
Practical Guide for Strengthening Social Dialogue in Public Service Reform

by Venkata Ratnam
and Shizue Tomoda

Copyright© International Labour Organization 2005

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to the Publications Bureau (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+44) (0)20 7631 5500; email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+1) (978) 750 4470; email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

ISBN 92-2-116842-5 (*print version*)

ISBN 92-2-116843-3 (*PDF web version*)

First published 2005

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org. Visit our website: www.ilo.org/publns.

Photocomposed in Switzerland
Printed in France

SCR
SAD

Preface

The reform of public services that is being implemented globally as part of structural adjustment is based on the idea that a reduced role for the State and increased reliance on market forces will result in improved efficiency and delivery. However, there are many examples of public service reforms whose outcomes indicate the contrary. A major lesson is that reforms can be successful only if they are designed and implemented with the co-operation of, and in consultation with, all the stakeholders who will be affected.

The ILO believes that public service reforms at all levels have to aim at: providing access for all to safe, reliable and affordable services to meet their basic human needs; facilitating sustainable local economic and social development that can achieve the goals of full employment and the alleviation of poverty; providing a safe and healthy environment; improving and enhancing democracy, and securing human rights. Public service reform must, therefore, be guided by the following basic principles: accountability, transparency and openness in government policies and actions; the provision of new and better public services; the importance of maintaining and creating good working conditions, and the adherence to core labour standards during the reform process to maintain the morale and improve the performance of public-service workers.

The Conclusions adopted by the Joint Meeting on the Impact of Decentralisation and Privatisation on Municipal Services held in Geneva (15-19 October 2001) included a request to the ILO to develop educational and advisory materials to promote social dialogue at all levels in the context of public service reform, and to make these available to social partners, member governments and international organisations. The development of this *Practical Guide for Strengthening Social Dialogue in Public Service Reform* is a follow-up to the Conclusions.

The earlier draft of the *Practical Guide* was tested/validated at a national workshop in Ghana in which the participants were employers (mostly representing public authorities) and workers who had been involved in various public service reforms. A similar workshop for employers' and workers' representatives was organised in India, in collaboration with the Ministry of Labour and the Indian Institute of Public Administration.

Public service reform is a continuing process to meet changing public needs and conditions. Reform should work for all, and the success of any reform depends on its objectives, the quality of decision making and the capacity of all the parties concerned to implement the decisions made. Participatory decision making requires the sharing of all relevant information, the protection of the rights of workers and their organisations, and investment in human resources to meet the emerging challenges. It is hoped that both employers and workers in the public services will find this *Practical Guide* helpful in reviewing the reforms they have undertaken to enable them to prepare for future changes.

Norman Jennings
Acting Director
Sectoral Activities Department

Contents

	<i>Page</i>
Acknowledgements	vii
Introduction	1
Why Public Service Reform is Necessary	1
Origin of the Guide	1
Purpose of the Guide and its Target Group	2
Structure of the Guide	2
Part 1: The Concept of Social Dialogue in Public Service Reform	3
1.1. Introduction	3
1.2. The Context of Social Dialogue	3
1.3. The Purpose of Social Dialogue	4
1.4. The Value of Social Dialogue	4
1.5. The Social Dialogue Actors	4
1.6. Forms of Social Dialogue	6
1.7. The Social Dialogue Process in Public Service Reform	6
1.8. Topics for Social Dialogue	8
1.9. International Labour Standards and the Social Dialogue Process	8
1.10. Enabling Conditions for Effective Social Dialogue	12
1.11. Mainstreaming Gender in Social Dialogue	13
1.12. Social Dialogue in Public Service Reform: How to Get Started and How to Sustain the Process	13
Part 2: Case Studies of Social Dialogue	15
2.1. Introduction	15
2.2. Selected Best Practices of Social Dialogue	17
2.2.1. Ireland	17
2.2.2. Norway	19
2.2.3. South Africa	22

2.2.4. Barbados	24
2.2.5. United States of America	27
2.2.6. New Zealand	27
2.2.7. Philippines	30
Part 3: Practical Steps	
and Checklists for Strengthening Social Dialogue	31
3.1. Public Service Reform Context – Situation Analysis	31
3.2. Goals and Priorities of Reforms	32
3.3. Policy Issues in Public Service Reform	32
3.4. Human Resource Management Issues	33
3.5. Implementation and Monitoring Issues	33
3.6. Review Exercises	33
Annexe: Excerpts from	
Selected International Labour Standards	35
Convention No. 87:	
<i>Freedom of Association and Protection of the Right to Organise</i>	<i>35</i>
Convention No. 98:	
<i>Right to Organise and Collective Bargaining</i>	<i>36</i>
Convention No. 135:	
<i>Workers' Representatives</i>	<i>37</i>
Convention No. 151:	
<i>Labour Relations (Public Service)</i>	<i>38</i>
Convention No. 154:	
<i>Collective Bargaining</i>	<i>39</i>
Bibliography and Recommended Reading	43

Acknowledgements

Shizue Tomoda, Senior Sectoral Specialist responsible for public service in the Sectoral Activities Department, ILO, Geneva, conceptualised this *Practical Guide*, and developed it together with Prof. Venkata Ratnam of the International Management Institute of New Delhi, India. The authors would like to thank all those who provided valuable comments and suggestions on the earlier drafts: in particular, Ms. Jane Hodges and Messrs. Jose Luis Daza Perez and Alagandram Sivananthiram of IFP/DIALOGUE (In Focus Programme on Social Dialogue, Labour Law and Labour Administration), ILO Geneva, and Mr. Alan Leather, Deputy General Secretary, Public Services International. The comments made by the participants of the national workshops held in Ghana and India in 2003 to test/validate the earlier draft were also highly appreciated.

Introduction

Why Public Service Reform is Necessary

Whether they are delivered publicly or privately, services such as health, education, utilities, posts, telecommunications, transport, the police and fire-fighting are considered to be public services because they are provided to sustain the well-being of each citizen and help the development of society as a whole. In many countries, they have been provided mainly by the public sector. However, during the 1970s and 80s, increasing public deficits and global competition led to waves of structural adjustment programmes and privatisation that engulfed the publicly owned industrial sector and also affected the public services, which, too, faced huge budget deficits. Such services would not have been sustainable without reforms to curtail their costs.

Nowadays, the public demands that public services are managed with full transparency and accountability, and are delivered more efficiently and effectively. In fact, a growing number of people think that many types of public service no longer need to be managed and delivered by the public sector, hence an increasing pressure for privatisation.

It is true that some public services may be better managed and delivered privately. However, if certain services are managed and delivered using private-sector practices exclusively, they may not be able to adhere to the globally accepted principles of equity and universal access that have characterised the delivery of public services. There are also cases across the globe of privatised public services failing to satisfy their users, either in terms of cost effectiveness or the quality of service provided. Added to this, some reforms in the public services have lacked transparency and have often been formulated and implemented without sufficient consultation among all the interested parties, including those who work in the sector.

As a result of lessons learned, many countries are now considering a variety of models for reforming the management and delivery of public services. In public-private partnerships, the private sector participates, partly or entirely, in the management and delivery of services. There are also public-public partnerships, in which, for example, two or more neighbouring municipalities combine their efforts to improve service delivery. Whatever form of management and delivery results from restructuring, the public services need to be run with full transparency and accountability, and must become efficient, cost effective, equitable and sustainable if they are to meet the changing and diverse needs of society as a whole. This can only be achieved through effective social dialogue involving all stakeholders.

Reform of the public services should be an ongoing process to meet a variety of objectives based on the perceived needs of the day. The success of any reform depends on its objectives, the quality of decision making, and the capacity of all the parties concerned to implement the decisions made. Reform should work for all. Decision making should aim at reaching a consensus among stakeholders. Participatory decision making ensures the sharing of all relevant information, the protection of the rights of workers and their organisations, and the investment in human resources needed to meet the emerging challenges.

Origin of the Guide

The Joint Meeting on the Impact of the Decentralisation and Privatisation of Municipal Services held in Geneva from 15-19 October 2001 adopted a set of Conclusions that was subsequently approved and endorsed by the March 2002 Session of the Governing Body of the ILO. In its Conclusions, the Joint Meeting asked the ILO to promote social dialogue at all levels in the

reform of public services and to develop educational/advisory materials on the subject to be made available to social partners, member governments and international organisations. This led to the conceptualisation and development of this material.

Purpose of the Guide and its Target Group

This *Practical Guide* aims to strengthen social dialogue in the reform of public services, particularly the dialogue between policy-makers in the government (national, regional and local government, and the ministries/agencies relevant to public service reform) and public-service employees and their representatives. It is also targeted at private-sector employers and workers engaged in the management and delivery of public services, as well as the users of public services and those non-governmental organisations (NGOs) interested in ensuring improved public service delivery, since both play important roles in shaping policies on reform.

Because the reform of public services often results in massive job cuts or reduced benefits, it is often resisted by workers who are rightly concerned about imminent job losses or an uncertain future. Reforms undertaken unilaterally, without sufficient dialogue with workers, are not likely to succeed since quality services can only be delivered by motivated and adequately trained employees. The workers concerned must be kept motivated and should have a sense of ownership of a reform if it is to succeed. To this end, it is imperative that they, or their representatives, participate in the entire process from its inception. Moreover, to ensure that reforms achieve their objectives, it is important that human resources are properly managed, in consultation with the staff concerned, and that workers and managers at

all levels are equipped with the new skills and capacity required for improved service delivery. Appropriate measures should also be taken to ease the problems faced by affected workers, such as providing necessary skills training for re-deployment, or re-employment elsewhere, or offering adequate redundancy packages. All these issues must be dealt with adequately through effective social dialogue to ensure that the reforms achieve their intended goals.

It is hoped that both employers and workers in the public services – whether provided publicly or privately – will find this *Practical Guide* a useful reminder of their respective rights and obligations. It is also hoped that they will find it helpful in reviewing the reforms that have been undertaken so that they can plan better for future changes.

Structure of the Guide

The text is presented in three parts. Part 1 discusses the what, why and how of social dialogue in the public services. Part 2 describes some case studies and presents selected best practices of social dialogue in public service reform. Part 3 presents practical steps, checklists and review questions. Summaries of international labour standards that are most relevant to social dialogue in the reform of public services are contained in the Annexe.

This Guide may be used as a training manual. Part 1 provides the background reading material. Participants should be expected to read it before attending the training session. They may comment on the case studies/best practices in Part 2, share their own experiences, and draw lessons for the best practice in their own context. The practical steps, checklists and review exercises in Part 3 can be used for group work.

Part 1: The Concept of Social Dialogue in Public Service Reform

1.1. Introduction

Social dialogue includes the sharing of all relevant information, consultation and negotiation between, or among, representatives of governments, employers and workers on issues of common interest relating to economic and social policies. Social dialogue has broad and varied meanings worldwide: it should take place at all appropriate stages of the decision-making process; it should not be overly prescriptive; it should be adapted to circumstances, and it should include particularly those affected by the changes/decisions (IFP/DIALOGUE, 2003).

Social dialogue is one of ILO's four strategic objectives in promoting "decent work"¹ for all. Effective social dialogue requires freedom of association and expression, open and transparent two-way information sharing, and strong and independent social partners who can participate freely. It also requires an appropriate legal and institutional framework, as well as a favourable climate and mindsets that are conducive to purposeful discussion and constructive co-operation. Social dialogue is an effective way of exchanging information and enabling the adjustment of views so that conflict resolution, social equity and effective policy implementation are ensured. It is also an educational process. It is the means by which rights are defended, employment promoted and work secured. It is a source of stability at all levels, from the enterprise to society at large (ILO, 1999, p. 4).

