

## **Southern African Subregional Workshop on Social Dialogue in the Public Service**

**Johannesburg, South Africa**

**2 - 4 March, 2009**

### **Summary of Proceedings**

During consultations in the development of Decent Work Country Programmes, the ILO Subregional Office for Southern Africa and the multi-country ILO offices for Southern Africa, based in Lusaka and Pretoria, identified that strengthening social dialogue was a priority in most countries of the sub-region. After discussions in a Joint Programming Meeting in Johannesburg in January 2008, SRO/Harare organised this workshop to offer a forum for participants to share experiences, strengths and weaknesses of social dialogue in their respective public services; share international experiences on public service social dialogue; promote Labour Relations (Public Service) Convention, 1978 (No. 151); and to enable participants to discuss and develop an agreed plan of action in the improvement of public service social dialogue in their respective countries.

Each country presented a paper on social dialogue and labour relations in the public service. The following common trends were identified:

- In Botswana, Lesotho, Mozambique and Zimbabwe, public service labour relations are governed by a different legislation: in the remaining countries, one act governs labour relations in both the private and public sectors. Even though there are public service acts, they provide for matters relating to the general administration and discipline in the public service.
- Zambia and Botswana have ratified the Labour Relations (Public Service) Convention, No. 151 (1978); Namibia's Parliament expects to do so during 2009.
- Public service employees have the right to organise and form trade unions protected by law, the exception being Lesotho and Zimbabwe where public service employees can only form themselves into associations. There is generally a legal protection against acts of anti-union discrimination, which include protection against dismissal due to trade union membership, with the exception of Lesotho and Zimbabwe.

- There are arrangements and facilities for representatives of recognised public employees' organisations to carry out their functions, which includes access to the premises of the employer for the purpose of recruitment and representation of members, with the exception of Lesotho. Government negotiating teams exist in all countries; but harmonisation of responsibilities and positions of the executive, there are no legislative and local government structures.
- There generally are machineries for consultation or negotiation on terms and conditions of employment in the public service, except in Lesotho where "advisory councils" envisaged by the law are not fully operational. There is recognition of public service employees' organisations for purposes of consultation or negotiations and the criteria for such recognition are laid down in the legislation. Exception is Lesotho where the public service association has not been able to achieve the stipulated level of majority of membership.
- There exist structures of bargaining at the national level in all countries. In addition, negotiations take place at the sectoral and departmental/provincial levels in South Africa and at sectoral level in Lesotho.
- Botswana and Mozambique approved legislation granting employees in public administration in November 2008, and are in the process of implementing it. Botswana scheduled a sensitization workshop for permanent secretaries on 5 March, which Messrs. Carrión-Crespo, Fashoyin and Mandoro would attend; however, it was postponed until further notice.
- There are no limitations on the range of issues for consultations and negotiations, and there are no principles or criteria used to determine employment conditions, except policies to attract and retain scarce skills in Botswana and South Africa.
- There are procedures for settlement of disputes in the public service through conciliation and arbitration. Structures include autonomous institutions of dispute settlement, national bargaining councils, accredited sectoral bargaining councils, Public Service Commissions, and Conciliation Boards.
- The right to strike differs in the region. Strikes are allowed in Botswana, except for persons in "senior management;" in South Africa, except in essential services or a maintenance service; in Malawi and Swaziland, except in essential services; in

Zambia, except that the Minister may request an interdict on the grounds of "public interest." There is no right to strike in Lesotho and Zimbabwe.

- National Gender Policies exist in most countries.

### **Presentations made at the workshop**

- Mr. Limpho Mandoro, Labour Administration and Social Dialogue Specialist at the ILO Subregional Office for Southern Africa, indicated that social dialogue is one of the four strategic objectives of the ILO aimed at promoting decent work. Topics covered included actors, forms, benefits, levels and requisite conditions for an effective social dialogue, and ILO standards and jurisprudence on freedom of association, collective bargaining, dispute settlement and equality at work.
- Ms Shamira Huluman, General Secretary of the Public Service Coordinating Bargaining Council (PSCBC), South Africa, presented the Council's experience in public service legislation and practice. She addressed the history of public service labour relations in South Africa, the structure of the PSCBC, legislation and procedures on collective bargaining and dispute resolution.
- Ms Tanya Cohen, Independent Consultant, made a presentation covering comparative social dialogue practices in the private sector in countries in the sub-region, with examples from Lesotho, Namibia, South Africa and Swaziland.
- Mr. Tayo Fashoyin, Director of the Industrial and Employment Relations Department, delivered a presentation on the policy challenges facing the public service such as policy incoherence and disparities existing between the public and private sectors labour relations. Mr. Fashoyin indicated that the region also must overcome policy inconsistency, policy weakness and policy failure. He expressed particular concern about situations in which essential services are defined arbitrarily and where the strike is the only alternative that unions have to redress grievances. He invited the participants to look at each experience and learn from it.
- Mr. Carlos R. Carrión-Crespo, Public Services Specialist in the Sectoral Activities Department, spoke on International Comparative Public Service Labour Relations. He discussed social dialogue, collective bargaining and dispute resolution mechanisms around the world, and assessed the challenges inherent in the

development of mechanisms that are trusted by all social partners. He also discussed specific alternatives to strikes and their impact on the bargaining process.

- Mr. Fred Parry, from the ILO's Regional Office for Africa, explained ILO Conventions No. 87 and 98 and the respective rights and obligation as stipulated in the said Conventions.
- Ms. Christy Yoshitomi, Interest-Based Bargaining Consultant, made a presentation explaining the difference between positional and interest-based bargaining, emphasising the good attributes of interest bargaining which include, information sharing, joint problem identification and solution, and mutual trust.
- Mr. van Vuuren, and Mr. Fashoyin presented a session to the participants on the Impact of the Global Financial Crisis. They highlighted the causes of the crisis, its impact on the world economy and measures that the ILO proposes to take to assist the tripartite partners in member States to alleviate the impact of the crisis.
- Participants were divided into two groups to identify deficits relating to freedom of association, collective bargaining, machineries for consultation or negotiations, dispute settlement and gender equality in the public service and to come up with a plan of action for a way forward. The answers included the lack of ratification and implementation of Conventions; lack of political will, training and sensitization on the part of both governments and unions to implement social dialogue policies and culture; funding; and high membership thresholds for unions to be recognised.
- The participants made the following commitments:
  - a. 30 days- Complete tables regarding employment information in public administration; health; education; and the three main economic activities during 2006, 2007 and the present, and submit them to SECTOR.
  - b. 60 days- Submit proposals on capacity building to ILO/Harare.
  - c. 90 days- Submit assessments on steps needed to ratify the Convention on Labour Relations (Public Service), No. 151 (1978) to ILO/Harare.

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