



International  
Labour  
Organization

# ILO Curriculum on Building Modern and Effective Labour Inspection Systems

Module

**1**

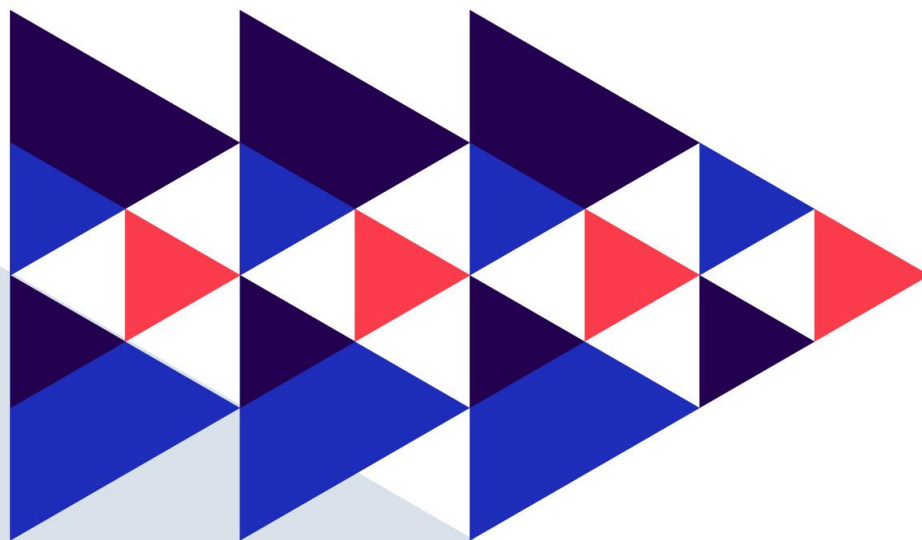
- ▶ **The framework of a labour administration system**



ILO Curriculum on Building Modern and  
Effective Labour Inspection Systems

▶ Module **1**

# The framework of a labour administration system





### ► What this module is about

This module illustrates the concept, roles and functions of a labour administration system as defined in the ILO Labour Administration Convention, 1978 (No. 150) and Labour Administration Recommendation, 1978 (No. 158).

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### ► Objectives

At the end of this module, participants will be able to:

- describe the key roles and functions of labour administration with reference to ILO Convention No. 150 and Recommendation No. 158;
  - situate a labour inspection system in the broader framework of a labour administration system.
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## ▶ 1. Introduction

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Labour inspection is a sub-system embedded in the wider system of labour administration; it is a fundamental instrument in implementing decent work. A functioning labour administration is a prerequisite for an effective labour inspection system and a basic condition for good governance in the world of work. The positive impact of a good labour administration system on employees' conditions of work and the promotion of their rights, as well as on sustainable economic growth, is undeniable.

To be able to analyze the role of labour inspection and reflect on how to strengthen and modernize it, it is important to have a broader vision of the overall labour administration system, its roles and functions.

This module provides a general view of labour administration, with reference to two key instruments of the International Labour Organization (ILO): the Labour Administration Convention, 1978 (No. 150) and the Labour Administration Recommendation, 1978 (No. 158).

The module will equip labour inspectors with a general background to better understand their roles and functions in the wider framework of the labour administration system, appreciate links and synergies with other functions and services, and gain a clearer vision of the importance of strong and effective labour administration and labour inspection for promoting social justice, decent work and good governance.

## ▶ 2. Historical overview

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The concept of a labour administration system cannot be grasped without first appreciating the historical evolution leading to the design and adoption of ILO Convention No. 150.

When the ILO was established in 1919, the primary focus of the organization was on setting international labour standards in order to improve the working conditions and social well-being of workers worldwide.

International labour standards have grown into a comprehensive system of instruments on work and social policy, backed by a supervisory system designed to address all sorts of problems in their application at the national level. They are the legal component in the ILO's strategy for governing globalization, promoting sustainable development, eradicating poverty and ensuring that people can work in dignity and safety.

International labour standards include international labour Conventions and Recommendations. Some standards deal with fundamental labour rights,<sup>1</sup> while others regulate conditions of work and promote good governance.

Before the development of a specific convention dealing with labour administration, a wide set of standards had already been adopted, covering different aspects of labour administration, including rules applicable to labour inspection and employment services. The following Conventions are particularly relevant:

- ▶ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- ▶ Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- ▶ Labour Inspection Convention, 1947 (No. 81)
- ▶ Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- ▶ Employment Service Convention, 1948 (No. 88)
- ▶ Employment Policy Convention, 1964 (No. 122)
- ▶ Human Resources Development Convention, 1975 (No. 142)
- ▶ Tripartite Consultation Convention (International Labour Standards), 1976 (No. 144)
- ▶ Social Security Convention, 1952 (No. 102)
- ▶ Migration for Employment Convention, 1949 (No. 97)

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<sup>1</sup> Freedom of Association and Protection of the Right to Organise (Convention No. 87), Right to Organise and Collective Bargaining (Convention No. 98), Abolition of Forced Labour (Convention Nos. 29 and 105), Equality of Opportunities and Treatment (Convention Nos. 111 and 100), Elimination of Child Labour and especially its worst forms (Convention Nos. 138 and 182).



The establishment of the ILO in 1919 led to an evolution of national labour administration systems as it enhanced the position of ministries dealing with labour. Furthermore, the Treaty of Versailles set social goals involving the strengthening of labour inspection services with a view to guaranteeing workers' rights. During the two world wars, a new type of ministry began to emerge, consisting of units dealing with labour and social questions.