1.2. The Context of Social Dialogue

Differences in history, culture, economic and social development require a flexible approach to the modalities of social dialogue. In the context of trade liberalisation, privatisation and globalisation, it has received a fresh impetus, but is facing new challenges and acquiring new forms that extend beyond traditional bipartism and tripartism. This *Practical Guide* on social dialogue attempts to meet the challenges facing the ongoing reform of public services.

Recent ILO sectoral meetings (1998, 2001 and 2003) on public services – excluding education and health services – have concluded that the reform process can only be sustainable if it is planned, implemented and monitored through social dialogue. If the reform of public services is considered a social change process, the management of transition is critical for effective change strategies.

For quality public services, the following conditions must be met:²

- a) adequate funding;
- b) new public accounting definitions that correspond to the realities of financing and managing modern public services;
- c) the right to information and transparency in the public, private and voluntary sectors involved in delivering public services;

¹ The primary goal of the ILO is to promote opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. This is being achieved through four strategic objectives, namely, by promoting (1) International Labour Standards and the Fundamental Principles and Rights at Work, (2) decent employment and income opportunities, (3) social protection for all, and (4) strengthening tripartism and social dialogue.

² Derived from Prospect (2001).

- d) respect for workers' rights to enable workers to participate in social dialogue; corruption-free values and norms; investment in organisation and the development of staff;
- e) effective auditing by appropriate legislative bodies and the public as customers and citizens to allow full accountability and feedback for policy formulation;
- f) robust procedures for the disclosure, review and management of conflicts of interest;
- g) a shared vision and coherent framework that links policy and execution, and
- h) a civil service that is more professional, innovative and proactive in its approach.

1.3. The Purpose of Social Dialogue

The purpose of social dialogue is to help achieve success in policy formulation and in the reform of public services in a people-centred manner. Reforms must benefit the wider public, which includes the employees in the public services. Social dialogue must give adequate importance to transparency in sharing all relevant information, ensuring wide consultation at all stages, and engendering respect for the integrity of bipartite dialogue.

The reform of public services would benefit by incorporating the following:

- the development of a well-trained, properly remunerated, well-motivated and professional cadre of service personnel;
- better access to information;
- the promotion of good governance;
- the improvement of the quality and delivery of public services;
- the increase of accessibility and affordability;
- the guarantee of the safety of employees and the community, and
- the building of capacity among stakeholders.

Social dialogue need not necessarily produce consensus. If it generates at least a better understanding of the divergent views expressed by the various stakeholders, it can be considered to have largely achieved its purpose. Social dialogue must create commitment to the ideas produced, actions contemplated and results achieved.

1.4. The Value of Social Dialogue

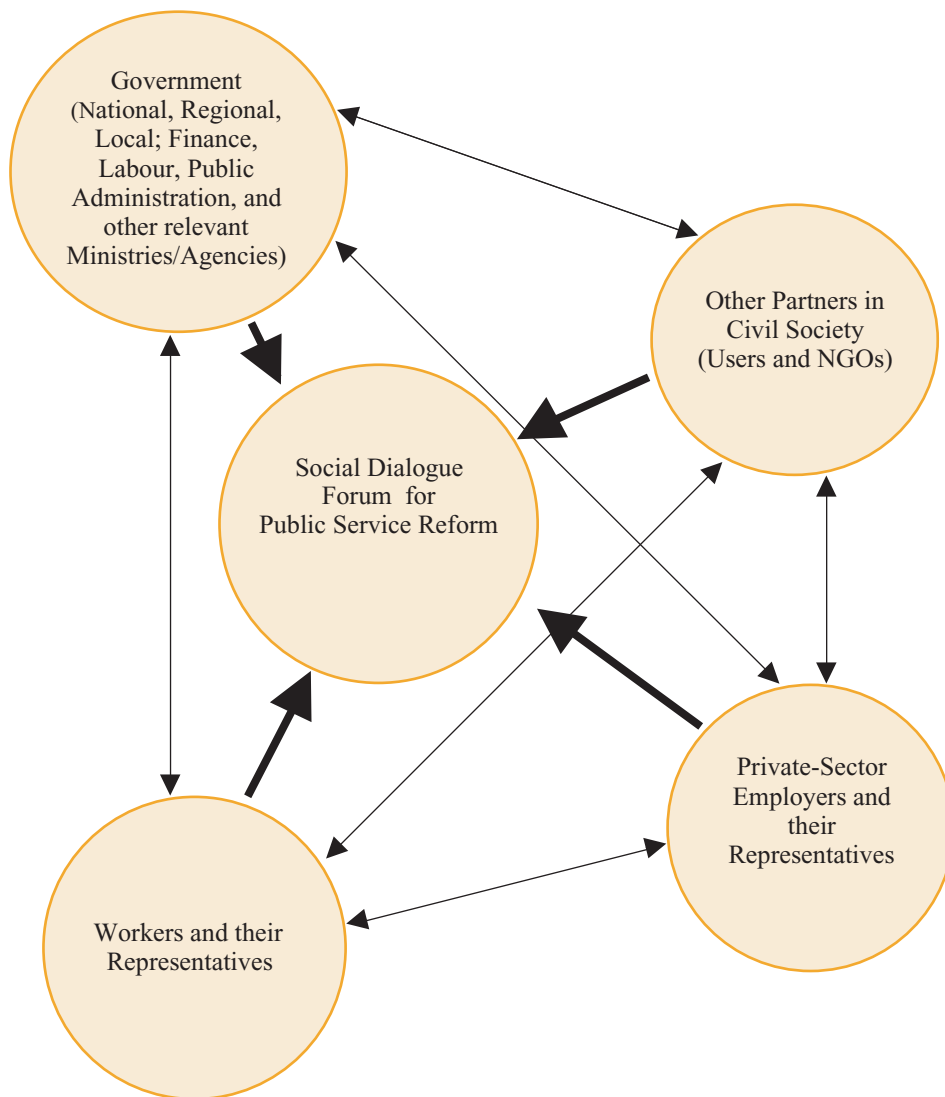
Respect for the norms of social dialogue depends on the manner of their formulation. They should not be imposed from above but should develop through the exchange of all relevant information and a participatory approach involving consultation, negotiation and consensus. Only participation at each stage of decision making can create better awareness and commitment.

Social dialogue is a powerful tool for finding concrete ways of establishing and maintaining social cohesion and improving governance. It contributes to the creation of quality public services, both for employees and customers.

1.5. The Social Dialogue Actors

In public administration, government is a key player in social dialogue. The ministries responsible for administration play a vital role – the finance ministry becomes involved when the topics under discussion have implications for public finance and budget resources, while the labour ministry has the task of ensuring compliance with, and the enforcement of, constitutional and legal provisions concerning working conditions. In some countries, there may also be special state agencies responsible for entering into agreements with government employees. All these ministries/agencies should work together with the ministries responsible for other portfolios.

Figure 1.
Actors in Social Dialogue in Public Service Reform



Social dialogue should be an inclusive process, not an exclusive one. Traditionally, such dialogue was limited to tripartite interactions between government and representatives of organisations of employers and workers. Until recently, in many countries, government was the sole employer of staff working in the public services. With the growing trend of privatisation, the role of the private sector in providing public services is being increasingly recognised. In the context of democratisation, globalisation and the shift from planned to market economies, it is becoming increasingly clear that social consensus and/or co-operation can no longer be confined to the traditional social partners but must involve other social groups. The new actors in civil society – including consumers, community groups, NGOs – are becoming important in making public services accountable and more responsive to the rising aspirations of citizens and communities. Civil society institutions have a key role in ensuring that the wider public good, equity, fairness and social responsibility are not ignored in the increasing shift towards a commercial orientation in the provision of public services.

In some countries, the role of civil society institutions, and their contribution to democratic participation in establishing “citizens’ charters” and improving governance, has been quite significant. In some parts of the world (e.g. South Africa), social dialogue actors include not only the traditional tripartite partners – government, employers and employees – but also representatives of young people, women, the unemployed and other special and vulnerable groups. Widening the social base of social dialogue will not only make the reform of public services a more inclusive process, but will also increase its effectiveness.

1.6. Forms of Social Dialogue

Social dialogue in all public services, including the civil service, covers the following:

- a) **Information sharing** – Civil service statutes contain rules on the right to be informed. Public administration has an obligation to inform public servants and/or exchange information.

- b) **Public hearings** – These comprise another form of social dialogue that often involves the users of public services or their representatives.
- c) **Direct consultation** – This could be at the individual level, with staff representatives, or using public-service advisory bodies. Consultation may occur before decisions are made, and/or later, during implementation.
- d) **Collective bargaining** – The legal framework for collective bargaining is distinct and restricted in the public services in many countries. Not all entities under public law are empowered to bargain and conclude collective agreements.

1.7. The Social Dialogue Process in Public Service Reform

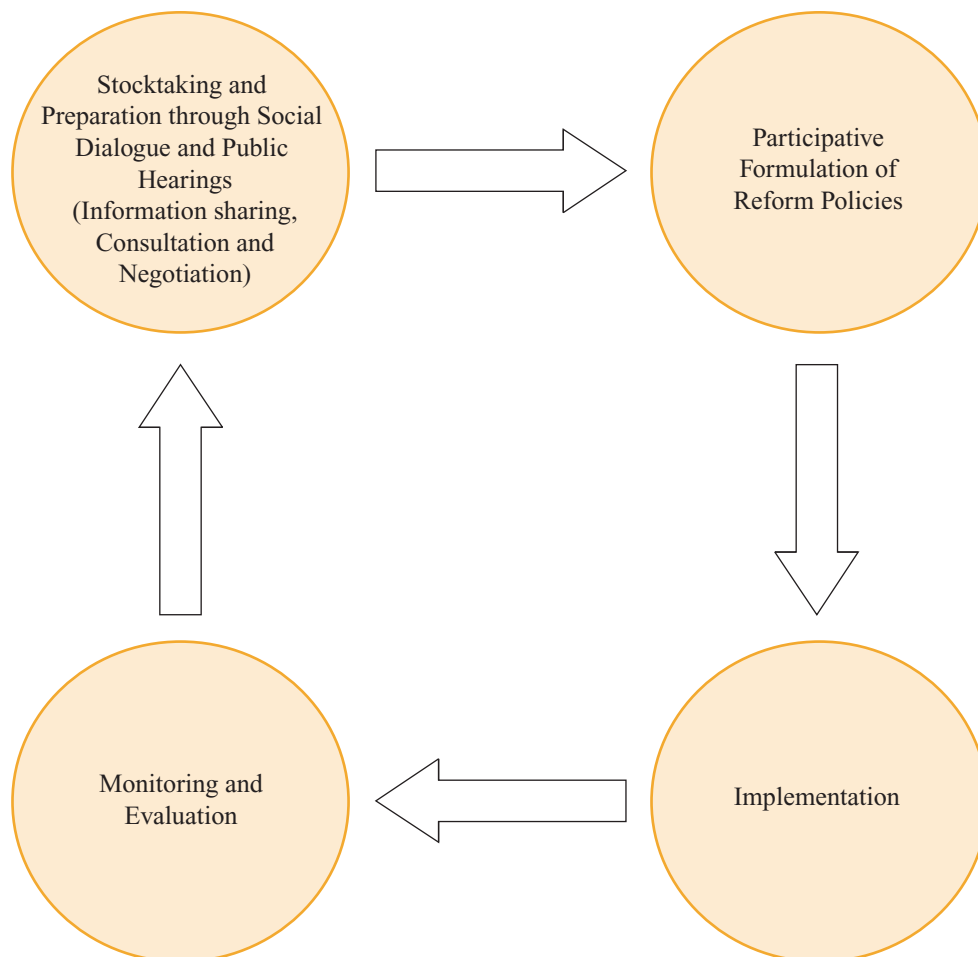
In the process of reforming a public service, social dialogue should take place at each of the following four stages:

- stocktaking and preparation;
- the participative formulation of reform policies;
- implementation, and
- reviewing, monitoring and evaluation.

