

International Labour Office

LABOUR ADMINISTRATION

An introduction

Robert Heron



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Foreword

Labour administration has a vital role to play in national development efforts. This includes its traditional activities in labour protection relating to wages, hours of work, and general working conditions. But it also encompasses a much broader development-oriented perspective which sees labour administration actively involved in policy initiatives and their implementation in a wide range of employment and labour market issues.

This guide gives a basic outline of the nature and purpose of labour administration in both its traditional and developmental perspectives. It provides a basis for users to consider a balance between labour administration interventions which promote social equity, on the one hand, and encourage economic efficiency, on the other. It is intended for both group training and individual learning, particularly for labour administrators in countries where the labour administration is in a stage of transition and reform associated with structural adjustment programmes.

As with other booklets in this series, translation of the guide into national languages is encouraged. We would appreciate comments and suggestions for improvement from users.

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Background

A. Historical perspective

Within the general field of public administration, labour administration is relatively new. It was not until the late-nineteenth century that the State accepted a collective responsibility to regulate free-market forces and improve working conditions through legislation.

Over the last 100 years there has been increasing recognition of the importance of labour administration to national development. Initially, this was seen in the creation of special labour units, usually attached to ministries responsible for economic affairs, mandated to draft, apply, and enforce labour laws.

Progressively, however, the responsibility for labour administration was vested in fully-fledged ministries of labour concerned with a range of labour and social matters. The creation of ministries of labour, which commenced in the 1920s, was accompanied by greater international cooperation in establishing principles and standards for adequately protecting workers. This saw the formation of national systems of labour inspection with powers to enforce labour protection laws.

During the last 50 years labour administrations have expanded their activities by moving away from a narrow protective role to a much broader developmental orientation. This has seen them becoming more involved in:

- ▶ formulating employment policies
- ▶ providing employment services
- ▶ establishing industrial relations policies and procedures

- ▶ improving workplace safety and health
- ▶ developing tripartite institutions and processes.

The development of labour administration has been strongly influenced by international labour standards as embodied in the Conventions and Recommendations of the International Labour Organization. Although the ILO was created in 1919, it was not until 1978 that a Convention on labour administration was adopted by the International Labour Conference.

B. Labour administration and the ILO

The ILO has had a significant influence on the development of labour administration throughout the world:

- ▶ The ILO has acknowledged workers and employers as equal partners with governments on labour questions.
- ▶ The ILO has conferred a high status on ministries and departments of labour.
- ▶ The ILO has brought a new perspective to the role of labour administration by placing it in a developmental context.

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An overview

Definition

The ILO Labour Administration Convention, 1978 (No. 150) defines labour administration as:

public administration activities in the field of national labour policy.

The **activities** referred to in the definition cover three main areas:

- ▶ policy shaping
- ▶ policy formulation
- ▶ policy implementation.

Policy-shaping activities include:

- ▶ undertaking research on new policy initiatives
- ▶ reporting on deficiencies in existing policies and suggesting new approaches
- ▶ obtaining the views of labour administrators at all levels on new policy ideas
- ▶ consulting with the social partners, both formally and informally.

The Minister of Labour directs the staff to collect and analyse work-accident statistics to see what can be done to reduce the problem. Senior staff in the Ministry would normally consult with subordinate staff in provincial and district labour offices, and representatives of employers and workers, to collect information and provide ideas. This policy-shaping process does not result in formulating definitive policies, but establishes the basis for new policy initiatives at a later time.

Policy-formulation activities include:

- ▶ drafting policy documents
- ▶ consulting with workers, employers, and other agencies on policy issues
- ▶ promoting public awareness of new policy issues.

Formulating policy is not the same as drafting new laws and regulations. It results in preparing written documents which provide guidelines and a framework for future action. But such documents are not legally binding.

Laws and regulations, on the other hand, establish legal rights and obligations and are legally enforceable.

Policy-implementation activities include:

- ▶ enforcing laws
- ▶ providing information and education on policies and laws
- ▶ advising on ways to comply with laws and regulations
- ▶ coordinating the work of the agencies concerned.

Laws and regulations are the means to give positive expression to policy initiatives. They translate policy guidelines into specific legal requirements, which must then be enforced.