In 1928, a resolution was adopted by the International Labour Conference of the ILO, inviting governments to set up:

*an adequate and specialized department, capable of performing successfully, widely and fully the task of preparing, amending and securing the application of all the acts and regulations relating to labour, and specially as regards inspection services, relations with the International Labour Office advisory bodies and the supply of information, the peaceful settlement of industrial disputes and the compilation and publication of statistics, reports and all documents dealing with labour.*

As a result, governmental constituents began to create labour departments.

As early as 1939, trade unionism had been growing in Europe and North America, becoming a powerful force and promoting the role of ministries of labour in respect of industrial relations issues and employment conditions.

The Declaration of Philadelphia (adopted in 1944) redefined the mandate of the ILO, stating that "labour was not a commodity", thus helping to reposition the role of labour administration.

The role of ministries of labour was strengthened during the post-war period as there was a need to re-adapt to peace-time production. Full employment became a national priority. In industrialized countries, social security and occupational safety and health were progressively recognized as additional objectives.

The Meeting of Experts on Labour Administration held in 1973 made recommendations on the need for a Labour Administration Convention in order to:

- ▶ protect the relatively weak existing systems of labour administration and avoid their marginalization in national decision-making on social and economic policy;
- ▶ fill in the gaps in the standard-setting systems which had, until then, only dealt with segments of labour administration (such as labour inspection, employment services and minimum-wage-fixing machinery).

The debates on the need to define the role of an overall system of labour administration that have regularly taken place since the 1950s, culminated in 1978 in the adoption of the Convention on Labour Administration (No. 150) and the related Recommendation (No. 158).

International labour standards are usually applied through national law and policy. It was therefore vital for the ILO that a Convention on Labour Administration be adopted, to maintain a viable and active system of labour administration covering all aspects of national labour policy formulation and implementation.

Most recently, in 2019, the Centenary Declaration for the Future of Work reaffirmed the importance of labour administration. The Declaration, adopted at the 108th session of the International Labour Conference calls for “strengthening the institutions of work to ensure adequate protection of all workers”.

## ▶ 3. The concept of a labour administration system

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ILO Convention No. 150 and Recommendation No. 158 are the only international instruments providing for the establishment of an institutional framework within which national labour policy is developed, implemented, coordinated, checked and reviewed.

Convention No. 150 defines the concept of labour administration and its characteristics, in particular a coherent national labour policy; a coordinated system of competent bodies; an institutional structure integrating the active participation of workers, employers and their respective organizations; and adequate human, financial and material resources for the provision of effective and efficient services.

The activities referred to in the definition cover three main areas: policy shaping, policy formulation and policy implementation. Policy shaping refers to undertaking research on policy initiatives; policy formulation mainly consists in the drafting of labour policy documents; and policy implementation concerns the enforcement of labour laws.

Given the scope and diversity of social-policy regulation and implementation, the complexity and the variety of the subjects that have to be treated, and the number of services to be provided, a systemic approach to labour administration is required. Creating an integrated system in which the tripartite partners (government, workers and employers) can act in partnership and in a coordinated manner is the best way to establish dynamic regulatory mechanisms and ensure the flexibility of labour administration.<sup>2</sup>

In addition to defining labour administration, Article 1 of Convention No. 150, also conceptualizes the notion of a national system of labour administration. The term “labour administration” refers to public administrative activities, in the narrowest sense of the term, in the field of national labour policies. The term “system of labour administration” refers to all public bodies (including parastatal and regional/local agencies and any other form of decentralized administration) and the institutional frameworks for the coordination of the activities of such bodies, as well as for consultation with and participation by employers and workers and their organizations. This systematic concept enhances the complementary roles of the different actors.<sup>3</sup>

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<sup>2</sup> ILO: *A Brief Introduction to International Labour Standards, Rules of the game*, Geneva, 2019.

<sup>3</sup> N. Lecuyer and J. Courdouan: *Actors in Development, New Forms of Labour Administration*, ILO, Geneva, 2002.

## ▶ 4. Key roles and functions of labour administration

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The functions of the competent bodies within the labour administration system are to be responsible for or contribute to, as appropriate, the preparation, administration, coordination, checking and review of national labour policy, including the preparation and implementation of laws and regulations giving effect to such policy (Convention No. 150, Article 6, paragraph 1).

The notion of labour policy was not defined in the Convention, with a view to allowing for the inclusion of various fields of labour. The Convention only refers to “labour policy” in general, or “employment policy” as one exemplary sectoral policy.<sup>4</sup>

The Convention (paragraph 2, Article 6) lists the principal functions that such bodies should cover, taking into account relevant international labour standards:

- ▶ Participation in the preparation, administration, coordination, checking and review of national employment policy;
- ▶ Study and follow-up of the world of work by reviewing the situation of the employed, the unemployed and the underemployed, taking into account national laws, regulations, and national practice concerning conditions of work and working life, and terms of employment;
- ▶ Making their services available to employers and workers, and their respective organizations, with a view to promoting effective consultation and cooperation between public authorities and employers' and workers' organizations, as well as between such organizations; responding to requests for technical advice from employers and workers and their respective organizations.

The four areas in which the labour administration system is to exercise its functions, according to Recommendation No. 158, are the following:

- ▶ labour standards;
- ▶ labour relations;
- ▶ employment; and
- ▶ research in labour matters.