Social dialogue processes must recognise the importance of:

- combining bipartite and tripartite processes to increase the responsibility and involvement of all actors, and
- interaction between all the social partners at all levels.

Figure 2.
Cycle of Social Dialogue in Public Service Reform



1.8. Topics for Social Dialogue

The purpose of social dialogue is democratic decision making. Therefore, government, public authorities and employers must allow all those affected by the decisions to make their views heard. Ideally, everything connected with employment and employment relations that affects more than one group of stakeholders should be the subject of social dialogue.

The topics for social dialogue can be varied and may include the following:

- The formulation and implementation of public policy. This includes the intention of the reform of public services, as well as its content, process, and the monitoring of its outcomes.
- Improvements in the delivery and quality of public services.
- Ways and means of ensuring an uninterrupted service to all citizens at an affordable cost.
- Ways of making a public service responsive, accountable and viable.
- Steps needed to give a voice to those in the growing informal economy.
- Jobs, incomes and social security.
- How to create more and better jobs.
- Skills training to ensure continued employability.
- Social issues, including poverty reduction, youth unemployment, child labour, bonded labour, discrimination in education and employment, the rehabilitation of drug users, HIV/AIDS, conflict resolution, etc.

The quality of public services depends on a competent and motivated work force. The recruitment and maintenance of a high-quality work force requires adequate education and vocational skills, lifelong learning, good working conditions and

high ethical standards. Human resource development in public services is an important part of the reform process. It needs to take place within a co-ordinated framework, through a process of social dialogue, with the representative organisations of public servants playing a leading role (Paxton, 2002).

1.9. International Labour Standards and the Social Dialogue Process

International labour standards are key determinants of the success of social dialogue. The jurisprudence of the ILO supervisory bodies concerning the Conventions and Recommendations merits special mention as they deal specifically with the social dialogue process at different levels:

- The principles of freedom of association and right to collective bargaining are set out in Conventions No. 87 and 98 respectively.³ A clear recognition of the right of public servants to associate – not only for cultural and social purposes, but also for furthering and defending their occupational and economic interests – is essential. However, certain segments of the public sector have specific characteristics (neutrality, continuity of the public service, budgets adopted through a transparent procedure), and this is reflected in limited restrictions on the modalities of the right to organise and its corollary rights, notably the right to bargain collectively or the right to strike.
- Convention No. 87 establishes the right of workers to organise, without any distinction whatsoever, but national laws or regulations may determine the extent to which such a right may be granted to the armed forces and the police. The right of civilian employees at military installations, fire-service personnel and prison staff to organise should be guaranteed, as they are not

³ The discussion on ILO Convention No. 87 and 98 draws heavily on De Meyer (2003).

exempted under Convention No. 87. The right to strike in the public services should be limited to public servants exercising authority in the name of the state. The right to strike is not absolute and may be restricted in essential services. In the strict sense of the term, essential services are those whose interruption would endanger the life, personal safety or health of part, or all, of the population. However, in such cases, workers should be able to participate in determining and implementing the grievance procedure, which should provide a sufficient guarantee of impartiality and rapidity of settlement. Any arbitration awards by impartial and independent bodies set up for this purpose should be binding on both parties, and implemented rapidly and fully.

- First-level organisations of public servants may be limited to that category of workers, subject to two conditions: (a) the organisations are not restricted to the employees of any particular ministry, department or service, and (b) they may freely join federations and confederations of their own choosing.

Provisions stipulating that different organisations must be established for each category of public servant violate public servants' right to organise.

- Senior public servants who exercise senior managerial or policy-making responsibilities may be debarred from joining organisations that represent other workers, provided that they have the right to establish their own organisations to defend their interests.
- All public-service workers, other than those engaged in the administration of the State, should enjoy collective bargaining rights and the right to conclude collective agreements. Convention No. 98 establishes the relationship between collective bargaining and the conclusion of collective agreements for the regulation of the terms and conditions of employment. It also stipulates that "the extent to which the guarantees provided for in the Convention shall apply to the armed forces and the police shall be determined by national laws or regulations".

Box 1. Summary of ILO Principles on the Right to Collective Bargaining

The standards and principles emerging from the ILO Conventions, Recommendations and other instruments on the right to collective bargaining, and the principles set forth by the Committee of Experts and the Governing Body Committee on Freedom of Association on the basis of these instruments, may be summarised as follows:

1. The right to collective bargaining is a fundamental right which States, on account of their membership of ILO, have an obligation to respect, promote and realise, in good faith (ILO Declaration of Fundamental Principles and Rights at Work and its Follow-up).
2. Collective bargaining is a right of employers and their organisations, on the one hand, and organisations of workers on the other (first-level trade unions, federations and confederations). Only in the absence of these latter organisations may representatives of workers concerned conclude collective agreements.
3. The right to collective bargaining should be recognised by all private and public sectors, and only the armed forces, the police and public servants engaged in the administration of the State may be excluded from the exercise thereof (Convention No. 98).
4. When a State ratifies the Collective Bargaining Convention, 1981 (No. 154), the right to collective bargaining is also applicable in the context of public administration, for which special modalities of application may be fixed in accordance with the provisions. The Labour Relations (Public Service) Convention, 1978 (No. 151) provides a lower level of international protection for collective bargaining, since it permits, in the context of public administration, the possibility of opting between collective bargaining and other methods of determining the terms and conditions of employment.
5. The purpose of collective bargaining is the regulation of the terms and conditions of employment, in a broad sense, and the relations between the parties.
6. Collective agreements should be binding. It must be possible to determine terms and conditions of employment that are more favourable than those established by law. Preference must not be given to individual contracts over collective agreements, except where more favourable provisions are contained in individual contracts.
7. To be effective, the exercise of the right to collective bargaining requires that workers' organisations are independent and not "under the control of employers or employers' organisations", and that the process of collective bargaining can proceed without interference by the authorities.

8. A trade union that represents the majority, or a high percentage, of the workers in a bargaining unit may enjoy preferential or exclusive bargaining rights. However, in cases in which no trade union fulfils these conditions, or such exclusive rights are not recognised, workers' organisations should, nevertheless, be able to conclude a collective agreement on behalf of their own members.
9. The principle of good faith in collective bargaining implies recognising representative organisations, endeavouring to reach an agreement, engaging in genuine and constructive negotiations, avoiding unjustified delays in negotiation and mutually respecting the commitments entered into.
10. Collective bargaining is voluntary in nature and it must be possible for bargaining to take place at any level.
11. The imposition of compulsory arbitration in cases in which the parties do not reach an agreement is generally contrary to the principle of voluntary collective bargaining and is admissible only: (1) in essential services in the strict sense of the term (those whose interruption would endanger the life, personal safety or health of all, or part, of the population); (2) with regard to public servants engaged in the administration of the State; (3) when, after prolonged and inconclusive negotiations, it is clear that the deadlock will not be overcome without an initiative by the authorities, and (4) in the event of an acute national crisis. Arbitration accepted by both parties is always preferable.
12. Interventions by the legislative or administrative authorities that have the effect of annulling or modifying the content of freely concluded collective agreements, including wage clauses, are contrary to the principle of voluntary collective bargaining. Restrictions on the content of future collective agreements, particularly in relation to wages, which are imposed by the authorities as part of economic stabilisation or structural adjustment policies on account of major economic and social policy consideration are admissible only in so far as such restrictions are preceded by consultations with the organisations of workers and employers and meet the following conditions: they are applied as an exceptional measure, and only to the extent necessary; they do not exceed a reasonable period, and they are accompanied by adequate guarantees designed to effectively protect the standards of living of the workers concerned, particularly of those likely to be most affected.

Source: Bernard Gernigon, Alberto Otero and Horacio Guido (2000), pp. 75-77.

The Committee on Freedom of Association in ILO's Governing Body has stated that: "A distinction must be drawn between, on the one hand, public servants who, by their functions, are directly engaged in the administration of the State (that is, civil servants employed in government ministries and other comparable bodies), as well as officials acting as supporting elements in these activities, and, on the other hand, persons employed by public undertakings or by autonomous public institutions." Only the former category can be excluded from the scope of Convention No. 98. The Labour Relations (Public Service) Convention, 1978 (No. 151) provides, in Article 5, paragraph 1, that "public employees' organisations shall enjoy complete independence from public authorities". The process of collective bargaining must proceed without interference by the authorities.

ILO instruments (Conventions No. 98, 151 and 154, and Recommendation No. 91) focus on the content of collective bargaining on the "terms and conditions of work and employment" and on the regulation of the "relations between employers and workers and between organisations of employers and of workers". Although the range of subjects that can be negotiated and their content is very broad, they are not absolute and need to be clearly related to conditions of work and employment or, in other words, "matters which are primarily, or essentially, questions relating to conditions of employment" (Trebilcock *et al*, 1994, para. 265).

Right of Information: The Collective Bargaining Recommendation 1981, (No. 163) indicates, in paragraph 7(1), that "measures adapted to national conditions should be taken, if necessary, so that the parties have access to the information required for meaningful negotiations.

(2) For this purpose:

- (a) public and private employers should, at the request of workers' organisations, make available such information on the economic

and social situation of the negotiating unit and the undertaking as a whole as is necessary for meaningful negotiations; where the disclosure of some of this information could be prejudicial to the undertaking, its communication may be made conditional upon a commitment that it would be regarded as confidential to the extent required; the information to be made available may be agreed upon between the parties to collective bargaining;

- (b) the public authorities should make available such information as is necessary on the overall economic and social situation of the country and the branch of activity concerned to the extent to which the disclosure of this information is not prejudicial to the national interest".

The authorities responsible and accountable for social dialogue should review, understand and avoid violations of the kind discussed in the reports of the Governing Body's Committee on Freedom of Association. The regulatory and institutional framework for social dialogue in the public service depends on the attitude of the State and the relations between public administration and civil servants.

1.10. Enabling Conditions for Effective Social Dialogue⁴

The institutional obstacles to effective social dialogue in the reform of public services include: lack of recognition of freedom of association that would allow for the representation of public employees in dealings with the State; the absence of rules governing the conduct of collective bargaining, or the insufficiency of such rules, and undue intransigence on the part of the social partners.

⁴ Adapted from the website of ILO's In Focus Programme on Social Dialogue, Labour Law and Labour Administration at www.ilo.org/public/english/dialogue/ifpdial/sd/index.htm.

Social dialogue in public services will therefore be facilitated if:

- organisations of employers and employees are strong, independent and possess the technical capacity to engage in meaningful social dialogue;
- the fundamental rights of freedom of association and collective bargaining are respected;
- there are rules regarding persons or bodies competent to negotiate on behalf of the public authority;
- provision is made for sharing all relevant information;
- all the parties have the political will and commitment to engage in social dialogue;
- appropriate institutional support is provided;
- private and public operators are treated equally, and
- the procedures and machinery for dispute settlement are clearly defined.