The labour administration system

Activities in the field of national labour policy involve ministries, departments, and agencies other than the Ministry or Department of Labour. Thus, these activities take place within a **labour administration system**.

The labour administration system comprises all public administration bodies responsible for or engaged in labour administration, including:

- ▶ ministerial departments
- ▶ parastatal agencies
- ▶ regional and district agencies
- ▶ coordinating bodies
- ▶ consultative bodies.

Some of them are responsible for both **policy and operational matters**. These matters may not be the direct concern of ministries of labour, but are important areas of responsibility within the wider labour administration system.

A ministry of health may have some responsibility for the health of workers in enterprises.

A ministry of education may have some responsibility for vocational training in response to labour market needs.

A ministry of foreign affairs may have some responsibility for migrant labour and the issue of work permits for foreigners.

Other bodies may be responsible for **implementing** labour policies and **enforcing** labour laws:

- ▶ A provincial department of labour may operate within a policy and legal framework decided at the national level, but have a degree of autonomy in establishing and enforcing labour regulations relating to specific conditions within the province or locality.
- ▶ In districts and areas where there is no labour office, local governments may have some responsibility for providing information and raising public awareness about labour protection.

Labour administration excludes:

- ▶ employers' organizations
- ▶ workers' organizations.

Employers' and workers' organizations are concerned with labour activities, but are not part of public administration. They may be represented on various labour coordinating and consultative bodies in the labour administration system, but are not part of the system itself.

Employers' and workers' organizations, although vitally concerned with labour matters, are not part of the labour administration system.

Although employers' and workers' organizations are not an integral part of the labour administration system, in certain circumstances the labour administration delegates or entrusts activities to them.

Under a systems approach to labour administration it is clear that:

- ▶ a wide range of activities is covered
- ▶ not all the activities fall under the direct or immediate supervision of the Ministry or Department of Labour
- ▶ proper coordination of the work of all institutions within the system is needed.

Labour administration embraces the principles and practice of tripartism. In accordance with Convention No. 150, the labour administration system should provide for consultation, cooperation, and negotiation between public authorities and the most representative organizations of employers and workers. Such tripartite interaction should take place at the national, regional, and local levels, as well as for different sectors of economic activity.

Labour administration extends beyond the work of ministries of labour. But the Ministry of Labour is the focal point of a nation's labour administration system. Accordingly, it should play a vital coordinating role in ensuring that effective labour services are provided.

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Labour administration: Protective or developmental?

The traditional view of labour administration stressed its **protective role**, including:

- ▶ **protection of wages** to ensure that people are paid in cash (not in kind) and on time
- ▶ **protection of working time** through regulations on hours of work and leave
- ▶ **protection of working conditions** through labour inspection services
- ▶ **protection from occupational injuries and diseases** through inspection systems and compensation schemes.

The modern view of labour administration stresses its **developmental role**. Labour administration is seen as a driving force behind social change and a better society. This developmental perspective sees it:

- ▶ participating in formulating and implementing national employment policy
- ▶ contributing to preparing, administering, coordinating, and reviewing national labour policy
- ▶ providing advisory and information services to employers and workers, and their organizations
- ▶ promoting consultation and cooperation between public authorities and bodies, and employers' and workers' organizations

- ▶ promoting the extension of its services to workers who in law are not employed persons – self-employed workers, farmers and sharecroppers, members of cooperatives and worker-managed undertakings, and persons working under systems established by communal customs or traditions
- ▶ promoting the extension of its services to workers engaged in non-commercial activities, including public servants
- ▶ contributing to formulating national policy relating to international labour affairs
- ▶ coordinating the activities of parastatal agencies and regional or local agencies responsible for labour administration.

5**The basic functions**

The ILO Labour Administration Recommendation, 1978 (No. 158) refers to four key functions of labour administration:

- ▶ labour inspection
- ▶ labour relations
- ▶ employment
- ▶ labour research.

A. Labour inspection

Labour inspection is concerned with protecting workers through law enforcement and related activities.

Labour administration functions in labour inspection include:

- ▶ formulating labour standards and related laws and regulations
- ▶ enforcing labour laws
- ▶ advising on how to comply with the provisions of the law
- ▶ reporting on matters in which the law is deficient.