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<sup>4</sup> In the discussions of the International Labour Conference in 1977 and 1978 on the adoption of the text of the Convention, it was proposed to include an enumeration on what fields of labour should be included. However, this approach has deliberately not been retained, taking into account the fact that labour policy is subject to ongoing evolution.

## 4.1 Labour standards

The competent authorities of the labour administration system, in consultation with organizations of employers and workers, should take an active part during all stages of the preparation, development, adoption, application and review of labour standards. This should also include a system of **labour inspection** (as further developed in the following modules of this training package).

Article 6, **paragraph 1** of the Convention stipulates that the competent bodies within the labour administration system shall prepare and implement laws. ILO Recommendation No. 158 on Labour Administration refers to labour laws as the first area in which the functions of a labour administration system should be exercised. Labour legislation regulates both individual employment relationships and collective labour relations; protects basic freedoms and rights at work; ensures minimum labour standards (leaving additional matters for social partners to define through collective bargaining); and defines the contractual status (individual and collective) of employers and workers, including their mutual rights and responsibilities, as well as dispute resolution machinery. Labour legislation is vital to the economy of any country and to the achievement of balanced development which emphasizes both economic efficiency and the well-being of the population as a whole. This is a delicate balance to achieve.

Experience shows that proposals imposed from above are less effective in taking into account the complex web of interests and needs involved than solutions that have been tested and honed through the process of social dialogue, and which therefore enjoy broad support within society.

## 4.2 Industrial relations

With respect to labour relations, the Recommendation is essentially concerned with the need to foster good industrial relations and set the framework and rules for the representation of labour and management. It refers to various means whereby this objective may be attained, in particular by the free exercise of the right of association and the right to organize and collective bargaining; the provision of advisory services; the development and utilization of arrangements for voluntary negotiation; the provision of conciliation and mediation facilities within the labour administration system; and the promotion of social dialogue and tripartism.

The labour/industrial relations departments of labour administration systems play an important role in promoting and maintaining industrial peace and stability by *providing a conducive legal framework*. In particular, they promote legislation to protect the right to organize and collective bargaining, and the free exercise of the right of association. In some cases, labour administrations provide the social partners with training in labour law. These initiatives have been very effective in strengthening the capacities of the social partners in using labour law as a baseline and reference for labour relations and in stimulating a participatory approach to labour-law making and enforcement. At the same time, training in labour law and education on basic labour rights can be effective in preventing labour disputes.

While collective bargaining is a voluntary process between social partners, the role of labour administrations — in particular of their labour relations departments/units — is vital for *facilitating, promoting, supporting and strengthening this process*. ILO Recommendation No. 158, in laying down the role played by government in labour relations at various levels and in various sectors, emphasizes the role of collective bargaining as the key pillar of industrial relations. In some countries, an important function of this department is the registration and facilitation of workers' organizations. Within such departments, the trade-union registry assists in the registration of trade unions and also provides advisory services to trade-union officers and members on legal and regulatory matters relating to trade unions.

In more and more countries, the establishment of a *system for the prevention and resolution of labour disputes* is nowadays a cornerstone of labour administrations' industrial relations policies.<sup>5</sup> This is helpful in containing labour conflicts within economically and socially acceptable bounds<sup>6</sup> and in promoting an atmosphere of industrial peace. This in turn contributes to the maintenance of a climate that is conducive to development, economic efficiency and social equity. Labour administrations in some countries also assist employers and employees, in both unionized and non-unionized sectors, to resolve trade or employment/salary-related disputes amicably through conciliation, with a view to promoting harmonious labour—management relations. Several ILO Conventions and Recommendations deal with dispute prevention and dispute resolution. Member States are encouraged to design their own dispute-settlement systems in accordance with the following general principles:

- ▶ They should set up voluntary conciliation machinery, which is free of charge and expeditious, to assist in the prevention and settlement of industrial disputes.<sup>7</sup>
- ▶ Collective bargaining should be promoted in a dispute settlement system,<sup>8</sup> which should assist the parties in finding a solution to the dispute themselves.<sup>9</sup>
- ▶ The parties to disputes should be encouraged to refrain from strikes and lockouts while conciliation or arbitration is in progress.<sup>10</sup>
- ▶ Agreements reached as a result of conciliation should be drawn up in writing and accorded the same status as agreements concluded in the usual manner.<sup>11</sup>

*Successful social dialogue structures* and processes have the potential to resolve serious economic and social issues, encourage good governance, advance social and industrial peace and stability,

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<sup>5</sup> For further reading see: *Labour Legislation Guidelines*, ILO, Geneva, Chapter 4 on the settlement of disputes; and *Handbook on Alternative Labour Dispute Resolution*, by Felicity Steadman, ITCILO, 2008.

<sup>6</sup> In some countries, for example, a strong connection is made between conciliation/mediation and industrial action by requiring the parties to give advance notice of industrial action to the conciliation authority, or by making it illegal to take industrial action without first endeavouring to resolve a dispute by means of conciliation.

<sup>7</sup> *Recommendation No. 92* concerning voluntary conciliation and arbitration, 1951, Paragraphs 1 and 3.

<sup>8</sup> *Convention No. 154* concerning the promotion of collective bargaining, 1981, Article 5, Paragraph 2(e).

<sup>9</sup> *Recommendation No. 163* concerning the promotion of collective bargaining, 1981, Paragraph 8.

<sup>10</sup> *Recommendation No. 92* concerning voluntary conciliation and arbitration, 1951, Paragraphs 4 and 6.

