and mediation* interchangeably, while at same time recognizing distinct national practices in the use of these words.

> *"Conciliation can be described as the practice by which the services of a neutral third party are used in a dispute as a means of helping disputing parties to reduce the extent of their differences and arrive at an amicable settlement or agreed solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of the conciliator."*
>
> *"As a process of peace-making in industrial relations, conciliation aims to bring about the speedy settlement of disputes without resort to strikes or lockouts, and to hasten the termination of work stoppages when these have occurred. The steps that a conciliator may take to bring about an amicable settlement vary from one country to another, but always the function is to assist the parties towards a mutually acceptable compromise or solution".* [6]

6 "ILO Conciliation in Industrial Disputes - A Practical Guide". Sixth impression, 1988.

The use of the conciliation/mediation service may be required by law, and/or by a collective labour agreement, or at the intervention of the conciliation/mediation service. This is usually the procedure required before resorting to adjudication through arbitration or labour court for final settlement. In the Caribbean, the conciliation/mediation services are state institutions/state-funded institutions and agencies, which provide free services to employers and unions.

Conciliation and collective bargaining

"The practice of conciliation in industrial disputes has developed mainly in connection with disputes arising from the failure of collective bargaining, i.e. the negotiations between the parties with a view to the conclusion of a collective agreement. Conciliation has thus been described as an extension of collective bargaining with third-party assistance, or simply as *"assisted collective bargaining"*.

The ILO uses the following definition for conciliation/ mediation in its training manual[7]:

*"Conciliation/mediation is ideally a **voluntary process** in which the services of an **acceptable and independent third-party** are used in a conflict as a **means of helping the parties** to arrive at an **agreed outcome**".*

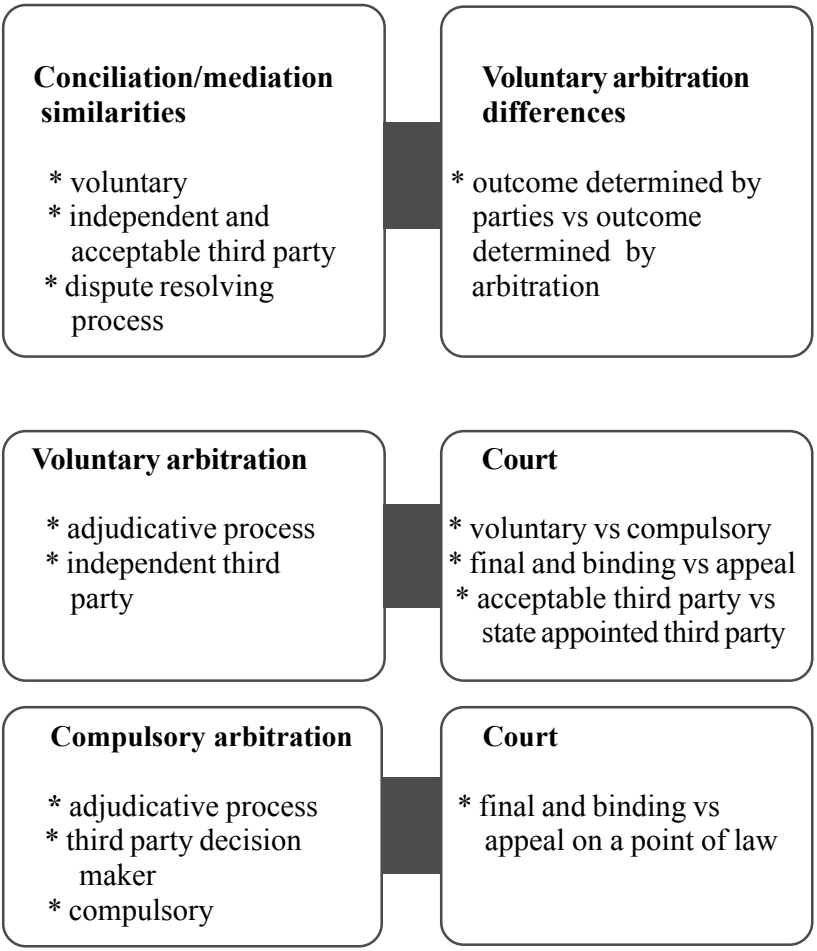
The Manual also:

- lists some of the reasons why conciliation/mediation is chosen: *its voluntary nature, attempts at compromise – win/win outcomes and addresses both conflict and dispute;*

[7] Training package on Conciliation/Mediation: Consensus Seeking Skills for Third Parties; ILO, Geneva, 1997.

- discusses consensus-based processes including *negotiations-conciliation/mediation, joint problem-solving,* and rights-based processes including – *voluntary arbitration, compulsory arbitration, and labour courts;*

- sets out the following **similarities** and **differences** between:



The conciliator

The *conciliator* is not an *arbitrator* and cannot substitute his judgement for that of the parties. The conciliator cannot impose a settlement; it is for the parties to agree to a solution under the guidance and skill of the conciliator who must maintain a strictly impartial and neutral attitude towards the two parties. The conciliation function requires independent judgement, and a conciliator should not be swayed by external pressures.[8]

The conciliator must endeavor to bring about an agreement. However, if it is not possible to obtain agreement, the conciliator should persuade the parties to agree to submit the dispute to binding arbitration or to another procedure for dispute settlement in keeping with the national law or practices in the process of conflict management.

Conciliation/mediation services

Although **conciliation/mediation services** vary from country to country, they tend to fall into one of the following categories:

- the state provides the service e.g. the public conciliation service under the Ministry of Labour in Barbados, Jamaica, Guyana and Trinidad and Tobago;

- an agency independent of the state but funded by the state provides the service, e.g. the Advisory

8 "ILO: Conciliation in industrial disputes - A practical guide". 6th impression, 1998.