1.11. Mainstreaming Gender in Social Dialogue

Women employees in public service should have a proportional share of representation in the different forums for social dialogue at various levels. For instance, in Norway, there is a gender quota of a minimum of 40 per cent of women or men in managerial teams, in delegations, project groups, etc (Olson, 2003). Deviations from this norm are to be reported on and explained. Women employees are given priority in managerial programmes. They are encouraged to apply for posts in a grade, or area of competency, in which they are under-represented. The employer must annually provide statistics that demonstrate progress towards equality of opportunity. Gender issues should form part of the social dialogue agenda. Women should be visible and must have a voice in social dialogue institutions. Social dialogue must result in policies and programmes for ensuring gender equality at all levels of organisations.

Mainstreaming gender should cover, among other things, policies and programmes that address:

- the agenda of “decent work” for women;
- factors that improve women’s access to education and employment, as well as their remuneration, training and career development;
- equal and visible opportunities for women in managerial/leadership positions at all levels and in decision-making forums;
- the question of the balance between work and family, and
- the concerns and needs of workers with family responsibilities.

1.12. Social Dialogue in Public Service Reform: How to Get Started and How to Sustain the Process

Effective social dialogue in public services requires a firm commitment by the government through a clear policy statement articulating its intention to engage in social dialogue, to actively support it and to champion it among the social partners and the citizens as a way of ensuring quality public services. To this end, a **legal framework** for social dialogue, based on the relevant international labour standards discussed in Part I, should be established. Such a framework should define, among other things, the powers, functions and responsibilities of the heads of ministries/departments/agencies responsible for the management and delivery of public services, and of the leaders of public-service unions/associations. It should also establish the rights and obligations of civil servants and the codes of conduct/discipline applicable to them at all levels to ensure good governance in the public services.

A formal mechanism for social dialogue does not automatically guarantee a well-functioning dialogue⁵. However, establishing permanent structures or institutions for social dialogue in the public services⁶, e.g. a **national tripartite consultative committee**, may better facilitate the functioning and sustainability of social dialogue. The form a consultative mechanism should take is up to each country, but it should facilitate an inclusive social dialogue, with all those who have a stake in the public services and their reforms being able to make representations (see the examples of social dialogue formats presented in Part 2). Depending on its size, diversity and complexity, a country may choose to have consultative machinery not only at the central/national level, but also at state/provincial level and even in key sectors of the economy in which the public service plays a significant role. This machinery can be assisted by committees/conferences and advisory boards.

Autonomous and advisory social dialogue institutions have a major role in policy making, preparing bills for legislation and helping to introduce higher productivity, modernisation, flexibility and

professionalism in the public services. Whenever these institutions make recommendations based on consensus, the State should endeavour to implement them or, if unable to accept them, should give reasons for the rejection and take the necessary follow-up action. There should be well-established rules on agenda preparation, discussion, decision making, the recording of minutes, follow-up and monitoring. For this, the double-discussion procedure followed by the ILO (see Part 2) is recommended. Discussions should be based on draft recommendations, and decisions arrived at unanimously or through voting.

In addition, creating an **independent secretariat for social dialogue** is essential for its sustainability. Since all major social partners should have a say and stake in the administration of the secretariat, it should, ideally, be physically located outside government ministries/agencies, while contributions to its running costs should come from all the stakeholders, although, in some countries, the State might need to bear the whole cost itself due to the financial position of some of the partners.

⁵ Junko Ishikawa (2003).

⁶ For a comparative study of the contents of civil service statutes, see Jane Hodges Aeberhard (2001); for government practice of social dialogue in the public services, see Jose Luis Daza Perez (2002).

Part 2:

Case Studies of Social Dialogue

2.1. Introduction

Around the world, there are numerous cases of successful social dialogue. However, there are failures, too, in that social dialogue has atrophied: either it has not started, or else it has failed to develop into part of a national culture of resolving differences in policy issues related to public services. It is sometimes more profitable to learn from failures than to emulate successes. Also, the factors that have made for success in the past do not necessarily guarantee success in the future. This *Practical Guide* provides several case studies that underline the significant contribution successful social dialogue can make in improving public services and the lot of stakeholders. Drawing on both success and failure stories, it has developed a checklist of the factors to keep in mind if the various pitfalls in the social dialogue process are to be avoided.

The historical, cultural, economic and social context must be borne in mind in developing tools and approaches that will best promote social dialogue in a particular country. A flexible approach

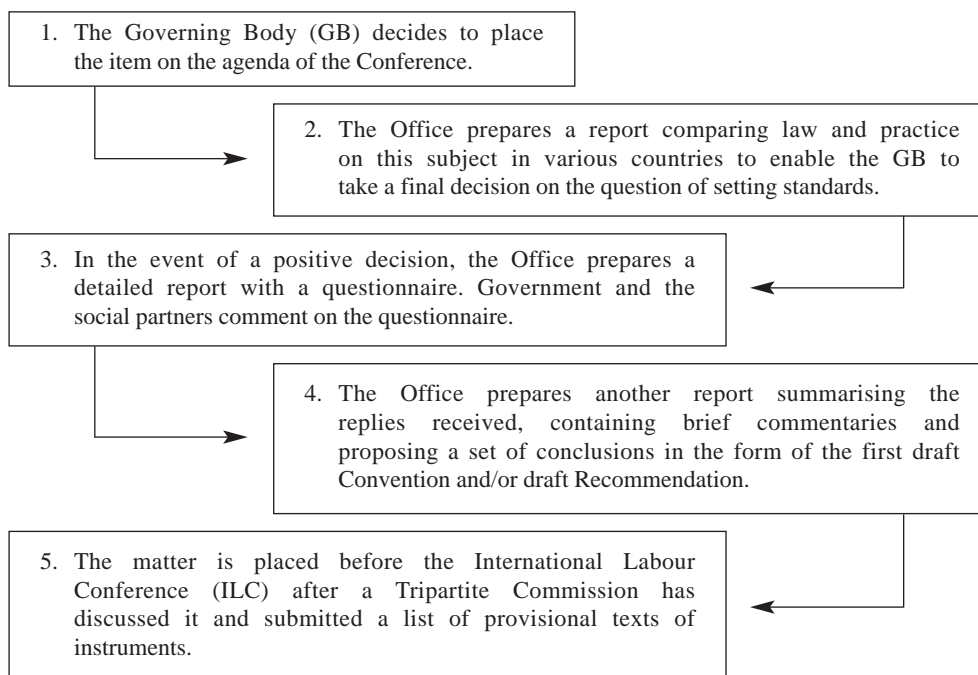
should be adopted, one that takes into account the current capacity of the social actors, and the practical difficulties confronting them, but which, at the same time, seeks to help stakeholders overcome these difficulties and develop their institutional capacity and skills through appropriate legal frameworks, open and transparent information sharing and mutual trust building. This should pave the way for purposeful and productive social dialogue, which, in turn, may lead to positive outcomes for everyone concerned in the reform of the public services.

Norwegians follow the ILO's time-tested procedure of double discussion for social dialogue at the national level (see Fig. 3). North Europeans in general, and the Scandinavians in particular, have experienced success in social dialogue. Peter Auer (2001) has documented the experiences of Austria, Finland, Ireland and the Netherlands in reviving employment through social dialogue.

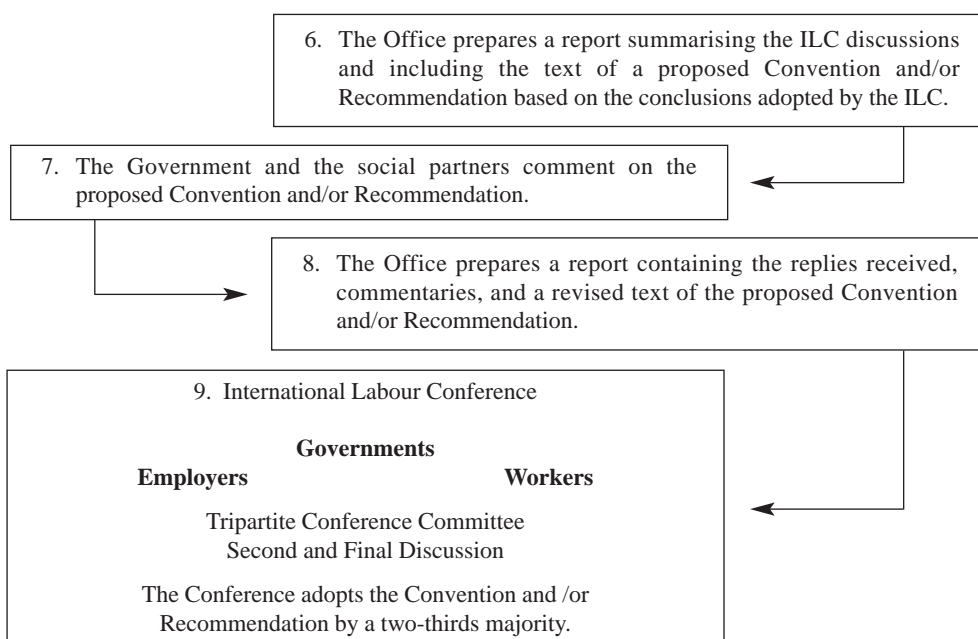
Trebilcock (1994) has documented international cases of structural adjustment through social dialogue.

Figure 3.
Adoption of Convention – The Double Discussion Procedure

Stage I: Defining the Problem



Stage II: Discussion and Adoption



More recently, the Social Dialogue sector in the ILO has commissioned several studies. Of these, the experience of South Africa in widening the social base of social dialogue through the National Economic Development Labour Advisory Council (NEDLAC) merits special mention because, in several countries, social dialogue is taking place in the context of a shrinking organised sector. Some cases do not, of course, refer exclusively to social dialogue in the public services, but examine the tripartite and multipartite dialogue processes that engender advice on social and labour issues. Although the public services form a major part of the service sector in most developing countries, social dialogue in these services is often not effectively integrated into the social dialogue processes in the wider society. The following are some examples of best practice in the public services in selected countries.

2.2. Selected Best Practices of Social Dialogue

2.2.1. Ireland⁷

Ireland is particularly interesting in that it has, through social dialogue, developed and implemented social and economic policies that have transformed it into one of the most prosperous countries in Europe. Trade unions have been interested not only in economic issues and the living standards of workers but also in social issues such as unemployment, the social wage, health and education, and have represented the interests of some of those who have traditionally been considered economically and socially disadvantaged – women, the disabled and the elderly.

In 1993, under pressure from various social groups categorised as the “community and voluntary sector” and from the trade unions, the Government established the National Economic and Social Forum (NESF), to look at areas of social policy, exclusion and unemployment. As indicated in Box 2, in addition to an independent chairperson and deputy chairperson, the NESF is composed of members representing four groups: (1) the parliamentarians (*Oireachtas*); (2) employ-

er, trade union and farm organisations; (3) the community and voluntary sector, and (4) Government and independents.

All the partners are involved, on an equal basis, in direct negotiations in the preparatory and consultative process leading to national agreements on social issues such as policies on health, education, investment in infrastructure and the overall macroeconomic framework. In matters concerning pay and other workplace-related matters, negotiations are conducted bilaterally between the employer and worker representatives concerned, without any involvement of the community and voluntary sector. The Government is involved in direct negotiations as an employer in the public sector.

The consultation and bargaining process in the NESF can be described as a search for a wider consensus addressing the different trade-offs between, and within, interest groups. The underlying principles that enable different interest groups to come to an agreement are: (1) the acceptance of their interdependence; (2) respect for the different perspectives brought to the NESF table, and (3) high levels of trust, which are critical for sharing power and influence among all stakeholders in society. Some trade unionists may have wondered whether sharing the negotiating table with civil society organisations would dilute their own power and influence. However, the experience in Ireland is reported to be the opposite: broadening the social dialogue base in matters of social and macroeconomic policy has strengthened trade union power and influence.