Labour administration functions in labour inspection encompass the terms and conditions of employment as well as the working environment (safety and health). These functions can be pursued through one integrated inspectorate providing services in both areas, or by separate inspectorates usually known as labour inspectorates and factory inspectorates.

B. Labour relations

Labour relations is concerned with the interaction between workers and employers at work and arising from the work situation, as influenced by government intervention.

Labour administration functions in labour relations include:

- ▶ establishing and applying measures to ensure workers and employers have the right of association
- ▶ promoting the right to organize and bargain collectively
- ▶ providing advisory services to employers' and workers' organizations
- ▶ promoting the development and use of voluntary negotiation machinery
- ▶ providing conciliation and mediation services
- ▶ providing arbitration services
- ▶ establishing and supporting adjudication services through labour tribunals and labour courts
- ▶ setting up and servicing tripartite consultative bodies.

Labour administration activities in labour relations aim to encourage sound relations between employers and workers by establishing a framework in which the parties can interact effectively.

C. Employment

Employment activities are concerned with formulating policy guidelines for employment promotion and creation, and providing a range of services to implement the guidelines.

Labour administration functions in employment policy and services include:

- ▶ coordinating the activities of the bodies and agencies concerned with particular aspects of employment policy
- ▶ coordinating employment services, employment promotion and creation programmes, vocational guidance and vocational training programmes, and unemployment benefit schemes
- ▶ supporting consultation with employers' and workers' organizations on employment policy and its implementation
- ▶ undertaking responsibility for manpower planning and participating in the functioning of manpower planning bodies
- ▶ participating in coordinating and integrating manpower plans with economic plans

- ▶ operating public employment services
- ▶ supervising the operation of private employment agencies
- ▶ assuming or sharing responsibility for managing public funds for countering unemployment and underemployment
- ▶ participating in developing policies and programmes for human resource development, including vocational guidance and vocational training.

D. Labour research

Research on labour matters is concerned with collecting and analysing data and ideas for formulating new labour policies and strategies.

Labour administration functions in labour research include:

- ▶ planning and conducting research to fulfil social objectives
- ▶ encouraging relevant research by other bodies
- ▶ disseminating research findings.

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Organizational and structural arrangements

Organizational and structural arrangements for a labour administration system are concerned with:

- ▶ coordination
- ▶ structure
- ▶ decentralization
- ▶ field services.

A. Coordination

The Ministry of Labour or similar body is responsible for coordinating the operations of the labour administration system.

The components of the labour administration system (e.g. labour inspection, employment services, labour relations) should provide periodic reports to the central coordinating authority. This information should:

- ▶ be technical
- ▶ include appropriate statistics
- ▶ mention the problems encountered
- ▶ indicate the results achieved.

There should be coordination between headquarters and field services to enable national laws and regulations to be uniformly applied throughout the country.

The labour administration system should evaluate, publish, and disseminate labour information of general interest through bulletins, newsletters, newspapers, radio, and electronic media.

B. Structure

Separate sections or departments are usually created within the labour administration system to serve each functional area, including:

- ▶ working conditions and terms of employment
- ▶ labour inspection
- ▶ labour relations
- ▶ employment
- ▶ manpower planning
- ▶ human resource development
- ▶ international labour affairs
- ▶ social security
- ▶ minimum wages.

Structural arrangements depend, to some extent, on the availability of resources. For smaller labour administrations some functional responsibilities might be grouped together, for example where employment, manpower planning, and human resource development comprise one department or section.

Structures are not created for their own sake; they exist to enable functions to be performed. Thus the structure of the labour administration system should serve the functions of the system. Functions come first, structures come next.

C. Decentralization

To provide high-quality services to employers and workers, labour administration must decentralize by conferring powers and authority on regions, provinces, and districts. Decentralization can be:

- ▶ total, or
- ▶ partial.

Under **total decentralization**, policy formulation, law making, law enforcement, and the provision of services in all functional areas are the responsibility of individual states, regions, and provinces. In such a system there will be as many labour administration systems as states, regions, and provinces.