Conciliation and Arbitration Services (ACAS) in the United Kingdom; the Federal Mediation and Conciliation Services (FMCS) in the United States; the Commission for Conciliation, Mediation and Arbitration (CCMA) in South Africa; the Australian Industrial Relations Commission (AIRC); and the Mediation Services of Aruba, Netherlands Antilles, and Suriname; and

- private institutions provide the service, e.g. the American Arbitration Association (AAA), and the Independent Mediation Service of South Africa (IMSSA).

Conflict management

In dealing with dispute settlement machinery, approaches to conflict management must be taken into account by the involved parties. These approaches generally tend to fall into one of *four possible categories*, and are often considered in the following order as reflected in the *Training package conciliation/mediation* [9]*:*

Avoidance approach	-	failure to deal with conflict
Power approach	-	coercion to force another to do what it wants
Rights approach	-	independent standard of right or fairness to resolve conflict
Consensus approach	-	endeavors to reconcile, compromise or accommodate positions or under-lying needs

9 "Training package on Conciliation/Mediation: Consensus-seekingSskills for Third Parties". ILO, Geneva, 1997.

Ideally, the approaches to managing conflict should be considered in the following order:

- **consensus** – settlement by parties: negotiations, conciliation/mediation;
- **rights** – settlement by an outside party: tribunal, arbitration, labour court;
- **power** – settlement by force: industrial actions – strikes, lockouts; and
- **avoidance** – settlement by chance.

Effective conflict management involves making a *strategic choice* of which *approach to conflict management* will be adopted – *consensus, rights, or power*.

Conciliation/mediation is a dispute resolution process that reflects a consensus-based approach to conflict resolution. It is a *voluntary* process, with *acceptable third party helping* the parties to arrive at an *agreed* solution.

Arbitration

Arbitration is another type of third party intervention. It is the stage which, in the context of the usual grievance representation procedure, is expected *to follow closely upon an impasse or failure at conciliation to resolve a dispute.*

However, arbitration need not await the failure of the conciliation process in situations where a dispute can have a severe social and economic impact, or where a prolonged dispute in a major industry/ service could severely affect community life or where the ongoing

operation of an industry is necessary to sustain the national economy. In such cases, some states are empowered to refer the dispute to compulsory machinery such as arbitration, industrial tribunal or the labour court as a means of resolving the disputes.

Arbitration, industrial tribunal and labour court, like conciliation, involves third party intervention in the collective bargaining process. In conciliation, however, the conciliator is expected to use his powers of persuasion in order to enable the parties to narrow the areas of differences between them with a view to reaching acceptable solutions.

In arbitration, industrial tribunal and labour court proceedings, the arbitrator, or the adjudicator/judge is required to decide the issue on the merits of a case presented by the parties and make an award (tribunal) or judgement (court). Such an award or judgement is final and binding on the parties involved in the dispute, and they are expected to give effect to that award/ judgement in the tradition of industrial relations practice.

In general, when an employer recognizes a trade union as the sole bargaining agent of the workers in any undertaking, the parties usually sign a *collective agreement for recognition and avoidance and settlement of disputes.* Embodied in that recognition agreement is the *grievance procedure* in which the various stages through which a grievance/dispute can be processed are outlined. In most cases, if not all, it provides for arbitration as the final stage for the resolution of disputes. But there are, within industrial relations practice, several means by which the stage of arbitration could be reached.

In some agreements, either party may request that the matter under dispute should be taken to arbitration; if this happens, the other party has no option but to comply. In others, arbitration can only take place

with the mutual consent of parties; and once one of the parties refuses to consent to arbitration, no arbitration proceedings can take place. The law, in certain situations, provides for arbitration or reference to an industrial tribunal, or a labour court with which the parties must comply.

In collective agreements, there are two types of arbitration provisions:

- **voluntary arbitration** -- where the consent of both parties is required to set the machinery for arbitration in motion; and

- **compulsory arbitration** -- (a) where the collective labour agreement provides for the matter to be referred to arbitration at the request of either party; (b) where the State may consider it necessary to ensure that services deemed to be essential are not unduly interrupted by work stoppages resulting from industrial disputes. In this case, the State can refer a dispute to compulsory arbitration or to an industrial tribunal or a labour court, as applicable in national law, for final resolution of any such disputes.

Adjudication through arbitration, industrial tribunal or a labour court reflects the *rights approach* in one of the following dispute resolution processes for determining the dispute:

- **voluntary arbitration** - disputing parties jointly ask an independent and acceptable third party to hear both sides and consider the dispute and ***make an award***, which by prior agreement would be ***final and binding;***

- **compulsory arbitration** - anyone of the parties could have a dispute determined by a third party. The third party's decision is final and binding;

- **labour court** - a process by which one party forces another party to have the dispute determined by the court, whose decision can be appealed in a higher court or courts, usually on a point of law.

Adjudicators/judges decide the outcome in these processes which are compulsory once initiated, and may or may not take account of any precedent. The outcome is also legally enforceable.

In some Caribbean countries, collective labour agreements provide for voluntary arbitration, either by mutual consent or at the request of one party, while legislation provides for voluntary arbitration or for the establishment and operation of industrial tribunals, industrial court, or compulsory arbitration in the essential services or in situations where the national interest is at stake. In this connection, there are industrial tribunals in *Bahamas, Bermuda, Cayman Islands, Dominica, and Jamaica*; industrial/labour courts in *Antigua and Barbuda*, and *Trinidad and Tobago*; while *Guyana* can be cited for compulsory arbitration in essential services, and where the national interest is at stake.