Social dialogue contributed significantly in getting the country out of the severe economic crisis of the mid-1980s and transforming it into one of the most prosperous countries in Europe. In addition, a shared understanding of the mechanisms and relationships in the economy, the commitment of all political parties to the social partnership model – thus securing continuity in the process – and a shared strategic vision of the problems facing the country have contributed to the success of social dialogue.

⁷ Patricia O'Donovan (2000).

Box 2. Members of the National Economic and Social Forum in Ireland

Independent Chairperson

Deputy Chairperson

1. *Oireachtas* (Parliament)

- Members from the main party (7)
- Members from other parties (8)

2. Employer, Trade Union and Farm Organisations

- Irish Business and Employers' Confederation (2)
- Small Firms' Association (1)
- Construction Industry Federation (1)
- Chambers of Commerce/Tourist Industry/Exporters Association (1)
- Irish Congress of Trade Unions (5)
- Irish Farmers Association (1)
- Irish Creamery Milk Suppliers Association (1)
- Irish Co-operative Organisation Society (1)
- *Macra na Feirme* (1)
- Irish Country Women's Association (1)

3. Community and Voluntary Sector

- Women's Organisations (2)
- Unemployed (2)
- Disadvantaged (4)
- Youth (2)
- Older people (1)
- Disabled people (1)
- Others (3)

4. Government and Independents

- Central Government
 - Dept. of Finance (1)
 - Dept. of Enterprise, Trade and Employment (1)
 - Dept. of Social and Family Affairs (1)
 - Dept. of Community, Rural and Gaeltacht Affairs (1)
- Local Government
 - General Council of County Councils (3)
 - Association of Municipal Authorities (1)
 - County and City Managers Association (1)
- Independents (5)

Source: www.nesf.ie/forum.htm.

The figures in parentheses indicate the number of persons representing each organisation or group.

2.2.2. Norway⁸

This section examines the restructuring process in the Norwegian Agency for Development Co-operation (NORAD). Established in 1968, NORAD is a subsidiary agency of the Ministry of Foreign Affairs. The Ministry is responsible for formulating aid policies and strategies for co-operation with individual countries. NORAD's role is to facilitate and co-ordinate the practical aspects of development co-operation in dialogue with partners in developing countries, and to administer funds and support schemes in accordance with Ministry guidelines.

The restructuring of NORAD provides an interesting example of best practice in social dialogue in public sector reform. Three factors played a significant role in the decision to reorganise. First, changed operating parameters necessitated a more holistic approach, which, in turn, entailed greater internal co-ordination along country/regional lines within NORAD; second, one of the departments within NORAD was not performing as desired, and, third, NORAD was too bureaucratic and slow in decision making. Although civil service reforms had been on the political agenda for a decade, the reform at NORAD cannot be directly linked to them.

Initially, there was widespread disagreement on the need for change. But, with job guarantees, and

widespread consultation with the unions and the people affected by the changes, many of the substantive issues concerning public servants were amicably resolved. Though there are still some issues pending, NORAD's restructuring exemplifies the democratic dividends of social dialogue in facilitating change and introducing performance orientation in the public service.

Social dialogue at the workplace in Norway is built on two pillars. The first is indirect representation, that is, co-determination (participation in decision making) and employee representation through employee organisations and trade unions. The right to co-determination in the State sector is laid down in collective agreements and supported by statutes, such as the Public Service Disputes Act, the Civil Service Employees' Act, and the Worker Protection and Working Environment Act. It is, however, the Basic Agreement that is considered the Constitution of Social Dialogue – it provides the foundation and framework for social dialogue at the workplace level. In this context, social dialogue encompasses the right to be informed and heard, the right to co-determination and the right to negotiate. The right to co-determine and the right to negotiate restrict managerial prerogative, but only in a limited number of issues (see Box 3).

⁸ Torunn Olson (2003).

Box 3. NORAD – Best Practice in Social Dialogue

Part 1. Co-Determination

Chapter 1. Purpose and Scope

Section 1. Purpose and Intentions

1. The government and the confederations of government employees' unions have entered into this Basic Agreement for the purpose of creating the best possible basis for co-operation between the parties at all levels. It forms the basis for the employees' right to co-determination in addition to the rules laid down in the Civil Service Disputes Act, the Civil Service Act and the Working Environment Act. It entitles the employees to actual influence on the organisation of their workplaces and on the development of working methods. Co-determination shall contribute to flexible and user-friendly services with a good working environment, good management, better performance and a satisfactory relationship with the public.
2. The parties agree that the State is currently facing new demands, which, among other things, entail changes in work methods, roles, organising and the regulatory framework. The Agreement is an instrument to adapt, increase efficiency and modernise the State sector.
3. The Agreement of Intent Concerning a more Inclusive Working Life requires that the parties cooperate in a binding manner in order to reduce the extent of sick leave and the take-up of disability pensions, increase the actual pension age, and contribute with personnel policies that are more inclusive and stimulating.
4. The achievement of the aims of the Basic Agreement is dependent on the employees and employers meeting as equal parties. The parties must meet with a will to find solutions to problems. Their representatives have the necessary credentials, qualifications and attitudes.
5. The right to co-determination is best exercised through the elected union representatives. It shall be exercised in such a way that the employees are involved in the process of planning and decision making as early as possible. Employees should have direct influence on the organisation of work and on the ways in which tasks are carried out in their own work areas. Subject to agreements, experimental activity can be carried out to develop forms of organisation and ways of working that put the employees' co-determination into effect.
6. The elected union representatives carry out their official duties as a necessary part of the democratisation of the working environment within government service. Official duties in connection with the unions shall be given equal status to normal service. Holding a union office yields competency and this shall be significant in a person's further service and career.

7. Managers at all levels shall exercise a form of management that enables the elected union representatives to be involved in the decision-making process in all matters of relevance to the employees' working situation. At the same time, employees in the agency are expected to submit proposals for measures in the different areas of the work of the agency that will enable the achievement of the best possible performance and service to the public.
8. The parties agree that the employer shall provide the union representatives with the best possible working conditions for attending to their official duties. The parties also agree that the elected union representatives shall function in such a way that the flow of work and the efficiency of the agency are not hampered.
9. Rights pursuant to the Agreement must be exercised in such a way as to be in no way detrimental to political democracy. In accordance with this, the government services shall strictly implement the decisions of the political authorities at the same time as the employees are able to enjoy actual co-determination in relation to internal administrative matters concerning the working situation.
10. Information and communication technology (ICT) plays an ever more important role in the activities of the public service agencies. The parties will actively ensure that ICT shall contribute to better services for the public, improve its quality, and be a means to simplify and increase efficiency. When assessing ICT, it is important that a holistic approach, which includes technical, organisational, economic, as well as environmental and social factors, is adopted.
11. The Agreement shall create a basis for civil-service personnel policies in the areas covered by the Agreement, as per relevant laws, regulations, etc.
12. The parties shall collectively and separately continuously follow up and train managers and union representatives, with the aim of achieving a joint understanding of the Basic Agreement's intentions. The employer shall annually ensure that experiences are shared and discussions are held in each agency regarding the contents of the Basic Agreement and the adjustment agreements. Both parties are to be present, along with the top representative on the employer side. Minutes from these annual meetings are recommended.

Source: Torunn Olson (2003).

The second pillar is direct representation, that is, participatory management. Direct participation is based on employee involvement in decisions about how the organisation is to be run and how the employees perform their jobs. The right to participate directly is also regulated by statute (e.g. the Worker Protection and Working Environment Act of 1977, and through the Basic Agreement). Direct participation was originally viewed as both a means and an end.

Successful social dialogue depends not only on the existence of formal structures, like agreements, meetings and negotiations, but also on a minimum of trust between the parties. For the success of the new working methods that have been introduced, employees, subordinates and superiors alike must be willing to share ideas. The “trust relationship” needed to foster the above may, however, be stifled if acceptance of criticism is low. It was reported that “employees at NORAD fear for their careers if they express dissent, and therefore refrain from contributing constructive criticism and the necessary feedback”. Creating a climate of trust may well be NORAD’s ultimate challenge.

The reforms need time to percolate through the organisation. However, the joint efforts have contributed to a “team spirit” – that is, a feeling of having accomplished something together. This has increased the sense of unity in the agency, and consequently, a sense of moving towards a common goal – a valuable asset.

2.2.3. South Africa⁹

In South Africa, the roots of social dialogue are inextricably intertwined with the struggle for democracy, and social dialogue was integral to laying the foundations of democracy. From the mid-1980s onwards, there was an increasing level of dialogue among different actors on the South African economic and social scene as part of the struggle for political, social and economic

democracy. Labour and community interests were often joined in the struggle against Apartheid. Engagement between the State, labour, business and other social actors emerged in a public form during the early 1990s. This led to the passing, in 1994, of the NEDLAC (National Economic Development and Labour Council) Act, establishing NEDLAC as the summit organisation for social dialogue in South Africa.

The Act requires NEDLAC to: (1) promote the goals of economic growth, participation in economic decision making, and social equity; (2) seek to reach consensus and conclude agreements on social and economic policy; (3) consider all labour legislation in relation to labour market policy before it is introduced in Parliament; (4) consider all significant changes to social and economic policy before they are implemented or introduced in Parliament, and (5) encourage and promote the formulation of co-ordinated policy on social and economic matters.

NEDLAC comprises an Executive Council, a Management Committee and four chambers, namely the Development Chamber, the Trade and Industry Chamber, the Public Finance and Monetary Policy Chamber and the Labour Market Chamber (see Fig. 4). The Executive Council and Management Committee provide direction to the organisation while sanctioning the work of their members representing different constituencies. NEDLAC’s work programme is processed in the chambers dealing with specific issues. The Secretariat’s primary role is to facilitate social dialogue and provide information to the social partners to enable them to engage in national, regional and international forums on various issues.

The Government, labour and business are represented in all of NEDLAC’s structures, while community organisations are represented in the Development Chamber, the Management

⁹ Karl Gostner (2000).

Committee and the Executive Council, and may be involved in the activities of other chambers on an *ad hoc* basis. The involvement of various civil society groups in economic and social dialogue in NEDLAC is similar to the structure of the NESF in Ireland. Since 1995, NEDLAC has negotiated many pieces of legislation, concluded codes of good practice on numerous issues, recommended the ratification of many International Labour Conventions and published various reports on socio-economic conditions and industry performance.