<sup>11</sup> *Recommendation No. 92* concerning voluntary conciliation and arbitration, 1951, Paragraph 5.

and boost economic progress. Governments, and in particular labour administrations, can play various roles in the advancement and sustainability of national social dialogue, in particular by (a) creating an enabling framework for social dialogue; (b) promoting social dialogue; (c) being active partners in tripartite or tripartite-plus social dialogue arrangements; (d) supporting and facilitating social dialogue and (e) engaging in social dialogue in the public sector. Depending on the different types, mandates, functions and composition of national mechanisms for social dialogue, governments can be directly involved as members of tripartite or tripartite-plus bodies, or as recipients of the advice formulated by these bodies. In many countries, formal and informal social dialogue (through bipartite, tripartite and/or tripartite-plus bodies) coexist. To discuss and decide on key labour issues and solve labour-related problems, the minister of labour him/herself may take the initiative in holding *ad hoc* consultations with the social partners, very often outside the institutional social dialogue framework.

Governments should support social dialogue by providing an institutional framework and administrative support, and by *establishing a secretariat* charged with preparing, organizing and following up the activities of the social dialogue body. They may also provide the expert studies and other background material required for this body to accomplish its mission. In operational terms, the secretariat is usually attached to an administrative unit of the relevant ministry (the division responsible for research and planning, or for labour, employment or industrial relations), or even to a department of the administration, regardless of whether the consultation covers labour administration in general or one of its specific areas of activity.<sup>12</sup> The human, material and financial resources and information made available to the secretariat must be appropriate and should enable it to play its role in performing the tasks entrusted to it. Also in the case of bipartite employer-worker bodies, a unit within the labour administration system could provide support to the parties by providing secretariat services and, in some cases, by acting as facilitator.

### 4.3 Employment

In the area of employment, the Recommendation defines the means whereby an effective employment policy can be put in place. These include coordination of the activities of the various authorities and bodies concerned with particular aspects of employment policy; establishment of an effective free public employment service; and taking or sharing responsibility for the management of public funds made available for such purposes as countering underemployment and unemployment, for example unemployment insurance schemes, vocational guidance, job placement and support for job-seekers, vocational training and retraining programmes, employment services, and entrepreneurship promotion.

Governments have adopted different ways of dealing with employment issues. Some countries consider that the ministry responsible for labour matters is the authority which should have general responsibility for employment policy and thus entrust the preparation and development of such policy to the ministry of labour. Other countries separate labour issues from employment

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<sup>12</sup> See N. Lecuyer: *Guide for Secretariats of National Tripartite Consultation Bodies in English-speaking African Countries*.

matters, entrusting the preparation and development of national employment policy to another ministry specifically charged with employment and vocational training.<sup>13</sup> In yet other countries, these functions are shared among several ministries, including the ministry of labour, while in some countries they are shared not only among different ministries but also with decentralized public authorities at the level of federal units or provinces.<sup>14</sup>

Several countries have sectoral bi- or tripartite bodies specifically responsible for employment and labour markets which participate in the preparation and development of national employment policy.<sup>15</sup>

Very often the national labour administration system includes a *free public employment service (PES)*. The rationale for having a PES is that, on the one hand, it improves labour market transparency and, on the other, it offers special help to those who might otherwise be disadvantaged in the labour market. Institutionally, a PES may be part of a government department or autonomous, in the latter case often with the involvement of the social partners (employers' and workers' representatives) on its supervisory board.

Labour administrations can play an important role in helping to achieve the *right balance between supply and demand for labour*. The job-placement or job-broking function was transformed in the 1970s, with the introduction of different ways of matching labour demand and labour supply. In some countries, labour administrations have managed the change very successfully, and have re-shaped their PES in order to offer efficient services to both job-seekers and employers, by providing information services, skills assessment, vocational guidance and counselling and labour market information, and establishing effective databases.

*New technologies* (databanks, networks, the worldwide web, etc.) can be helpful in facilitating communication, improving services and increasing flexibility in response to citizens' needs. They provide a powerful way of delivering information to the public, giving direct access to labour administration services, systems for matching vacancy files, and job-seekers' files.

The effectiveness of a labour administration system also depends on its ability to generate timely and reliable *labour market information (LMI)*. A reliable and up-to-date labour market information system is a critical element for employment planning. A labour administration plays a role as producer of labour market information (often as a by-product of its day-to-day operations) and as a user of such information. Labour market signals may give warning of changes in the labour market or confirm trends previously observed, thus providing vital input for decision-makers. The collection of sex-disaggregated data is a vital aspect of this exercise, making it possible to detect gender-based structural changes and formulate gender-sensitized employment policies. In order to scale up their capabilities to obtain timely and comprehensive information on changing industry trends and the manpower landscape, labour administrations in several countries have set up labour market analysis units or "observatories". This enables them to get a clearer picture

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<sup>13</sup> e.g. Australia, Ghana, Tunisia and the United Kingdom.

<sup>14</sup> e.g. Australia, Belgium, Germany and New Zealand.

<sup>15</sup> e.g. Italy, Algeria, Colombia and Denmark.



of emerging labour market trends and disseminate the findings among their stakeholders and users, as well as enhancing the visibility of their ministries of labour.