Industrial relations methods as *alternative dispute resolution (ADR)*

Negotiation, conciliation, mediation, and *arbitration* in the settlement of industrial disputes have special significance for the social partners and are valued, effective dispute resolution methods in the conduct of labour relations. These tried and tested methods are frequently and extensively utilized in industrial relations as routine

services of Ministries/Departments of Labour, mediation services, and other labour dispute resolution institutions. Within the industrial relations context therefore, one cannot seriously refer to these methods as ADR. It is a misnomer, for the methods used in ADR, are essentially industrial relations methods – negotiations, conciliation, mediation, and arbitration. These methods and processes have had a long tradition and history of success in industrial relations.

When these methods are used in civil society matters, they are referred to as ADR – alternative to the protracted, expensive, legal/judicial/court system. This is a valuable contribution of industrial relations to civil society. It is to be noted also that conciliation, mediation and arbitration have long been used in the field of international relations, civil society, family and community relations, and in the commercial world in place of the costly, protracted and time-consuming litigation through the judicial system.

ILO standards

C.154 – Collective Bargaining Article 5.2(e) calls for "*bodies and procedures for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining.*"

The ILO ***Voluntary Conciliation and Arbitration Recommendation No. 92 of 1951*** recommends that ***voluntary conciliation machinery,*** which is free of charge and expeditious, be made available for the resolution of industrial disputes following a breakdown at direct negotiations in the collective bargaining process.

ILO standards *(cont'd)*

Paragraph 6 of Article II of Recommendation 92 implies reference by mutual consent to *arbitration* for final settlement, and for the maintenance of normalcy at the work-place while arbitration/adjudication is in progress, and to *accept the arbitration award as a final and binding settlement.*

The ***Examination of Grievances Recommendation No. 130 of 1967, Article IV paragraph 17*** provides that upon the failure of procedures established by collective agreements, the disputing parties should proceed to *conciliation or arbitration* by the competent public authorities, or through recourse to a *labour court* or other judicial body.

C.151 – Labour Relations (Public Service), 1978, Part V, Settlement of Disputes, Article 8 *– "the settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved."*

6 Industrial relations and labour standards for the public service

General background

The climate of labour and industrial relations has a direct impact on economic and social development. It requires a conducive environment in which to conduct labour relations in an orderly and disciplined manner within the norms of applicable international labour standards, relevant labour legislation, and agreed, established procedures at the enterprise and national levels. This, no doubt, would require adequate institutional and procedural arrangements, and resources to enable the system of industrial relations to function effectively.

It is well known that the Caribbean has had a long history in the struggle for trade union and collective bargaining rights, and is well experienced in industrial relations. In the context of the region's political history -- its British heritage in particular -- the industrial relations principles and practices relate to a tradition which allows the workers and employers the freedom to form and join trade unions and employers' associations of their choice, and largely to regulate their own relations. They did this within the traditional voluntary frame of reference referred to as 'voluntarism' in the system of industrial relations.

Under the voluntary system, the parties were free to engage the collective bargaining process and to enter into collective labour agreements. They regarded collective bargaining, the negotiations between trade unions and employers, as the preferred method in determining wages and various conditions of employment and for resolving labour problems and disputes.

The Caribbean adopted and kept the voluntary system of industrial relations which is premised on **fundamental freedoms - freedom of contract, freedom of association, freedom to engage in industrial action, and freedom to bargain collectively**. These were supported by the values of institutional management of industrial conflict, and economic freedom.

Employers also showed a preference for collective bargaining for different reasons after their reluctant recognition of trade unions. Their desire was to negotiate agreements, which assisted in managerial control through rules regulating wages and conditions to avoid costly conflicts.

Collective bargaining therefore grew out of a tradition of independence and autonomy and as a product of pluralist societies that are distinguished for the recognition of divergent interests of pressure groups. Free collective bargaining was the foundation of the system with a minimum of legal regulation and support. Not even union recognition was enforceable by law in the earlier periods.

However, major changes in the traditional systems in the Caribbean were introduced later in the form of positive labour legislation, including provisions for compulsory recognition of trade unions by employers, establishment of industrial courts, industrial tribunals, legal enforceability of collective labour agreements, and voluntary and compulsory arbitration procedures. Despite these changes, the system of industrial relations and free collective bargaining remain to a large extent in practice within the traditional voluntary system in the private sector, and to a lesser extent in the state sector.

Recent developments in industrial relations

Within recent times there have been some new developments in the industrial relations field. One of the most outstanding developments occurred in Barbados where the government and representatives of unions, and employers in 1993 negotiated, signed and successfully implemented a two-year social contract in the form of a *Protocol on prices and incomes*: *1993 to 1995*. A successor protocol was negotiated by the social partners and signed in September, 1995 for the next period 1995 to 1998. A third agreement was signed in May, 1998 and remains in force until 2000, followed by Protocol Four (2001-2004), and Protocol Five of the Social Partnership (2005-2007). This is an excellent approach and an interesting development actively involving the Congress of Trade Unions and Staff Associations, the Barbados Employers' Confederation, and the Government of Barbados.

The other developments relate to harmonization of labour legislation, labour standards, and legislative interventions. Model labour laws were drafted with technical assistance from the ILO to the Caribbean Community (CARICOM) on:

(a) **termination of employment, which includes provision for employment contracts, redundancy, and severance pay;**

(b) **equality of opportunity and non-discrimination in employment,** providing for protection against unlawful discrimination, employment discrimination, and promotion of equal remuneration for work of equal value;

(c) **registration, status and recognition of trade unions and employers' organizations** which provides for compulsory recognition and exclusive bargaining rights to majority unions, certified by an independent tripartite body; and

(d) **occupational safety and health at the workplace and the environment**.