The Presidential Jobs Summit process began in 1997, bringing together the interests of business, labour, the community and the Government, and covering matters ranging from public works programmes to the implementation of pilot programmes to explore new forms of housing delivery. The Framework Agreement under the Public Service Job Summit was concluded in January 2001 when the parties faced “the twin challenge of transforming the public service to improve the reach, depth, efficiency and quality of social service delivery, whilst at the same time improving the conditions of service, quality and sustainability of jobs for employees of the public service”.¹⁰

Earlier, in 1995, the Public Service Co-ordinating Bargaining Council (PSCBC) was established in terms of Section 35 and 36 of the Labour Relations Act, No. 66, and its Constitution registered in 1997. The objectives of the PSCBC were, among other things, to: (1) enhance labour peace in the public service; (2) promote a sound rela-

tionship between the State as employer and its employees; (3) negotiate and bargain collectively, in terms of the Act and the Constitution, to reach agreement on matters of mutual interest to the employer and employees represented by the trade union members of the Council; (4) provide mechanisms for the resolution of disputes between the employer and unions within the registered scope of the Council, where the employer has the requisite authority to resolve such disputes; (5) conclude, supervise and enforce collective agreements; (6) comply with its duties and functions in terms of the Act and the Constitution, and (7) consider and deal with such other matters as might affect the interest of the members of the Council.¹¹

The Framework Agreement reached at the Public Service Job Summit by the members of the PSCBC covers wide-ranging issues, including: the transformation of the public service; principles underpinning the transformation and restructuring process; improving participation in the budgetary processes, and the procedures and processes to govern the transformation and restructuring process at all PSCBC levels. One of the points agreed was that “while national policies determine the basic structure of the public service, choices on technology, work organisation and skills also affect the size of these sectors/departments. Extreme care and caution should be taken in making these choices in order to minimise the negative impact on individual employees, their families and the community at large”.¹²

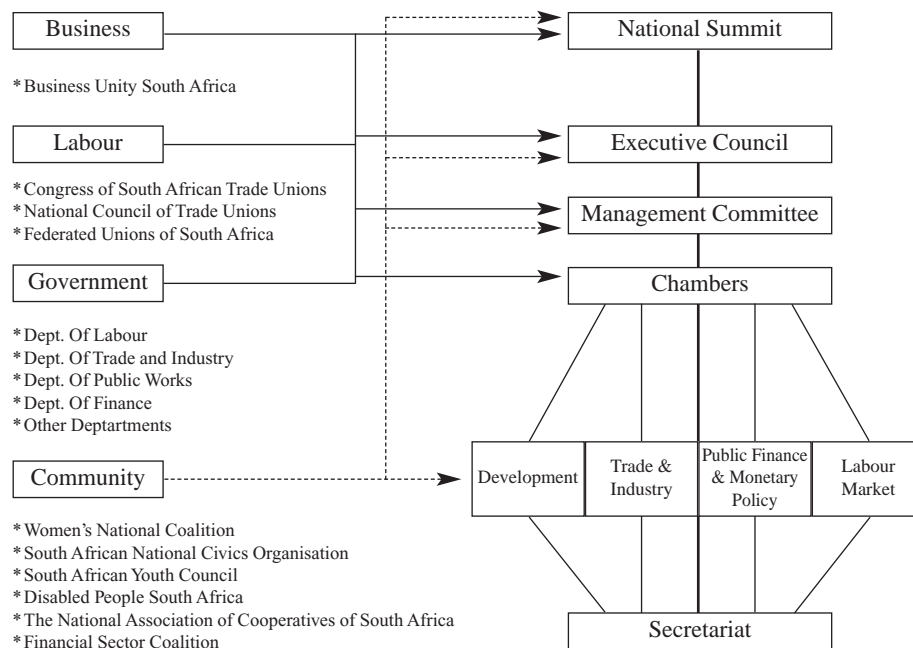
¹⁰ Preamble in the Framework Agreement of the Public Service Job Summit, 29-31 January 2001, University of the North – Pietersburg, South Africa.

¹¹ Source: www.pscbc.org.za

¹² The Framework Agreement, op.cit.

Figure 4.
Structure of NEDLAC
(National Economic Development and Labour Council)

Constituencies



Source: www.nedlac.org.za/about/index.html

2.2.4. Barbados¹³

The Whitley Council system of social dialogue in the UK is still being followed in some of its former colonies, e.g. India and Barbados. A structured dialogue was first instituted in the civil service in Barbados in 1944. However, it fell into abeyance in the 1970s. Other forms of social dialogue have evolved since then. A period of ad hoc tripartite consultations led to the establishment, in 1990, of the National Economic Council (NECC), comprising the Government, the

Barbados Workers' Union (BWU) and the Barbados Employers' Confederation (BEC), plus other private-sector organisations such as Chambers of Commerce. This body met regularly to elicit the views of the social partners in addressing the emerging economic problems facing the country.

When the Government was about to implement a structural adjustment programme (SAP) in 1991, the workers rejected some of the measures,

¹³ Tayo Fashoyin (2001).

particularly the devaluation of the national currency, believing that this would have an adverse impact on society. They felt that the SAP did not adequately take into account the negative social consequences and that it did not equitably distribute the burden of its measures. While the unions were at the centre of the general protest, employers' organisations and several civil society and community groups, including churches, joined in the protest against what were perceived to be unfair measures.

This popular protest pointed out the threat the SAP measures posed to social peace. Thus, effective social dialogue became an urgent necessity for ensuring labour peace and social progress. The protest also underlined the fact that there had been little consultation by the Government with stakeholders concerning its negotiations with the IMF and the eventual introduction of the adjustment programme. Any consultation that had taken place was mainly of an informational nature. Church leaders became directly involved as mediators in the ensuing stalemate between the Government on the one hand and the workers and the private sector on the other. This contributed to the building of bridges and trust between the various parties, leading to a cordial atmosphere for tripartite collaboration and the eventual negotiation of a first protocol in 1993.

In the First Protocol: Economic Stabilisation and Collective Bargaining (1993-95), the tripartite partners agreed to the broad principles and objectives of an incomes policy for sustained economic development: (1) a commitment to maintain an exchange rate of BDS\$2 to US\$1; (2) the expansion of the economy through competitiveness; (3) the promotion of access to employment, and (4) a reduction in the incidence of social dislocation caused by high unemployment. All parties in Barbados agreed that this protocol was successful in achieving its stated objectives: no devaluation of the Barbados dollar ensued; the economy stabilised; social partnership had been launched; productivity had become a major instrument for awarding wage increases, and the performance-related payment system had become a popular management tool.

The successful implementation of the first protocol spurred the desire for the Second Protocol: Forging Partnership on Wage Restraint and Productivity (1995-97), and the Third Protocol: Building a Sustainable Social and Economic Partnership (1998-2000). The determination to continue with the social partnership even after the restoration of economic stability is a significant demonstration of the useful role social dialogue can also play in times of economic prosperity. The second protocol moved from a policy of wage freeze, which was part of the economic stabilisation policy outlined in the first protocol, to a policy of wage restraint, by emphasising productivity and promoting a mechanism for restraining increases in prices, wages and other compensation payments in order to make the country's goods and services more competitive. The new policy objective was to be achieved through the introduction of a performance-based pay system, in which job evaluation and negotiated job-enhancement exercises were to be emphasised. The third protocol, described as a "social compact", emphasised the social partnership as an all-inclusive one, in which all segments of society were to be involved in socio-economic policy formulation and implementation. A formal framework for social partnership was set up under the second protocol, and further revised under the third one, as shown in Box 4.

Since the 1990s, successive administrations have committed themselves to public service reform. Representatives of civil servants have been given the opportunity to influence the process. A review of general orders for the public service, public service legislation, productivity bargaining models and the restructuring of the Labour Department were among the myriad subjects taken up in the discussions on reform. In 1999, when the Government reneged on an earlier commitment and unilaterally retrenched workers, the unions were successful in getting them reinstated. They also succeeded in getting the Government to strengthen the investigative arm of the price control division of the Ministry of Trade because, without price restraint, wage restraint is not possible.

The late 1990s witnessed the politics of inclusion. The Government included representatives of trade unions in its delegations to important regional and international meetings like the WTO, paying the expenses of the trade union delegates and providing technical support to workers' representatives. At the regional level, the Caribbean Congress of Labour was granted observer status at the CARICOM (Caribbean Community and Common Market) heads of government meetings. Responding to union

demands, the Government has also restructured the Public Health Inspectorate and the Labour Ministry. The social compact in Barbados has, since 1993, helped hasten the settlement of disputes in both the private and public sectors, and enhanced the country's reputation for industrial stability. These developments are taking place in an environment of healthy collaboration, as opposed to confrontation or co-option and absorption.

Box 4. Members of the Main Committee for Social Partnership in Barbados
(as revised by the Third Protocol)

Government:

- Prime Minister as Chairperson
- Head of the Civil Service
- Chief Personnel Officer, Civil Service
- Director of Finance and Economic Affairs
- Two ministers
- Permanent Secretary, Ministry of the Civil Service
- Chief Labour Officer, Dept of Labour

Employers:

- Equal number of representatives from the Barbados Private Sector Agency (BPSA)

Workers:

- Equal number of representatives from the Congress of Trade Unions and Staff Association of Barbados (CTUSAB)

Source: Tayo Fashoyin (2001).

2.2.5. United States of America¹⁴

Palast et al. present a detailed analysis of how (a) completely open public access to information and (b) full public participation in setting the prices and standards of services have contributed to the success of the United States system of regulation in energy pricing. This two-part formula is described by the authors as “democratic regulation”. Every aspect of United States regulation is wide open to the public. There are no secret meetings, no secret documents. Private meetings between regulators and the companies are prohibited by law. All citizens and groups, such as individuals, industrial customers, government agencies, consumer groups, trade unions, the utility itself, even its competitors, are invited to take part. Although the United States has official consumer protection agencies, this does not preclude consumers or individuals from participating.

Workers and customers in the United States have the right to challenge private utilities in public hearings. However, they may not be able to match the ability of large corporations with huge financial resources. Yet, compared with the virtual absence of citizens’ rights in many developing countries, the American system appears fair.

Regulatory hearings in the United States constitute another form of social dialogue. Over the years, five essential principles appear to have guided utility rate setting:

- 1) “Due process” rights of participation and transparency must be observed.
- 2) All rates must be “just and reasonable”.
- 3) Utility investors have a right to demand that their investments are not arbitrarily confiscated.
- 4) The various interests must be balanced against each other.
- 5) Prices must be related to costs.

Democratic regulation does not work unless there are strong advocates from all participants – labour, industry, government, domestic con-

sumers, environmentalists and NGOs. Palast et al. suggest the following simple guidelines for effective advocacy:

- aim high;
- become informed;
- participate;
- forge alliances, and
- persist

Most governments profess a commitment to social dialogue and transparency, but not many translate this into practice. Quite a few rely more on “expert consultants”, specialist civil servants, industry managers, international agencies, accountants and advisers to share information and decide, in secret, on standards of service, price limits and terms of foreign ownership. At most, unions and other public organisations are given a limited right of consultation and commitment, and are barred from full knowledge of the bargaining and discussions behind closed doors. A process of open social dialogue between workers, enterprises and government, the freedom to express views, to open the secrets of monopolies and government agencies, to debate and publish facts and opinions in public, to organise as consumers, unions and enterprises for a common purpose, to challenge and criticise each other’s views and assertions, to force government and industry to justify their actions and seek the public’s assent – that is democracy.

2.2.6. New Zealand¹⁵

During the 1990s, New Zealand went through a period of restructuring, privatisation, down-sizing and outsourcing. The Public Service Association (PSA) felt that the ten years of reform had fragmented the public sector and had left the public’s faith in quality public services shattered. It also thought that, with its privatised or corporatised public services, the New Zealand economy had become more vulnerable to the politics of globalisation. The trade unions in the public sector had been considered “bargaining agents” only when the contract had expired, but, under the pressure

¹⁴ Gregory Palast, Jerrold Oppenheim and Theo MacGregor (2001).

¹⁵Public Service Association: “What is Partnership for Quality?” at www.psa.org.nz

of reform, their membership dwindled and they were seen as almost irrelevant. Under such circumstances, trade unions became reactive, rather than proactive.

The PSA members were well aware of what they were opposed to, but were unable to offer any alternatives. In effect, they were sidelining themselves. They increasingly sought a voice in shaping better industrial relations and a better work environment. They sought not only fair pay but also secure and satisfying jobs, recognition and respect, and quality management practices. This led to the development of the “Partnership for Quality” based on the belief that the PSA and its members had much to offer through greater involvement in day-to-day workplace issues. This was PSA’s strategy for achieving, together with the Government and employers, quality public services, plus industrial, political, economic and social progress.