*Skills development and education* is crucial in assisting individuals to become employable through training, improving and sustaining their productivity and income-earning opportunities. It serves to enhance their mobility in the labour market and broadens the choice of potential careers. ILO Recommendation No. 158 emphasizes the relationship between employment and human resources development, and stresses the need for comprehensive and coordinated *vocational training* policies and programmes closely linked to employment. A labour administration's participation in vocational training may be implemented in a variety of ways, including the direct integration of permanent bodies; the design, coordination and/or execution of relevant programmes; and cooperation with other public or private institutions, including trade unions and entrepreneurial entities.

A labour administration system is also concerned with passive labour policies, in particular *unemployment benefits*. The term "unemployment benefits" refers to all forms of income support for unemployed people. Such benefits break down into two broad categories: unemployment insurance, where benefits are principally financed by contributions, and unemployment assistance, where the benefits are normally financed by taxation and are dependent on the recipient's needs as assessed by means testing. Such programmes may be managed directly by a country's labour administration (usually the public employment service, PES), by another state institution or by the social partners.

## 4.4 Research

The last major function of a labour administration system concerns information and research into labour matters, comprising the collection of information, labour market analysis, surveys, forecasting, dissemination of information, statistics and relations with the mass media.

Article 6, paragraph 2(b) of the ILO Convention on Labour Administration notes that "the competent authorities within the system of labour administration shall... study, and keep under review, the situation of employed, unemployed and underemployed persons taking into account national laws and regulations and national practice concerning conditions of work and working life and terms of employment, draw attention to the defects and abuses in such conditions and terms and submit proposals on means to overcome them".

The status, role and functions of a research body within the labour administration system are defined differently in each country, depending on the historical background of its labour market and government policies. In many labour ministries, and other ministries that have responsibilities for labour and employment, there is a department or associated structure which studies labour conditions and employment. The information that this department receives comes from different sources, including labour inspections and surveys conducted by the statistical units within the ministry, as well as the statistics department. Large labour ministries have their own study and research departments, which often liaise with universities or research institutes.

Although ILO Convention No. 150 says nothing specific about *statistics*, other ILO conventions make more explicit reference to this key role of labour administration. Recommendation No. 158 contains a provision (Paragraph 20(2)) to the effect that the information or reports which each of the labour administrative services provide to the ministry should include statistics such as to permit an evaluation of present labour trends and foreseeable future developments in areas of major concern to the labour administration system. Article 1 of the Labour Statistics Convention, 1985 (No.160), stipulates that each Member which ratifies the Convention must regularly collect and publish basic labour statistics, covering the active population, employment, unemployment, occupational injuries, occupational diseases and industrial disputes.

Statistics collected by a system's research units or institutions may be a by-product of the administration of labour laws or be gathered directly by sample surveys or census operations. The information is basically utilized for such purposes as:

- ▶ understanding working and living conditions, such as safety and health, social security, welfare of labour and so on;
- ▶ formulating policies in respect of target groups such as women, children and workers in the informal sector;
- ▶ monitoring industrial relations and industrial disputes; enforcing labour laws and dealing with difficulties encountered by employers and employees;
- ▶ assessing the nature of employment and unemployment, the skills required for different jobs, gaps in skills development programmes and so on;
- ▶ designing labour protection measures in the informal economy.

The objectives pursued by research institutions within the labour administration system cannot be achieved without good statistical data.

The labour statistics available today in most ministries of labour broadly relate to the following fields: the labour force, employment, underemployment and unemployment; the registration and placement of job-seekers by public employment services; classification by industry; classification by age and sex; education; classification by occupation; classification by status; wages, wage structure and distribution; minimum wages; average earnings and hours of work; equal remuneration; the cost of labour; industrial relations; industrial disputes and workdays lost as a result of strikes, lockouts, etc.; the nature of disputes; classification by region and industry; social security; provident and pension funds; bonuses, workers' compensation and gratuities; industrial diseases; accidents at work; productivity and productivity indices; workers in rural areas and in the informal sector; emigration/migration of workers; annual reporting on various labour laws; working and living conditions of workers in specific areas or industries; youth employment.

Most ministries conduct research in various fields, such as levels of employment, industrial relations, technical skills, wages and so on. Studies of specific target groups of workers are also undertaken; there is usually a research division or unit in the ministry of labour that undertakes this activity. National labour institutes in many countries also conduct policy-oriented research. In large countries, state and provincial governments may have their own research institutes.

In many countries, conducting labour studies and research is also a key function of national social-dialogue bodies, such as national labour councils or national economic and social councils. Value is added to these studies by the adoption of a participatory approach, involving the social partners in the production, analysis and interpretation of data at all stages.

## ▶ 5. New challenges for labour administration

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Labour administrations are facing new challenges, which, in the context of globalization and the economic and social crisis caused by the COVID-19 pandemic, have become particularly urgent. These relate in particular to:

- ▶ the informal economy;
- ▶ migrant workers;
- ▶ the employment relationship and undeclared work;
- ▶ supply chains;
- ▶ platform work.

Other challenges — related to changes in the economic situation and social structure, the industrial structure, the organization of labour and employment, social and political expectations, technology and the nature of work hazards — are further discussed in Module 2 “Introduction to Labour Inspection”.

### 5.1 The informal economy

Traditionally, ministries of labour, as the focal point of a country’s labour administration system, have focused on protection and enforcement arrangements for the benefit of employees engaged under formal contracts of employment and working within the regular wage economy. In many countries, however, people engaged in regular employment in the formal economy are in the minority, while many work in the informal economy<sup>16</sup> under conditions that fall short of decent and acceptable standards. The areas of the informal economy in which government intervention is desirable have to do with minimum wages, social security protection and the elimination of worst forms of child labour and bonded labour.