The model labour laws, referred to above, were approved by the 13th and 14th Meeting of CARICOM Standing Committee of Ministers with Responsibility for Labour in the Bahamas in 1995 and in Port of Spain in 1996, respectively. CARICOM has presented the model to its Member States recommending that it should be considered through tripartite consultations at the national level with a view to legislative enactment, where appropriate, as either new legislation, in whole or in part, or as the basis for updating existing legislation.

On labour standards, the Ministers have approved a **CARICOM Declaration of Labour and Industrial Relations Principles** based on international labour standards and other international instruments such as the **Universal Declaration of Human Rights**. This Declaration, the product of a series of consultations with the social partners in the region, is an important policy guide on labour matters and should contribute to a better understanding and conduct of industrial relations both in the public and private sectors. This Declaration, which is consistent with ***CARICOM's Charter of Civil Society,*** expanded on labour standards and is also intended to be used as the basis for the development of national labour policies, and to inform the enactment of modern labour legislation in member States.

Public service industrial relations

In the civil service and the expanded state sector, and statutory bodies; industrial relations and collective bargaining have been more regulated and restricted by legislation or practice than in the private sector. With the introduction of structural adjustment measures in some countries, including the reduction of public expenditure in the public sector, industrial relations drifted from the traditional system. Deviations and new

practices by agencies of the state challenged the free collective bargaining model and autonomy of the parties through greater state direction, intervention, regulation, legislation and wage policies.

These developments were understood against the earlier emergence in some countries of dominant/growing state enterprises created largely through nationalization of the major companies in industry and commerce, or through the creation of new national industries/enterprises. In these situations, governments, as employers of major sections of the work force, exercised a dominant influence and direction in industrial relations under the notion of promoting the national interest in the wider community.

In some countries, much to the disquiet of trade unions and workers, government, both as a government and an employer, promoted changes in the system without legislation within the context of an apparent voluntary framework in collective bargaining relationship. In other cases, changes were introduced by legislation. In the state sector greater control and regulation were imposed on collective bargaining and these affected wage fixing and remuneration settlements, in particular. As the state sector became more centralized, central government implemented unilateral wage policies through rigid wages guidelines. As a consequence, both the trade unions and the managers of the state enterprises lost their autonomy in collective bargaining.

In these situations, the right to bargain collectively as defined in **ILO Conventions Nos. 98 and 151** raised several questions in connection with the attitude of public authorities. For example, an administrative direction whereby the conclusion of an agreement is subject to prior approval of a government authority, or modifying conditions agreed and written in collective labour agreements, or preventing negotiations of such conditions as may be considered desirable, constitute infringements of the right to bargain collectively. Restrictive measures that render it extremely difficult for wages to be settled freely through

collective bargaining could be justified on the grounds of exceptional circumstances of a serious economic nature. However, this could be justified only for a limited period and kept to a minimum.

Politicized industrial relations in the public sector

Major industrial relations issues have been considered to be politically sensitive once they affected any state sector/funded agency, and especially if unions linked to the opposition have been involved. Inevitably, any labour issue would have a political dimension because of the very nature of the relationship. Experience has shown that where governments interpreted, percieved or deemed an issue as having political motives, or if it has been seen as a challenge to governments, or if it would affect the national interest as defined by governments, then one can expect responses from the state and its machinery. In such a situation, traditional and established industrial relations principles and practices may be under severe strain.

Major issues in dispute in the public sector may be understood in terms of the history of Caribbean labour relations, where such disputes are not without their political dimensions and motives. In spite of genuine industrial issues which could be contested, their industrial nature may be overshadowed by partisan political considerations.

Often controversial issues have been seen as contests between the political parties. From the government's point of view they have been perceived as attempts to destabilize the economy, to ferment unrest and civil disobedience, or to dislodge the government. From the opposition/ non-government perspective -- they have been seen as attempts to muzzle, undermine, or keep the trade unions in line.

The important question impinging on industrial relations in the state sector has been the extent to which corporate management has been authorized by the government to take decisions committing the employer (the government). The margin of decisions, in the context of *structural adjustment type measures* may be fairly limited on the question of remuneration. This has posed some problems in terms of collective bargaining negotiations which imply increased costs to the public treasury. The government as owners and employers may have seen it as their responsibility and not wish to give full independence to the management of state enterprises in industrial relations matters.

Governments, some argue, have been politically responsible for the way public entities have been managed, and that may have influenced their determination to maintain control and supervision, and retain certain decision-making powers. Collective bargaining which places employers and unions on an equal basis at the bargaining table may be considered incompatible with governmental powers of decision. To achieve other policy objectives, the government may consider that it would be necessary to intervene in industrial relations, since the latter have been seen as part of, and not separate from other aspects of governments' economic policy for development.

The government is the crucial actor; it is the only actor in the dual role as both government and public sector employer who can change the rules of the system by Legislation.

Trade unions have been sometimes compelled by circumstances to take a passively defensive position. They have accepted the priorities and rules that government determine, and then impose the required restraint

on their members. Pay in the public sector has been subject to restraint since government has an overriding concern for the state of the economy and unions' collective bargaining activities have implications for the economy.

Industrial and political orientation

The division between the industrial and political orientation has been one of the sources of difficulty for the unions in periods of crisis and active state intervention. There have been concerns about unions acting with political motives when they have threatened or used industrial power for political ends, or in support of a political party's position. But it has been just as political to support the political action of a government or to accept wage restraints in favour of a presumed national interest.