The key principles of the “Partnership for Quality” are: (1) **interdependence**, in the sense that there is a shared commitment by the PSA and the employer to make the workplace a success; (2) **independence**, in that the PSA is a legitimate and independent organisation with its own views on policies for the public services and reform; (3) **quality** – the focus of all bipartite interactions should be on quality service delivery through quality jobs and quality management practices, which involves the PSA in a wide range of issues beyond traditional bargaining and grievance resolution; (4) **openness**, which is a prerequisite for a successful partnership that relies on honesty, mutual respect and trust; (5) *involvement*, since a meaningful partnership relies on the active involvement of the unions in decision making, and (6) **influence**, as workers having real influence over their work environment is what the partnership is all about. The entire “Partnership for Quality” agreement is presented in Box 5.

Box 5. An Agreement Between the Minister of State Services and the Public Service Association – 1 May 2000

Partnership for Quality

The Prime Minister has stressed the Government’s determination to construct a quality public service. She has described the features of a quality public service, recognised that the PSA is promoting an active partnership approach as a means of achieving this, and endorsed such an approach.

This statement records the agreement between the Minister of State Services and the New Zealand Public Service Association on what a partnership for quality means, and how it can be developed.

Partnership for Quality is an active relationship based on recognition of a common interest to secure the viability and prosperity of Government departments and agencies. It involves a continuing commitment by the PSA to improvements in quality, and the acceptance of government employees and the union as stakeholders with rights and interests in decisions affecting employees’ work and employment.

Partnership for Quality involves common ownership of plans, issues and problems, and involves the direct collective participation of employees through their union and an investment in their training, personal development and their working environment.

This investment in the quality of work and the quality of public servants is a central component in the development of a quality public service, and in maintaining the integrity and responsiveness of the public service.

Within the public service, Crown Research Institutes (CRIs), and other Crown Entities as agreed, Partnership for Quality will:

- Encourage employers, managers and the PSA to establish co-operative and open relationships.
- Enhance the effectiveness of departments and agencies and their ability to provide quality services and outcomes.
- Create the basis and procedures for decisions on the department or agency's future and capacity.
- Enhance the quality of the working environment to improve the satisfaction of, and benefits from, public service employment.
- Enable employees to collectively participate in the management of their workplaces to the extent possible while, in the public service, recognising the Chief Executive's ultimate responsibility for management under the State Sector Act, or, in the case of CRIs and Crown Entities, the Public Finance Act or other enabling legislation.

Practical Measures

The Government and the PSA recognise that the move to a partnership culture will require a radical change in attitudes and approaches.

The process will involve a work programme between the Government, the State Service Commission (SSC) and PSA that includes training of all involved in the process, provision of support and technical assistance, dissemination of best practice, and enterprise level negotiation and activity.

The PSA and the SSC, in consultation with the relevant Chief Executive, will identify the priorities, co-ordination, and resourcing issues for each party of the implementation of partnership programmes.

The precise form of a final work programme will evolve through communication between the SSC and the PSA, and the PSA and relevant Ministers. The Minister of State Services and the PSA agree to consult on a regular basis to assess the extent to which the work programme is succeeding in changing attitudes and approaches and developing a culture consistent with the intentions of this agreement.

Signed 1 May 2000

Hon. Trevor Mallard
Minister of State Services

Kathy Higgins
PSA President

Source: www.psa.org.nz

2.2.7 Philippines¹⁶

The process of tripartite consultation was streamlined in 1990 with the establishment of the national Tripartite Industrial Peace Council (TIPC). The TIPC operates at national, regional and sectoral level. It has 12 government members representing the Departments of Labour, Trade and Industry, the Interior and Local Government, Agriculture, the Environment and Natural Resources, Energy, Agrarian Reform, Tourism, Social Welfare and Development, Transport and Communication, and the National Economic Development Authority. It also has 20 members each from employers' and workers' organisations. Half of the employers' representatives come from the Employers' Confederation of the Philippines (ECOP), while the rest represent other interest groups, such as the Personnel Managers' Association of the Philippines, the Philippine Exports Association and Philippine Chambers of Commerce and Industry. Workers' representatives traditionally come from the Trade Union Congress of the Philippines (TUCP), the Labour Advisory Consultative Council (LACC), the National Confederation of Labour (NCL), the Alliance of Progressive Labour (APL) and the Coalition of Progressive and Patriotic Workers (KPMW). A number of independently registered unions are usually active at regional or industry level. The TIPC's executive committee comprises seven members each from the government and the employers' and workers' organisations.

The TIPC provides an overall policy framework for promoting better industrial relations in the belief that good industrial relations and labour market policies will encourage investment in the

country. The tripartite conference held in 1994 resulted in the adoption of a tripartite Joint Statement in support of structural reforms and trade liberalisation. Subsequent accords have also dealt with important subjects for harmonious industrial relations, such as globalisation, human resource development, safety and health, employment, employment security, rules on contracting and sub-contracting, and wages and incomes policy. The process of information sharing, consultation and negotiation in the TIPC has contributed to broader consultation among the various stakeholders and has improved the formulation of public policy on labour matters and labour administration. The TIPC mechanism has also played a significant role in building confidence, primarily among the trade unions, but also between them and the other partners.

One critical issue is the need for both employers' and workers' organisations to broaden the scope of their representation in order to provide a voice to other segments in society not yet represented in the TIPC. This challenge is greater in the labour movement, particularly due to the endemic multiplicity and fragmentation of unions and the inevitable competition between them. Non-registered unions, mutual aid associations, unorganised workers and those in the informal sector do not participate in the consultation process among workers and thus have little say on important labour market issues. The challenge for workers' organisations, therefore, is to overcome such a divisive tendency and to broaden their alliance to all segments of working people so as to become a stronger partner in social dialogue.

¹⁶ Tayo Fashoyin (2003).

Part 3: Practical Steps and Checklists for Strengthening Social Dialogue

Successful social dialogue depends on:

- a **philosophy** that espouses mutual trust among different stakeholders, in accordance with the values of a democratic society;
- an **attitude** that values and nurtures a climate conducive to sharing information and building trust;
- a **win-win approach** that focuses on the issue rather than the person, multiplying options and establishing rules/procedures to ensure fairness, balancing equity and efficiency, and
- a **process** that facilitates problem solving and decision making to enhance the effectiveness of public services as well as the quality of the working conditions of public servants.

Social dialogue should be an inclusive process in which issues are deliberated on, keeping in mind the interests of all stakeholders. Its success depends on openness in communication, commitment to solving problems, making decisions through the exchange of information, discussion and dialogue.

This section provides practical steps and checklists for strengthening social dialogue in the reform of public services. The final section contains topics to consider when evaluating or formulating social dialogue in the reform of public services.

3.1. Public Service Reform Context – Situation Analysis

The processes and dynamics of social dialogue must be tailored to suit the particular context in

which it takes place. Considering questions such as the following can help provide the framework and insight for a better analysis of the situation and, thus, for the formulation of appropriate strategies:

- What is the current situation? What are the problems? What are the priorities? What needs to be done?
- What are the objectives of the proposed reforms?
- How should the reforms be carried out?
- How should the implementation perspective be taken into account in the planning process?
- Have stakeholders been involved from the start?
- Who are the stakeholders? Have the key stakeholders been identified? What are their expectations? What are the possible consequences to them? What contributions can they make to maximising benefits and minimising the adverse effects to them and to other stakeholders?
- What is the appropriate time to begin? Has the necessary preparation been done? Are there sufficient resources? Have all the stakeholders been taken into full confidence?
- Drastic and wholesale reforms in the public services are difficult. In that case, should reforms start in a gradual, incremental way? Should reform begin as pilot projects in one or a few areas/sectors and then be extended on the basis of experience gained and lessons learned?

3.2. Goals and Priorities of Reforms

In some countries, public service reforms are oriented to facilitate the transition from a planned to a market economy. In others, under the pressure of growing public-sector deficits, they are undertaken to make services more efficient and effective. Whatever the case, dealing with employment issues is a major challenge. In most developing countries with a large agricultural base and informal sector, there may be a special need for expanding the role of the government and hence the public service. In others, this may not be the case. Policy goals and priorities provide the direction and thrust of the reforms. Some of the key questions to be addressed in this regard are:

- What are the policy goals and what is their order of priority?
- How are the goals and priorities identified? Have the stakeholders been involved/consulted before they have been formulated?
- What changes, if any, are required in the public service structure to carry out the reforms? What complementary changes, if any, are required in the legal and regulatory framework?
- What resources, including financial and human, are needed, and where will they be obtained?

3.3. Policy Issues in Public Service Reform¹⁷

The reform of public services should be guided by the principles of government's accountability, objectivity and impartiality, as well as the political neutrality of the civil service and civil servants. Government should enunciate clear principles and effective strategies for the reform of the public services and take a coherent and co-ordinated approach to improving, modernising and delivering value-added services through social partnership.

During the reform process, preferably at the time of its conceptualisation, it is useful to discuss the following issues:

- 1) What has been the role and contribution of workers and employers to the reform process, both in formulating reform objectives and their implementation?
- 2) What would be the consequences of the reforms for workers and employers?
- 3) Have the social and economic costs of reforms been evaluated?
- 4) What is the underlying justification for services to be delivered publicly:
 - lack of alternative, competitive sources of external supply;
 - consistency, quality and reliability of service delivery;
 - integrity, impartiality and independence;
 - confidentiality, security and political sensitivity;
 - equality of treatment, or
 - overriding public interest?
- 5) If public services are to be privately provided, do the reforms ensure that there is a level playing field between public and private providers of public services?
- 6) Is it possible for profit-oriented organisations to maintain the public service ethos of equality of treatment, reliability of service delivery and overriding public interest?
- 7) What measures, if any, need to be put in place to ensure that the search for effectiveness and profit does not undermine the public service ethos?
- 8) Can lessons be learned from the experience of private-sector involvement in public services in other countries?
- 9) Do the views, motivations and attitudes of public servants differ from those of workers in the private sector? How do such differences, if any, affect the delivery of public services?

¹⁷ Adapted from Prospect (2001).

- 10) What kind of accountability is the most effective for ensuring public service effectiveness?
- 11) Do new patterns of public service provision (e.g. private-public partnerships) require new forms of accountability?
- 12) What measures should be put in place to ensure better accountability under private-public partnerships?
- 13) Do the demands of commercial confidentiality threaten the accountability of public services when the private sector becomes involved?
- 14) Does the government's programme for the reform of the public services have sufficient focus on the users and consumers of those services? How can the position of users and consumers be strengthened?

3.4. Human Resource Management Issues

Human resource development issues assume centre stage in the context of the reform of the public services if we expect reforms to bring about the intended results in terms of efficiency and improved service delivery. Some of the key issues that social dialogue can address are:

- Which skills will become redundant? Which skills will continue to be relevant? What new competencies will be required?
- Who (at what levels and how many) will (a) lose their job? (b) retain their job? (c) need retraining and redeployment?
- How will the concerns of the affected people be addressed with regard to jobs, income and social security?
- What mechanisms are needed to maintain and develop employees' skills and capacity?
- How are the training needs identified and met?
- How will reforms affect union representation and collective bargaining?
- How will the relative pay and working conditions of public service personnel compare with their counterparts in the private sector after the reforms?