With labour administration focusing on the formal economy, it is clear that large number of workers and employers fall outside its protection and influence. Labour administration therefore needs to move beyond its narrow traditional focus and adopt a much wider perspective that addresses the needs of all workers and employers in both the formal and informal economies.

Convention No. 150 stipulates that, within the constraints imposed by national conditions, labour administration activities should be extended to groups of workers who are not considered as

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<sup>16</sup> Article 2 of the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204) defines the informal economy as all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by formal arrangements. It does not cover illicit activities, in particular the provision of services or the production, sale, possession or use of goods forbidden by law, including the illicit production and trafficking of drugs, the illicit manufacturing of and trafficking in firearms, trafficking in persons, and money laundering, as defined in the relevant international treaties

employed and are non-wage earners. This includes agricultural workers, the self-employed, members of cooperatives and other forms of managed undertakings, and workers working under systems established by communal custom or tradition, such as family workers in family undertakings. These provisions are a response to the enduring need to ensure the protection of the “working poor”, i.e. people on low incomes and workers in the informal economy — a subject that will be dealt with in greater depth in another session. During the design process of Convention No. 150, it was recognized that these groups of workers still represented the majority of the workforce in many regions of the world. Extending such activities to them was therefore necessary if labour administration was to be more viable, meaningful and credible.

In 1973, the Meeting of Experts on Labour Administration had already stated that the ILO Constitution required that the problems of all workers in all countries at whatever stage of development be dealt with. Historical circumstances should therefore not prevent present-day labour administration systems from extending their activities and protection to non-wage-earning and non-salaried workers who are legally independent but whose legal independence cannot conceal extremely difficult conditions of economic dependence.

In the last decade, labour administration systems in many countries have been reaching out in search of possible solutions and effective policy approaches, and there is a broad consensus that the informality of a large part of the workforce, and of economic units, is seriously detrimental to social and economic life. Efforts must be made to address the decent work deficits suffered by workers and entrepreneurs in the informal economy, and to bring them into the mainstream economy.

## 5.2 Migrant workers

The concept of labour administration comprises the principal elements of “good governance”. Consequently, labour administration has a key role to play in labour migration as part of the ILO’s mandate vis-a-vis the world of work. Labour administrations have always been concerned to make migration flows more orderly and to eliminate the exploitation of migrant workers. Given the magnitude of the numbers and the significance of migrant workers to national economies, the role of labour administrators in managing these flows must evolve to meet the challenge. The issue is to see how labour migration can be woven into the development agenda and how good labour administration and social dialogue can provide a platform for cooperation between sending and receiving countries. Recipient and sending countries need to cooperate and increase their regulatory capacities to manage labour mobility to the mutual benefit of society, migrants, socio-economic development and the State.

Every year, millions of men and women leave their homes and cross national borders in search of greater security for themselves and their families. Cross-border flows of people have been on the rise in recent decades and are likely to go on increasing.

Through their labour, migrant workers contribute to growth and development in their countries of employment. Countries of origin greatly benefit from their remittances and the skills acquired during their migration experience.

But many migrant workers, especially the low-skilled, experience serious abuse and exploitation. Migrants are particularly vulnerable to discrimination, exploitation and abuse; many of them work on the margins of safety and health protection, where labour standards and minimum wage laws are either not applicable or not respected. Women — increasingly migrating on their own and now accounting for almost half of all international migrants — face particular protection problems.

Compounding this problem are the factors of irregular migration and illegal employment.

### 5.3 The employment relationship and undeclared work

Employment security has rapidly emerged as an important issue facing labour administration systems. In particular, there is increasing difficulty worldwide in establishing whether or not an employment relationship exists in situations where (1) the respective rights and obligations of the parties concerned are not clear; or (2) there has been an attempt to disguise the employment relationship; or (3) inadequacies or gaps exist in the legal framework, or in its interpretation or application. Where the transnational provision of services is concerned, it is very often unclear who is considered a worker in an employment relationship, what rights the worker has, and who the employer is.

Vulnerable workers and migrants appear to suffer particularly from such unclear employment relationships and arrangements. ILO Member States and their social partners have emphasized that the global economy has increased the need for worker protection, at least against the circumvention of national laws by contractual and/or other legal arrangements.

The need for an international regulatory framework to cover the new forms of employment relationship led the ILO's International Labour Conference to discuss the subject during its sessions in 1997, 1998 and 2003, culminating in the adoption of the Employment Relationship Recommendation, 2006 (No. 198). Using this Recommendation as guidance, Member States and their labour administrations can formulate a national policy on this issue, define criteria for determining the existence of an employment relationship, and monitor the situation, adopting specific measure if necessary.

Recommendation No. 198 covers:

- ▶ the formulation and application of a national policy for reviewing at appropriate intervals and, if necessary, clarifying and adapting the scope of relevant laws and regulations, in order to guarantee effective protection for workers who perform work in the context of an employment relationship;
- ▶ the determination — via a listing of pertinent criteria — of the existence of such a relationship, relying on the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement that may have been agreed between the parties;
- ▶ the establishment of an appropriate mechanism — or the use of an existing one — for monitoring developments in the labour market and the organization of work, so as to be

able to formulate advice on the adoption and implementation of measures concerning the employment relationship.

## 5.4 Supply chains

Labour administration, as a core function of the State, needs to adapt and modernize to cope with the challenges of the rapidly changing world of work. This includes changing patterns of production, outsourcing, work organization, employment structure and relationships.