Under **partial decentralization** it is possible to consider several approaches, including:

- ▶ where policy making is centralized, but law making and law enforcement are decentralized
- ▶ where policy making and law making are centralized, but law enforcement is decentralized

- ▶ where policy making, law making, and law enforcement are centralized, but authority and responsibility are delegated to a decentralized unit.

Most labour administrations follow an approach of partial decentralization in which officials in states, regions, and provinces constitute an extension of national headquarters, with discretionary powers limited to day-to-day work within the parameters and guidelines established by headquarters.

Partial decentralization could be more effective and efficient under the following arrangements:

- ▶ Decentralized units should be consulted in formulating enforcement strategies to ensure that they are operationally sound.
- ▶ The operational budgets of decentralized units should be based on realistic requirements and detailed consultations.
- ▶ Once budgets are agreed, decentralized units should manage their resources without undue interference from headquarters.
- ▶ Decentralized units should be consulted on staff transfers.
- ▶ Decentralized units should formulate and manage their own workplans without interference from headquarters.
- ▶ Decentralized units should establish and maintain their own contacts with representatives of the social partners and the community.
- ▶ Headquarters should provide research, information, and training services, and specialists (e.g. safety and health personnel) to facilitate the work of decentralized units.

- ▶ Performance targets for each decentralized unit should be set in consultation with headquarters.
- ▶ Decentralized units should report, in detail, on their activities on a monthly and annual basis.

Under **partial decentralization** headquarters decides:

- ▶ what functions are to be performed
- ▶ what priority areas should be addressed.

Decentralized units decide **how** work will be done, and regularly report on their performance to headquarters.

Formal approaches to power sharing between headquarters and decentralized units can be further supported by involving other institutions and agencies at the local level, including:

- ▶ tripartite consultative committees
- ▶ trade unions
- ▶ employers' organizations
- ▶ enterprise works committees and councils
- ▶ enterprise safety and health committees
- ▶ local government agencies
- ▶ non-formal sector organizations.

Formal consultations and cooperative arrangements at the local level can be complemented by labour officials making and maintaining regular informal contacts with various individuals, groups, and agencies to encourage local networking on labour issues.

The success of any informal approach to decentralization depends, to a large extent, on the human interaction styles and communication skills of labour officials at the decentralized level.

D. Field services

Decentralization of labour administration services to the field requires that:

- ▶ field units are placed in locations where real needs exist
- ▶ the existence of field units is known and their services are accessible to users
- ▶ field units are supported by adequate staff, equipment, and transport facilities
- ▶ field units operate in accordance with procedures that provide for consistency in applying laws and regulations between all field units.

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Physical and staff resources

Labour administration requires the support of the necessary physical and human resources if it is to perform effectively. This involves:

- ▶ having sufficient staff to carry out the full range of labour administration functions
- ▶ having trained and qualified staff able to perform these functions to the required level
- ▶ providing training to staff on a systematic, ongoing basis, commencing with induction training and extending to refresher, upgrading, and special skills training
- ▶ providing adequate office accommodation, equipment, and consumables
- ▶ providing adequate transport (e.g. cars, motorcycles) or access to reliable public transport facilities
- ▶ encouraging staff to participate in international as well as national training courses, including study tours, fellowships, and information exchange.

Staff training requires considering a wide range of issues, including:

- ▶ recruitment of labour officials
- ▶ induction training
- ▶ refresher and upgrading training
- ▶ job enrichment.

(Staff training is also considered in Chapter 9.)

Policy issues

Issues of concern to labour administration encompass policy matters, on the one hand, and operational matters, on the other. Major policy issues are:

- ▶ economic reform
- ▶ economic efficiency and social protection
- ▶ privatization
- ▶ coverage of labour administration services
- ▶ employment promotion
- ▶ tripartism.

A. Economic reform

Of vital concern in labour policy formulation is the impact of economic reform programmes as part of the structural adjustment process. Reform programmes, including efforts to liberalize product, capital, and labour markets, have sometimes taken place without sufficient consultations with ministries of labour. Ministries of planning and finance have taken the leadership role in economic reform, with ministries of labour having limited inputs to new policy initiatives.