3.5. Implementation and Monitoring Issues

In hierarchical developing economies, the planning process does not adequately address implementation issues. For successful reforms in the public services, social dialogue must focus on implementation issues:

- What do we want to monitor?
- Why do we want to monitor what we want to monitor? Is there a strategy for the necessary follow-up and review?
- How do we propose to monitor? How do we communicate – feed forward and get feedback?
- What mechanisms are in place for the effective sharing of information and two-way communication?
- How will any shortfall in resources or outcomes be addressed?
- How will the needs of compensating and training affected employees be addressed?
- How can the sustainability of specific reform measures be assessed?
- What is the level of sustainability? Can it be improved?
- Who will be part of the monitoring mechanism?
- How often is monitoring to be carried out?

3.6. Review Exercises

The following can form the basis of training workshop discussions and should be carried out when formulating or evaluating social dialogue in the reform of public services:

- a) Examine the context of social dialogue and list the prerequisites for effective social dialogue.
- b) Discuss/review the agenda – intent and content – of public service reforms and examine the goals and concerns (or issues) from the viewpoint of different stake holders (government/employer, civil servants and their organisations, users/user groups, etc.).

- c) Suggest alternative ways of achieving the goals and outcomes that will meet the expectations of all stakeholders.
- d) Identify the principles/procedures to resolve issues/grievances of stakeholders in the reform process.
- e) Discuss the best practices described in the *Practical Guide* and also share any other experiences that you are familiar with. List the key success factors contributing to the effectiveness of social dialogue and examine their relevance in your national context. Consider the possibility of replicating them, with the necessary adaptations, in your country.
- f) Study the practical steps and checklists given in the Guide and discuss each of the issues separately from the different viewpoints of the various stakeholders.
- g) Study the relevant ILO Conventions in the Annexe. List the steps to be taken by the government/employer and the worker for establishing: (i) effective consultative mechanisms, and (ii) other measures to promote social dialogue for improved public service delivery.

Annexe: Excerpts from Selected International Labour Standards

Excerpts from the relevant International Labour Standards on social dialogue, particularly those more directly addressed to public service, are reproduced here:

Convention No. 87

Freedom of Association and Protection of the Right to Organise Convention, 1948 (Convention concerning Freedom of Association and Protection of the Right to Organise).

Part I. Freedom of Association

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1) Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2) The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 thereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 thereof.

Article 8

1) In exercising the rights provided for in this Convention, workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2) The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1) The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2) In accordance with the principle set forth in paragraph 8 or article 19 of the Constitution of the International Labour Organisation, the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Part II. Protection of the Right to Organise

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

Convention No. 98

Right to Organise and Collective Bargaining Convention, 1949 (Convention concerning the Application of Principle of the Right to Organise and to Bargain Collectively).

Article 1

1) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2) Such protection shall apply more particularly in respect of acts calculated to:

a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

b) cause the dismissal of, or otherwise prejudice, a worker by reasons of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1) Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other, or each other's agents or members, in their establishment, functioning or administration.

2) In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5

1) The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2) In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation, the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Convention No. 135

Workers' Representatives Convention, 1971 (Convention concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking).

Article 1

Workers' representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements.

Article 2

1) Such facilities in the undertaking shall be afforded to workers' representatives as may be appropriate in order to enable them to carry out their functions promptly and efficiently.

2) In this connection, account shall be taken of the characteristics of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

3) The granting of such facilities shall not impair the efficient operation of the undertaking concerned.

Article 3

For the purpose of this Convention, the term "workers' representatives" means persons who are recognised as such under national law or practice, whether they are:

a) trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions, or

b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking, in accordance with provisions of national laws or regulations or of collective agreements, and whose functions do not include activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

Article 4

National laws or regulations, collective agreements, arbitration awards or court decisions may determine the type or types of workers' representatives which shall be entitled to the protection and facilities provided.

Article 5

Where there exist in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.

Article 6

Effect may be given to this Convention through national laws or regulations or collective agreements, or in any other manner consistent with national practice.

Convention No. 151

Labour Relations (Public Service) Convention, 1978 (Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service).

Part I: Scope and Definitions

Article 1

1) This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour conventions are not applicable to them.

2) The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

3) The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

Article 2

For the purpose of this Convention, the term “public employee” means any person covered by the Convention in accordance with Article 1 thereof.

Article 3

For the purpose of this Convention, the term “public employees’ organisation” means any organisation, however composed, the purpose of which is to further and defend the interests of public employees.

Part II: Protection of the Right to Organise

Article 4

1) Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

- 2) Such protection shall apply more particularly in respect of acts calculated to:
- a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees’ organisation, or
 - b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees’ organisation or because of participation in the normal activities of such an organisation.

Article 5

- 1) Public employees’ organisations shall enjoy complete independence from public authorities.
- 2) Public employees’ organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.
- 3) In particular, acts which are designed to promote the establishment of public employees’ organisations under the domination of a public authority, or to support public employees’ organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

Part III: Facilities to be Afforded to Public Employees' Organisations

Article 6

1) Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2) The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3) The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

Part IV: Procedures for Determining Terms and Conditions of Employment

Article 7

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organisations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

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.

Part VI: Civil and Political Rights

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

Convention No. 154

Collective Bargaining Convention, 1981 (Convention concerning the Promotion of Collective Bargaining).

Part I: Scope and Definitions

Article 1

1) This Convention applies to all branches of economic activity.

2) The extent to which the guarantees provided in this Convention apply to the armed forces and the police may be determined by national laws or regulations or national practice.

3) As regards the public service, special modalities of application of this Convention may be fixed by national laws or regulations or national practice.

Article 2

For the purpose of this Convention the term “collective bargaining” extends to all negotiations which take place between an employer, a group of employers or one or more employers’ organisations, on the one hand, and one or more workers’ organisations, on the other, for:

- a) determining working conditions and terms of employment, and/or
- b) regulating relations between employers and workers, and/or
- c) regulating relations between employers or their organisations and a workers’ organisation or workers’ organisations.

Article 3

1) Where national law or practice recognises the existence of workers’ representatives as defined in Article 3, sub-paragraph (b) of the Workers’ Representatives Convention, 1971, national law or practice may determine the extent to which the term “collective bargaining” shall also extend, for the purpose of this Convention, to negotiations with these representatives.

2) Where, in pursuance of paragraph 1 of this Article, the term “collective bargaining” also includes negotiations with the workers’ representatives referred to in that paragraph, appropriate measures shall be taken, wherever necessary, to ensure that the existence of these representatives is not used to undermine the position of the workers’ organisations concerned.

Part II: Methods of Application

Article 4

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or in such other manner as may be consistent with national practice, be given effect by national laws or regulations.

Part III: Promotion of Collective Bargaining

Article 5

- 1) Measures adapted to national conditions shall be taken to promote collective bargaining.
- 2) The aims of the measures referred to in paragraph 1 of this Article shall be the following:
 - a) collective bargaining should be made possible for all employers and all groups of workers in the branches of activity covered by this Convention;
 - b) collective bargaining should be progressively extended to all matters covered by sub-paragraphs (a), (b) and (c) of Article 2 of this Convention;
 - c) the establishment of rules of procedure agreed between employers’ and workers’ organisations should be encouraged;
 - d) collective bargaining should not be hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules, and
 - e) bodies and procedures for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining.

Article 6

The provisions of this Convention do not preclude the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machinery or institutions, in which machinery or institutions the parties to the collective bargaining process voluntarily participate.

Article 7

Measures taken by public authorities to encourage and promote the development of collective bargaining shall be the subject of prior consultation and, whenever possible, agreement between public authorities and employers' and workers' organisations.

Article 8

The measures taken with a view to promoting collective bargaining shall not be so conceived or applied as to hamper the freedom of collective bargaining.

Bibliography and Recommended Reading

Auer, Peter, (ed.): *Changing Labour Markets in Europe: The Role of Institutions and Policies* (Geneva, ILO, 2001).

Daza Perez, José Luis: *Social Dialogue in the Public Service*, Social Dialogue Working Paper No. 11 (Geneva, ILO, 2002).

De Meyer, Tim: “Collective Bargaining and Freedom of Association in Public Service”, Paper presented at ILO’s Asia-Pacific Tripartite Conference on Declaration, Jakarta, February 2002.

DSE, ILO and WHO: *Public Service Reforms and their Impact on Health Sector Personnel*, Proceedings of Round Table Conference, Berlin, 13-15 October 1999 (Berlin, German Foundation for International Development (DSE), 2000).

Fashoyin, Tayo: *Fostering Economic Development through Social Partnership in Barbados*, Social Dialogue Working Paper No. 1 (Geneva, ILO, 2001).

Fashoyin, Tayo: *Social Dialogue and Labour Market Performance in the Philippines*, Social Dialogue Working Paper No. 14 (Geneva, ILO, 2003).

Kostner, Karl: *Social Dialogue in South Africa*, Social Dialogue Paper No. 5 (Geneva, ILO, 2000).

Gernigon, Bernard, Odero, Alberto and Guido, Horacio: *Collective Bargaining: ILO Standards and Principles of the Supervisory Bodies* (Geneva, ILO, 2000).

Hodges Aeberhard, Jane: *Comparative Study of Contents of Civil Service Statutes*, Social Dialogue Working Paper No. 5 (Geneva, ILO, 2001).

ILO: *Decent Work* (Geneva, 1999).

ILO: *Globalisation and Change: Social Dialogue and Labour Market Adjustment in the Crisis-affected Countries of East Asia: Background* (Bangkok, ILO ROAP, 1999a).

ILO: *Guidelines on Social Dialogue in Public Emergency Services in a Changing Environment*, adopted by the Joint Meeting on Public Emergency Services, Geneva, 27-31 January 2003.

ILO: IFP/DIALOGUE website on “Social Dialogue” at www.ilo.org/public/english/dialogue/ifpdial/sd/index.htm accessed on 07.10.2004.

Ishikawa, Junko: *Key Features of National Social Dialogue: A Social Dialogue Resource Book* (Geneva, ILO, 2003).

O’Donovan, Patricia: “The Case of Ireland”, in *The Role of Civil Society in Promoting Decent Work: Lessons from Innovative Partnerships in Ireland, New Zealand and South Africa*, International Institute for Labour Studies Discussion paper DP/124/2000 (Geneva, ILO, 2000).

Olsen, Torunn: *Best Practices in Social Dialogue: A Case Study of Norwegian Agency for Development and Co-operation*, Sectoral Working Paper No. 191 (Geneva, ILO, 2003).

Palast, Gregory, Oppenheim, Jerrold and McGregor, Theo: *Democratic Regulation: A Guide to Control of Privatised Public Services through Social Dialogue*, Sectoral Working Paper No. 166 (Geneva, ILO, 2000).

Paxton, Sally P: "Statement at the 27th World Congress of Public Services International", Ottawa, Canada, 2-6 September 2002.

Prospect¹⁸: "Public Administration Select Committee's Inquiry into Public Service Reform", a Memorandum dated 6 December 2001, U.K.

PSCBC (Public Service Co-ordinating Bargaining Council): "Framework Agreement" from the Public Service Job Summit, 29-31 January 2001, held at the University of the North – Pietersburg, South Africa, at www.sapu.org.za/agreements/pscbc.htm.

Public Service Association: "What is Partnership for Quality?" at www.psa.org.nz.

Trebilcock, A. et. al.: *Towards Social Dialogue: Tripartite Co-operation in National Economic and Social Policy-making* (Geneva, ILO, 1994).

¹⁸ Prospect is a trade union founded in January 2000 as a result of a merger of two trade unions in the U.K.: the Institution of Professionals, Managers and Specialists (IPMS) and the Engineers' and Managers' Association (EMA).