The term “global supply chains” (GSCs) refers to the cross-border organization of the activities required to produce goods or services and bring them to consumers through inputs at the various stages of development, production and delivery.<sup>17</sup> GSCs have profoundly transformed the nature of cross-border production, investment, trade and employment. While GSCs have made important contributions to economic growth and development, as well as having a positive impact on job creation, failures at all levels of complex, diverse and fragmented GSCs have contributed to decent work deficits and governance gaps.

In addition to the three challenges referred to above, labour administrations also need to consider the potential negative effects of GSCs on decent work. These include job displacement due to offshoring, poor working conditions and lack of workers’ rights, the perpetuation of gender inequalities, and wage pressures due to decisions taken by foreign investors as to the location of their activities, export competition, skills biases, and increased in-country inequalities.

## 5.5 Platform work

Digital labour platforms are transforming the world of work. The number of digital labour platforms increased five times between 2010 and 2020, from 412 to over 777.<sup>18</sup> The development of digital labour platforms has the potential to provide workers, including women, people with disabilities, young people and migrant workers, with income-generating opportunities. However, these opportunities are accompanied by difficult challenges relating to non-standard working arrangements, regularity of work and income, working conditions, social protection, skills utilization, freedom of association and the right to engage in collective bargaining.

Labour administration systems can tackle this issue by exploring efficient and effective methods of governance and management, and by building partnerships with the tripartite constituents and other stakeholders. While it may be challenging to ensure labour protection for platform

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<sup>17</sup> The definition provided by the 2016 International Labour Conference Report on Decent work in global supply chains

<sup>18</sup> ILO 2021. *World Employment and Social Outlook. The role of digital labour platforms in transforming the world of work.*

workers,<sup>19</sup> many legal systems have made changes to their laws and introduced platform-specific regulatory measures.<sup>20</sup>

For example, on 20 March 2019 the Lazio Region of Italy approved a law on the labour protection of digital workers. This law provides protection and rights for all workers whose activity is organized via an app. The law regulates health and safety issues, calls for collective bargaining to establish levels of basic pay and indemnities, provides for the creation of a “digital work portal” for the registration of both platforms and workers, and the establishment of a Regional Digital Labour Council. The Council is responsible for monitoring the conditions of digital work in the Region and for facilitating social dialogue between platforms, workers and the social partners.<sup>21</sup>

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<sup>19</sup> Several countries, including Cambodia, Germany, Latvia, Mauritius and Peru, noted that they found it challenging to ensure labour protection for platform workers in a recent General Survey conducted by the CEACR. [ILO Committee of Experts, 2020](#), p.90.

<sup>20</sup> [ILO 2021. Platform work and the employment relationship](#).

<sup>21</sup> “Il Lazio approva la prima legge in Italia a tutela dei lavoratori digitali”, available [here](#).



## ▶ 6. Gender mainstreaming in labour administration

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To be effective and inclusive, a modern labour administration should have a fully integrated gender mainstreaming approach in all four of the main areas mentioned above: labour standards, labour relations, employment and research in labour matters.

At all stages of the *preparation, development, adoption, application and review of labour standards*, concern for gender equality may be expressed in a number of complementary ways:

- ▶ When involving social partners, ensure full consultation and participation of women and women's representatives from both sides, employers and workers.
- ▶ Ensure that national bodies are consulted where equal opportunities for men and women are concerned.
- ▶ Anticipate and pre-assess the possible different impact that "general" legal provisions can have on men and women, with and without family responsibilities.
- ▶ Be sure that new law — or the revision of existing legislation — is consistent with international standards (ILO and UN) on equal opportunities and women's rights.
- ▶ Adopt gender-inclusive language when formulating legislation.<sup>22</sup>
- ▶ Ensure that the bodies responsible for overseeing the implementation of labour law (in particular labour inspectorates) are gender sensitized and include a balanced number of men and women among their officials and managers.

In promoting and supporting *labour relations and social dialogue*, labour administrations have an important role to play, first of all by encouraging social partners to ensure that both men and women's interests are fully represented in the collective bargaining process, as well as on social dialogue bodies. In some countries, women still face difficulties in accessing leadership positions in both employers' and workers' organizations. Moreover, negotiators, in particular at the national/branch level or in large enterprises, are predominantly men. This lack of representation adversely affects the collective bargaining agenda and social dialogue processes.

In some countries, for instance Argentina, Brazil, Chile, Uruguay and Paraguay, national tripartite commissions have been created to ensure equal opportunities in employment, with the full participation of workers, employers and government (ministries of labour and national institutions for the advancement of women). Labour administrations are in general leading the process, promoting the commissions, providing technical and logistical support, facilitation and coordination, and helping in channelling recommendations to the highest level of government and parliament.

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<sup>22</sup> See the *ILO Guidelines on Labour Law Writing Techniques*.

To be effective, *employment policies, strategies and services* need to address the full diversity of the workforce in terms of age, sex, ethnicity, family responsibilities, abilities and so on. This will make it possible, on the one hand, to formulate more inclusive policies and programmes and, on the other, to identify needs for specific targeted actions.

The key input for designing sustainable labour and employment policies, strategies and programmes is *sound analysis* and forecasting of employment trends and labour issues.