Trade unions face a dilemma: how far could they go in responding to the challenges and opportunities of a political role without sacrificing their independence and their permanent mission of promoting and protecting their members' immediate economic interests for improved wages and employment conditions? The dilemma has been more pronounced given the central role of the government in regulating wages in the public sector.

Freedom of association and development

The argument could be reversed that trade unions' full freedom of association is an obstacle to development. It could be argued that **the lack of development has been hampering the exercise of freedom of association**. This freedom has come up against numerous barriers. The realities of the economic situation have been often invoked to place severe limitations on the trade unions' wage negotiating function, and to challenge them to consider adopting policies that would aid the country's economy.

The real challenge is for the social partners to play a more constructive role in labour relations with expectations that there will be higher labour productivity, fewer industrial disputes and strikes, more labour peace, and a climate of labour relations that will be conducive to development through social partnership arrangements.

Labour standards for the public service

Convention No. 151 and Recommendation No. 159 -- Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service Labour Relations (Public Service) Convention, 1978.

This Convention provides for:

- protection of public employees' right to organize;
- non-interference by public authorities;
- negotiation or participation in determining terms and conditions of employment; and
- machinery for settling disputes concerning terms and conditions of employment.

There are two main principles enunciated in this Convention:

- public servants and officials must have the same rights of representation and negotiation as have been

engaged in by workers in the private sector in line with **Convention 87 and Convention 98;**

- the need for good labour relations between public authorities and public service unions/associations.

The Convention applies to:

- all employees of the public sector to the extent that more favorable provision of other international Conventions have not been applicable to them;

- exceptions covering high-level employees whose functions have been normally considered policy-making or managerial, or employees whose duties have been of a highly confidential nature or in the armed services. National laws or regulations should determine such exceptions (**Convention No. 151 - Article 1**).

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Summary of other provisions

Public sector employees shall enjoy:

- adequate protection against acts of anti-union discrimination in respect of their employment and their union membership/activities/office;

- adequate protection against acts of interference by a public authority in their establishment, functioning and administration;

- complete independence from public authorities for their organizations;

- the same civil and political rights, as other workers, which are normal for the exercise of freedom of association subject to the obligations deriving from their status and the nature of the duties they perform;

- reasonable facilities and time off for representatives of recognized unions/associations to enable them to carry out their functions promoting and defending the interest of public employees. The granting of such facilities shall not impair the efficient operation of the administration or service concerned;

- measures appropriate to national conditions which encourage and promote the negotiation of terms and conditions of employment of public employees.

Settlement of disputes

The settlement of disputes relating to the determination of terms and conditions of employment shall be sought through negotiations between the parties or through independent and impartial machinery such as conciliation, mediation, and arbitration (**Convention No. 151 - Article 8**).

Recommendation No. 159, 2(1) and 2(2) states:

"In case of negotiation of terms and conditions of employment in accordance with **Part IV of the Labour Relations (Public Service) Convention, 1978,** the persons or bodies competent to negotiate on behalf of the public authority concerned and the procedure for giving effect to the agreed terms and conditions of employment should be determined by national laws or regulations or other appropriate means."

Settlement of disputes *(Cont'd)*

"Where methods other than negotiation are followed to allow representatives of public employees to participate in the determination of terms and conditions of employment, the procedure for such participation and for final determination of these matters should be determined by national laws or regulations or other appropriate means."

Convention 154 - Collective Bargaining 1981 concerning the promotion of free and voluntary collective bargaining states: *"As regards the public service, special modalities of application of this Convention may be fixed by national laws on regulations or national practice." (Article 1)*

The need for sound labour relations between public authorities and public service unions/associations must be emphasised for the operation of an efficient and effective public service.

7 Auditing the labour administration function

In the book *Managing the training and development function,*[10] Allan D. Pepper noted that the word audit, with its connotations of rigour and objectivity was a good one to study manpower assets and systems beyond the day-to-day work of the manpower function. The actual word did not matter greatly. What did matter, apart from the skill with which the audit was done, was what it had set out to present to management.

Pepper then asked some questions in relation to an audit of any system. These could be applied to the *system of labour administration* in an official evaluation and scrutiny. The questions included: "Is an audit merely to present an accurate statement of the current labour administration and its sub-systems? Is it to look into the future? Is it to evaluate these assets and compare them with present and future requirements? Should it point out strengths and weaknesses? If it is to go this far, should it be indicating what and where changes should be made, and, one step further, how those changes can be made?" The answers to any one of the above could be yes, depending on who asked for the audit to be done and on other circumstances inside the organization.

According to Pepper, the auditor might be anyone provided that the person selected has functional knowledge, investigatory capability and analytical skills appropriate for the function or system to be audited.

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10 Managing the training and development function / by Allan D. Pepper (England, Gower Publishing Co. Limited), 1984

Auditing guidelines

Pepper further noted that an audit may be requested for a part of the activities of a department, or for the activities of an entire system. The examination, for example, of induction and initial training would, generally entail a close study of the methods, contents and administration of existing induction and training courses, counselling, and on-the-job instruction. It would look at the quality of the employing supervisors, at the first job performance and effectiveness of the new entrants after initial training, and the acceptability of the induction and training procedures for both supervisors and new staff.

A similar auditing process could be applied to labour administration as defined and outlined in **Convention 150 and Recommendation 158 -- Labour Administration,** and applicable legislation. An evaluation of the labour administration system would require close examination of the methods and content of the technical and advisory services delivered in its various elements: labour standards, industrial relations, labour and OSH services and inspections, employment and employment services, research and labour statistics, and regional and international labour affairs. It would look at staff complement, training and access to training, quality and capability, organizational structure, assignment of responsibility, current job description, access and availability of resources, management of resources including personnel, materials, equipment, information, and planning and management of work activities.