The marginalization of ministries of labour in formulating and implementing economic reform programmes raises two major issues:

- ▶ Labour administrations need to be more proactive in formulating such policies from the beginning, as distinct from reacting once policies have been decided by others.
- ▶ Labour administrations need to be better equipped, technically, to make a meaningful contribution to the formulation of such policies and programmes.

B. Economic efficiency and social protection

Economic reform programmes emphasize free-market forces, productive activities, and efficiency. Some observers consider that this should mean less government intervention in labour matters. For example, it is sometimes argued government intervention in the form of minimum wages results in a wage level that distorts the operation of the labour market by establishing wages at a level that is too high. As a result, the demand for labour will fall, enterprises will be encouraged to substitute capital for labour and, thus, a key objective of economic reform, namely increased employment, will be hampered by government intervention.

Similar statements are made concerning interventions in non-wage labour costs, including social security contributions, job security regulations, and protective safety and health laws. These, too, are seen as measures that distort the labour market and reduce economic efficiency.

But the very nature of labour administration requires government intervention. Government regulations and enforcement procedures on wages, job protection, safety and health, and welfare facilities are essential components of social protection.

The challenge for labour administration, therefore, is to find an appropriate balance between more intervention in the interest of social protection, on the one hand, and less intervention in the interest of economic efficiency, on the other. Emphasis on economic efficiency does not mean total abandonment of social protection objectives. It is a question of balance between intervention that provides protection and interference that detracts from economic efficiency.

C. Privatization

Structural reform and transition from central planning to a market economy as a basis for resource allocation frequently give rise to issues of privatization. Transition normally involves the sale of public enterprises and assets to the private sector with a view to the government divesting itself of inefficient and unprofitable business undertakings.

But privatization can also apply to the government withdrawing from some types of services, including labour services. Indeed, this is already a reality in some countries, for example the appointment of authorized persons or approved agents for inspecting boilers, pressure vessels, lifts, and elevators. It applies to the operation of private employment agencies, and can be seen in the provision of private conciliation, mediation, and arbitration services.

The issues for labour administrations to address are, first, the extent to which their services should and can be privatized and, second, the actual arrangements for providing such services. Where labour administrations have responsibility, by law, for performing particular functions, it is possible for licences to be issued to designated agents or authorized persons empowering them to do the actual work. The ultimate responsibility, however, remains with labour administrations.

D. Coverage of labour administration services

The coverage of labour administration services depends on the definition of "worker" and "workplace" in national legislation.

Some categories of workers may be excluded from the legal definition, for example domestic and agricultural workers, thereby creating a legal obstacle to extending labour administration services to them.

In other situations the definition of workplace is very broad, for example any place where work is undertaken. But labour administration services are not always provided, even if the law is supportive. Of particular concern is the non-formal sector where many workers are employees, not self-employed persons, and where safety and health standards are often poor.

Labour administration services should be extended to the non-formal sector. This need not be in the form of strict law enforcement involving prosecution and penalties, but more as an extension service where workers and self-employed persons are provided with general advice (e.g. on safety and health) and specific advice on compliance with particular sections of the law.

The changing nature of work arrangements makes it necessary for labour administration, particularly labour inspection, to extend coverage to new categories of workers, especially casual workers, part-time workers, and homeworkers.

E. Employment promotion

ILO Recommendation No. 158 makes specific reference to involving labour administration in the "preparation, administration, coordination, checking and review of national employment policy". This involvement encompasses the coordination of employment services, employment promotion and creation programmes, vocational guidance, vocational training programmes, and unemployment benefit schemes.

In some countries the role of labour ministries in employment promotion and creation has been marginalized, with such functions being handled by other ministries. It is essential that labour administrations, through ministries of labour, assume an active leadership role in coordinating the activities of the agencies concerned with employment issues. The technical capacity of ministries of labour needs to be strengthened and developed to enable them to undertake this role effectively.

F. Tripartism

Developing appropriate labour and employment policies requires focusing not only on the **content** of such policies, but also on the **process** adopted. Representative organizations of employers and workers should participate in formulating new policies. This involves more than merely advising interested parties on the content of such policies. It includes active consultation at all levels and stages of policy development.