In an analysis and audit of the labour administration system, attention could be focused on the following:

- the status of the ministry responsible for labour administration in the governmental structure, its influence and power, and the national priority assigned to labour matters;

- the organization and delivery of the labour administration services;
- the application of the principles of **Convention 150** to the national system of labour administration;
- the influence of other ILO Standards on national labour policy and legislation in the system of labour administration;
- tripartite consultative bodies and social dialogue forum, and institutional support for such bodies;
- activities and programmes to promote sound industrial relations;
- dispute settlement machinery, and their independence;
- the system of industrial relations, its legal and institutional framework;
- research capability, and research in support of policy changes;
- the separation of policy and operational management responsibilities;
- human resource issues;
- information management;
- performance and impact of labour administration services.

Why are auditors used?

Auditors should be used if there has been a perceived or real need for changes leading to improvements. Directly or indirectly, all changes generated and implemented with the auditor's help should contribute to improving the quality of the technical and advisory services in labour administration.

The auditor could be useful on account of his/her technical expertise, knowledge, and skill in providing:

- intensive professional reviews;
- an impartial outside viewpoint (if recruited from outside);
- support for management decision for change; and
- a learning environment in which the department and staff could learn to manage better for themselves. The learning effect of auditing should be the most important one.

The auditing process

The auditing process should be a joint activity between the auditor and the Department of Labour aimed at implementing the desired changes for improvements in performance. It should consist of:

- **undertaking the assignment** – briefing, preparatory work, initial survey, etc;
- **diagnosing** – fact finding, analysis, and examination;

- **proposing actions** – developing solutions, evaluating alternatives, and presenting proposals;
- **implementing recommendations by the Department of Labour** – review, feasibility, acceptance, and implementation.

Monitoring performance

It would be important that monitoring be used for feedback on performance achieved. Regular comparison has to be made between expected and actual achievements of plans/objectives/targets. It would require:

- preparing work programmes;
- setting performance targets;
- deciding what and how to measure;
- setting acceptable level for target variation;
- measuring performance and comparing with target; and
- taking corrective actions for improvement.

There has been a clear demand for auditing services in many organizations because of the general economic and social pressures for improving and attaining higher standards of performance and efficiency. This is also applicable to labour administration systems.

Appendix I:

Convention No. 150 Concerning Labour Administration: Role, Functions and Organisation

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection

Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognising the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining—and particularly the Freedom of Association and Protec-

tion of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949—which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Administration Convention, 1978:

Article 1

For the purpose of this Convention—

(a) the term ***labour administration*** means public administration activities in the field of national labour policy;

(b) the term ***system of labour administration*** covers all public administration bodies responsible for and/or engaged in labour administration—whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration —and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

Article 2

A Member which ratifies this Convention may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or—where appropriate—to employers' and workers' representatives.

Article 3

A Member which ratifies this Convention may regard particular activities in the field of its national labour policy as being matters which, in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organisations.

Article 4

Each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

Article 5

1. Each Member which ratifies this Convention shall make arrangements appropriate to national conditions to secure, within the system of labour administration, consultation, co-operation and negotiation between the public authorities and the most representative organisations of employers and workers, or—where appropriate—employers' and workers' representatives.

2. To the extent compatible with national laws and regulations, and national practice, such arrangements shall be made at the national,

regional and local levels as well as at the level of the different sectors of economic activity.

Article 6

1. The competent bodies within the system of labour administration shall, as appropriate, be responsible for or contribute to the preparation, administration, co-ordination, checking and review of national labour policy, and be the instrument within the ambit of public administration for the preparation and implementation of laws and regulations giving effect thereto.

2. In particular, these bodies, taking into account international labour standards, shall—

(a) participate in the preparation, administration, co-ordination, checking and review of national employment policy, in accordance with national laws and regulations, and national practice;

(b) study and keep under review the situation of employed, unemployed and underemployed persons, taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to defects and abuses in such conditions and terms and submit proposals on means to overcome them;

(c) make their services available to employers and workers, and their respective organisations, as may be appropriate under national laws or regulations, or national practice, with a view to the promotion—at national, regional and local levels as well as at the level of the different sectors of economic activity —of effective consultation and co-operation between public authorities and bodies and employers' and workers' organisations, as well as between such organisations;

(d) make technical advice available to employers and workers and their respective organisations on their request.

Article 7

When national conditions so require, with a view to meeting the needs of the largest possible number of workers, and in so far as such activities are not already covered, each Member which ratifies this Convention shall promote the extension, by gradual stages if necessary, of the functions of the system of labour administration to include activities, to be carried out in co-operation with other competent bodies, relating to the conditions of work and working life of appropriate categories of workers who are not, in law, employed persons, such as—

(a) tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;

(b) self-employed workers who do not engage outside help, occupied in the informal sector as understood in national practice;

(c) members of co-operatives and worker-managed undertakings;

(d) persons working under systems established by communal customs or traditions.

Article 8

To the extent compatible with national laws and regulations and national practice, the competent bodies within the system of labour administration shall contribute to the preparation of national policy concerning international labour affairs, participate in the representation of the State with respect to such affairs and contribute to the preparation of measures to be taken at the national level with respect thereto.

Article 9

With a view to the proper co-ordination of the functions and responsibilities of the system of labour administration, in a manner

determined by national laws or regulations, or national practice, a ministry of labour or another comparable body shall have the means to ascertain whether any parastatal agencies which may be responsible for particular labour administration activities, and any regional or local agencies to which particular labour administration activities may have been delegated, are operating in accordance with national laws and regulations and are adhering to the objectives assigned to them.

Article 10

1. The staff of the labour administration system shall be composed of persons who are suitably qualified for the activities to which they are assigned, who have access to training necessary for such activities and who are independent of improper external influences.

2. Such staff shall have the status, the material means and the financial resources necessary for the effective performance of their duties.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 13

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United

Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

The English and French versions of the text of this Convention are equally authoritative.

Appendix II:

Recommendation No. 158 Concerning Labour Administration: Role, Functions and Organisation

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Recalling the terms of existing international labour Conventions and Recommendations, including in particular the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969, and the Employment Service Convention, 1948, which call for the exercise of particular labour administration activities, and

Considering it desirable to adopt instruments establishing guidelines regarding the over-all system of labour administration, and

Recalling the terms of the Employment Policy Convention, 1964, and of the Human Resources Development Convention, 1975; recalling also the goal of the creation of full and adequately remunerated employment and affirming the need for programmes of labour administration to work towards this goal and to give effect to the objectives of the said Conventions, and

Recognising the necessity of fully respecting the autonomy of employers' and workers' organisations, recalling in this connection the terms of existing international labour Conventions and Recommendations guaranteeing rights of association, organisation and collective bargaining—and particularly the Freedom of Association

and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949—which forbid any interference by public authorities which would restrict these rights or impede the lawful exercise thereof, and considering that employers' and workers' organisations have essential roles in attaining the objectives of economic, social and cultural progress, and

Having decided upon the adoption of certain proposals with regard to labour administration: role, functions and organisation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Administration Convention, 1978,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Administration Recommendation, 1978:

I. General Provisions

1. For the purpose of this Recommendation—

(a) the term ***labour administration*** means public administration activities in the field of national labour policy;

(b) the term ***system of labour administration*** covers all public administration bodies responsible for and/or engaged in labour administration—whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration —and any institutional framework for the co-ordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations.

2. A Member may, in accordance with national laws or regulations, or national practice, delegate or entrust certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or—where appropriate—to employers' and workers' representatives.

3. A Member may regard particular activities in the field of its national labour policy as being matters which in accordance with national laws or regulations, or national practice, are regulated by having recourse to direct negotiations between employers' and workers' organisations.

4. Each Member should, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly co-ordinated.

II. Functions of the National System of Labour Administration

Labour Standards

5.
(1) The competent bodies within the system of labour administration should—in consultation with organisations of employers and workers and in a manner and under conditions determined by national laws or regulations, or national practice—take an active part in the preparation, development, adoption, application and review of labour standards, including relevant laws and regulations.

(2) They should make their services available to employers' and workers' organisations, as may be appropriate under national laws or regulations, or national practice, with a view to promoting the regulation of terms and conditions of employment by means of collective bargaining.

6. The system of labour administration should include a system of labour inspection.

Labour Relations

7. The competent bodies within the system of labour administration should participate in the determination and application of such measures as may be necessary to ensure the free exercise of employers' and workers' right of association.

8.
(1) There should be labour administration programmes aimed at the promotion, establishment and pursuit of labour relations which encourage progressively better conditions of work and working life and which respect the right to organise and bargain collectively.

(2) The competent bodies within the system of labour administration should assist in the improvement of labour relations by providing or strengthening advisory services to undertakings, employers' organisations and workers' organisations requesting such services, in accordance with programmes established on the basis of consultation with such organisations.

9. The competent bodies within the system of labour administration should promote the full development and utilisation of machinery for voluntary negotiation.

10. The competent bodies within the system of labour administration should be in a position to provide, in agreement with the employers' and workers' organisations concerned, conciliation and mediation facilities, appropriate to national conditions, in case of collective disputes.

Employment

11.
(1) The competent bodies within the system of labour administration should be responsible for or participate in the preparation, administration, co-ordination, checking and review of national employment policy.

(2) A central body of the system of labour administration, to be determined in accordance with national laws or regulations, or national practice, should be closely associated with, or responsible for taking, appropriate institutional measures to co-ordinate the activities of the various authorities and bodies which are concerned with particular aspects of employment policy.

12. The competent bodies within the system of labour administration should co-ordinate, or participate in the co-ordination of, employment services, employment promotion and creation programmes, vocational guidance and vocational training programmes and unemployment benefit schemes, and they should co-ordinate, or participate in the co-ordination of, these various services, programmes and schemes with the implementation of general employment policy measures.

13. The competent bodies within the system of labour administration should be responsible for establishing, or promoting the establishment of, methods and procedures for ensuring consultation of employers' and workers' organisations, or—where appropriate—employers' and workers' representatives, on employment policies, and promotion of their co-operation in the implementation of such policies.

14.
(1) The competent bodies within the system of labour administration should be responsible for manpower planning or where this is not possible should participate in the functioning of manpower planning bodies through both institutional representation and the provision of technical information and advice.

(2) They should participate in the co-ordination and integration of manpower plans with economic plans.

(3) They should promote joint action of employers and workers, with the assistance as appropriate of public authorities and bodies, regarding both short-and long-term employment policies.

15. The system of labour administration should include a free public employment service and operate such a service effectively.

16. The competent bodies within the system of labour administration should, wherever national laws and regulations, or national practice, so permit, have or share responsibility for the management of public funds made available for such purposes as countering underemployment and unemployment, regulating the regional distribution of employment, or promoting and assisting the employment of particular categories of workers, including sheltered employment schemes.

17. The competent bodies within the system of labour administration should, in a manner and under conditions determined by national laws or regulations, or national practice, participate in the development of comprehensive and concerted policies and programmes of human resources development including vocational guidance and vocational training.

Research in Labour Matters

18. For the fulfilment of its social objectives, the system of labour administration should carry out research as one of its important functions and encourage research by others.