Labour administration has an important role to play in helping strengthen tripartite institutions and processes, and build commitment in the social partners to the principles and practice of effective tripartism.

In many developing countries tripartism is not operating effectively. This poses a significant challenge to governments, employers, and workers, in general, and labour administrations, in particular. Indeed, without positive intervention by labour administrations, tripartism will be slow to develop, and will play a limited role in economic and social progress.

Operational issues

Many operational issues are of concern to labour administration, including:

- ▶ policy formulation
- ▶ resource availability
- ▶ organization and management
- ▶ research and information
- ▶ staff training.

A. Policy formulation

In policy development, one of the key issues for labour administrations is acknowledgement that information is an essential resource for decision making. Greater efforts must be made to generate information that is comprehensive, accurate, and up to date. Building the capacity for research is an important aspect of improved information generation.

Strengthening consultative arrangements and greater public transparency in policy formulation also require the attention of labour administrations.

B. Resource availability

Labour ministries and the various components of the labour administration system frequently complain about a lack of operational resources. This involves considering several issues:

- ▶ The resources available to labour administrations must be managed effectively as a precondition for acquiring additional resources.
- ▶ Labour administrators must convince resource allocators of the benefits to national social and economic progress that would result from making additional resources available for labour administration functions.
- ▶ Labour administrations must develop their professional capacity to prepare detailed submissions on the contribution of labour administration to national development, supported by high-quality presentation and negotiation skills.
- ▶ Despite the problems they create, economic reform programmes should be seen by labour administrations as providing opportunities to be exploited. For example, the main clients and recipients of labour administration services (workers and employers) could be used to influence the government to provide additional resources.

C. Organization and management

Public administrations, in general, tend to adopt structures that are inappropriate to their functional responsibilities, and operational procedures that are outdated and bureaucratic. Labour administrations are no exception. Frequently, the system is inward-looking, with greater attention given to meeting the needs of superiors and "the system" than those of clients. This requires considering some important issues:

- ▶ The organization and structure of labour administration must be a response to functions. Functions, not structures, should be considered first, rather than creating structures and then deciding about their functions.
- ▶ Greater decentralization of activities, consistent with the need for effective coordination and public accountability, should be encouraged.
- ▶ More emphasis should be placed on performance management and control systems to achieve targets and standards. Management capacity should be developed, with emphasis on leadership, delegation, and supervision. A culture of service and performance must be encouraged in place of bureaucracy and inertia.

D. Research and information

Labour administrations have limited capacity to undertake applied research, and do not give enough importance to information as a resource for decision making. It is necessary to strengthen their research capacity:

- ▶ Labour administrations should initiate, commission, or undertake research on a wide range of labour issues. This involves building linkages with research institutes and similar bodies able and willing to conduct research on selected topics.
- ▶ Research findings should be communicated in non-technical language to the widest possible audience.
- ▶ Research and information units (possibly also encompassing training) should be established within ministries of labour to serve the entire labour administration system.

E. Staff training

The work of labour administrations is sometimes criticized as "poorly motivated", "lacking in technical competence", and "unprofessional". Training alone is not the answer to poor performance, but it is an important part of it. Some of the problems concerning performance may be found in poor recruitment and selection procedures, poor conditions of service, political interference, and lack of physical support resources. An effective staff development programme is essential for improved performance:

- ▶ Ad hoc approaches to training need to be replaced with systematic, longer-term programming based on the real needs of the labour administration system and officials in it.

- ▶ Training needs to be supported by sufficient resources, preferably by creating a training unit within the Ministry of Labour to serve the wider labour administration system.
- ▶ Training is an ongoing process, not an event, and requires ongoing monitoring and evaluation to see how it can be constantly improved.

MAKING IMPROVEMENTS

A common perception of labour administrations is one of poor performance and lack of service; they are inward- rather than outward-looking in perspective, reactive rather than proactive, bureaucratic rather than efficient and effective. Future improvement requires that labour administrations, assisted by their social partners and clients, take stock of their existing situation, consider the future environment in which they will operate and the related needs of their clients, and develop clear strategies indicating:

- ▶ what will be done,
- ▶ by whom,
- ▶ within what time-frame, and
- ▶ under what institutional and monitoring arrangements.