III. Organisation of the National System of Labour Administration

Co-ordination

19. The ministry of labour or another comparable body determined by national laws or regulations, or national practice, should take or initiate measures ensuring appropriate representation of the system of labour administration in the administrative and consultative bodies in which information is collected, opinions are considered, decisions are prepared and taken and measures of implementation are devised with respect to social and economic policies.

20.
(1) Each of the principal labour administration services competent with respect to the matters referred to in Paragraphs 5 to 18 above should provide periodic information or reports on its activities to the ministry of labour or the other comparable body referred to in Paragraph 19, as well as to employers' and workers' organisations.

(2) Such information or reports should be of a technical nature, include appropriate statistics, and indicate the problems encountered and if possible the results achieved in such a manner as to permit an evaluation of present trends and foreseeable future developments in areas of major concern to the system of labour administration.

(3) The system of labour administration should evaluate, publish and disseminate such information of general interest on labour matters as it is able to derive from its operation.

(4) Members, in consultation with the International Labour Office, should seek to promote the establishment of suitable models for the publication of such information, with a view to improving its international comparability.

21. The structures of the national system of labour administration should be kept constantly under review, in consultation with the most representative organisations of employers and workers.

Resources and Staff

22.
(1) Appropriate arrangements should be made to provide the system of labour administration with the necessary financial resources and an adequate number of suitably qualified staff to promote its effectiveness.

(2) In this connection, due account should be taken of—

(a) the importance of the duties to be performed;

(b) the material means placed at the disposal of the staff;

(c) the practical conditions under which the various functions must be carried out in order to be effective.

23.
(1) The staff of the labour administration system should receive initial and further training at levels suitable for their work; there should be permanent arrangements to ensure that such training is available to them throughout their careers.

(2) Staff in particular services should have the special qualifications required for such services, ascertained in a manner determined by the appropriate body.

24. Consideration should be given to supplementing national programmes and facilities for the training envisaged in Paragraph 23 above by international co-operation in the form of exchanges of experience and information and of common initial and further training programmes and facilities, particularly at the regional level.

Internal Organisation

25.
(1) The system of labour administration should normally comprise specialised units to deal with each of the major programmes of labour administration the management of which is entrusted to it by national laws or regulations.

(2) For example, there might be units for such matters as the formulation of standards relating to working conditions and terms of employment; labour inspection; labour relations; employment, manpower planning and human resources development; international labour affairs; and, as appropriate, social security, minimum wage legislation and questions relating to specific categories of workers.

Field Services

26.
(1) There should be appropriate arrangements for the effective organisation and operation of the field services of the system of labour administration.

(2) In particular, these arrangements should—

(a) ensure that the placing of field services corresponds to the needs of the various areas, the representative organisations of employers and workers concerned being consulted thereon;

(b) provide field services with adequate staff, equipment and transport facilities for the effective performance of their duties;

(c) ensure that field services have sufficient and clear instructions to preclude the possibility of laws and regulations being differently interpreted in different areas.

Appendix III:

Ratification of selected ILO Conventions -- by Caribbean Member States

ILO CONVENTIONS	Antigua and Barbuda	Bahamas	Barbados	Belize	Dominica	Grenada	Guyana	Jamaica	St. Kitts & Nevis	Saint Lucia	St. Vincent & The Grenadines	Suriname	Trinidad & Tobago	Total Ratifications
Fundamental Conventions														
C29 Forced Labour, 1930	X	X	X	X	X	X	X	X	X	X	X	X	X	13
C87 Freedom of Association and the Right to Organize, 1948	X	X	X	X	X	X	X	X	X	X	X	X	X	13
C98 Right to Organize and Collective Bargaining, 1949	X	X	X	X	X	X	X	X	X	X	X	X	X	13
C100 Equal Remuneration, 1951	X	X	X	X	X	X	X	X	X	X	X		X	12
C105 Abolition of Forced Labour, 1957	X	X	X	X	X	X	X	X	X	X	X	X	X	13
C111 Discrimination (Employment/Occupation), 1958	X	X	X	X	X	X	X	X	X	X	X		X	12
C138 Minimum Age, 1973	X	X	X	X	X	X	X	X	X				X	10
C182 The Worst Forms of Child Labour, 1999	X	X	X	X	X	X	X	X	X	X	X		X	12

Ratifications as at 30 November 2005

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Essential Labour Administration Conventions														
C150 Labour Administration, 1978	X			X	X		X	X				X		6
C135 Workers' Representatives, 1971	X		X	X	X		X					X		6
C144 Tripartite Consultation (International Labour Standards), 1976	X	X	X	X	X	X	X	X	X			X	X	11
C81 Labour Inspection, Labour Standard	X	X	X	X	X	X	X	X			X	X		10
C155 Occupational Safety and Health, 1981	X			X										2
C161 Occupational Health Services, 1985														0
C129 Labour Inspection (Agriculture), 1969							X							1
C88 Employment Service, 1948		X		X								X		3
C122 Employment Policy, 1964	X		X					X				X		4
C131 Minimum Wage Fixing, 1970	X						X							2

Ratifications as at 30 November 2005

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C95 Protection of Wages, 1949		X	X	X	X	X	X			X	X	X		9
C142 Human Resource Development, 1975	X						X							2
C160 Labour Statistics, 1985														0
C151 Labour Relations, Public Service, 1978	X			X			X					X		4
C154 Collective Bargaining, 1981	X			X						X		X		4
C158 Termination of Employment, 1982	X									X				2
C97 Migration for Employment 1949		X	X	X	X	X	X	X		X			X	9

Ratifications as at 30 November 2005