One of the challenges for labour administrations is to *make research and statistics more gender-integrated*. Gender-related statistics — including the collection of sex-disaggregated data — are about making statistics more complete, improving their capacity to reflect reality more closely, and therefore enhancing the quality of statistics as they portray the differences and similarities that exist between men and women in relation to their contributions, their conditions of work and life, and their needs, constraints and opportunities.

For example, without the adoption of a gendered approach, it would not have been possible to discover that, around the world, women (often heads of households) represent the majority of the poorest of the poor; or that in several countries women represent the majority of the unemployed (in particular the long-term unemployed).

## ► 7. Organization of a national system of labour administration

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Convention No. 150 (Article 4) stipulates that “each Member which ratifies this Convention shall, in a manner appropriate to national conditions, ensure the organisation and effective operation in its territory of a system of labour administration, the functions and responsibilities of which are properly coordinated”.

The concept of a labour administration “system” includes the existence of different bodies, at different levels, coordinated to achieve common goals. Convention No. 150, Article 1, refers to “all public administration bodies responsible for and/or engaged in labour administration — whether they are ministerial departments or public agencies, including parastatal and regional or local agencies or any other form of decentralised administration — and any institutional framework for the coordination of the activities of such bodies and for consultation with and participation by employers and workers and their organisations”.

The effectiveness of such a system depends largely on the existence of a strong and well-organized body able to ensure coordination of its functions and responsibilities. This body will generally be the country’s ministry of labour and social affairs. However, there are also other ways of ensuring coordination of a labour administration system, such as national committees; administration boards or councils, with members drawn from different ministries;<sup>23</sup> or public bodies dealing with areas of labour administration.

Typically, a national labour policy, supported by enabling legislation, will establish the mission, vision, objectives and functional responsibilities of a national labour administration system. No single model or specific form of organization is promoted, since ministries and/or related agencies take many forms due to their specific historical, cultural, social and economic circumstances.

### 7.1 The central body

At the central level, a country’s labour administration will normally consist of units that cover the main aspects of the overall task. Functions and responsibilities are divided to ensure the effective operation and consistent execution of the administration’s activities. Typically, the units within a ministry of labour differ in terms of the activities they carry out and can be broken down into three main categories: general administrative services, support services and technical/specialized services.

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<sup>23</sup> e.g. the Irish National Economic and Social Council

The *general administrative services department* is responsible for managing the ministry's human, material and financial resources. Its work includes staff recruitment and training, as well as the management of internal financial resources.

The *support services department* usually includes units responsible for legal services, advisory services, international relations, research, statistics and planning, and communication.

The *technical departments*, such as the labour inspectorate, the labour- relations, employment and social-security units, and the gender bureau, will comprise a relatively small central headquarters staff and a series of field offices. The central inspectorate will not normally undertake field work, which is delegated to the field offices.

The *gender bureau* will have various functions, ranging from policy advice on gender mainstreaming in labour policies to the promotion of gender equality in the workplace. It may also offer support and advice, and sometimes train workers and employers in matters concerned with gender equality in the world of work. At the field level, labour inspectors promote gender equality in the course of routine inspections and dialogue sessions.

Separate sections or departments — created within the labour administration system to serve each functional area — are therefore intended to ensure cohesion and effectiveness.

For a smaller labour administration, some functional responsibilities may be grouped together, for example human resource planning with development, or labour inspection with working conditions and employment.

Essentially, the central technical departments will focus on policy development, systems management and the coordination of field services, performance monitoring, and reporting at the national level. The field offices will focus on conducting visits, handling complaints, providing labour extension services, compiling statistical information, and reporting to the central technical units.

## 7.2 Coordination among ministries

Labour administration functions and activities may be spread among different bodies — public, parastatal or even private.

Responsibilities in the area of labour and employment are frequently shared between different ministries, such as the ministry of labour, the ministry of social affairs and the ministry of trade or industry. Labour market policies are often administered by the a country's ministry of labour, while other employment-related aspects, such as productivity enhancement and entrepreneurship promotion, are dealt with by the ministry of trade or industry.



## ▶ Administration of the State of Bihar, India

### **Coordination among stakeholders for eradicating child labour**

For too long, the various authorities in India involved in the elimination of child labour operated in a reactive manner and in isolation. In 2009, The Bihar State Government embarked on a comprehensive strategy to abolish child labour, which was estimated to concern around 1.1 million children. To undertake this task, the Ministry of Labour of Bihar formulated a State Action Plan for Elimination, Rescue and Rehabilitation of Child Labour, based on a convergence model. For the first time, the following departments met in a Council to coordinate efforts under the authority of the Labour Ministry in Bihar:

- ▶ Rural Development Department;
- ▶ Urban Development Department;
- ▶ Revenue and Land Reforms Department;
- ▶ Health Department;
- ▶ Human Resources Development Department;
- ▶ Bihar Education Project Council;
- ▶ Social Welfare Department;
- ▶ Food and Civil Supplies Department;
- ▶ Minority Welfare Department;
- ▶ Bihar Child Labour Commission;
- ▶ UN organizations.

The joint inspections undertaken by this coordinated council were an astounding success. The number of children rescued and rehabilitated jumped fivefold, and a total of 1,481 employers were prosecuted for wilful violation of the law. The Bihar Model developed by the State Labour Administration system has now been emulated by other states in India, showcasing the central role that labour ministries can play in ensuring a degree of cohesion with other agencies in the labour administration system in order to promote decent work.

Labour inspection services are very often split between different ministries, for instance with one inspectorate responsible for overseeing the implementation of labour law under the ministry of labour, and another dealing with occupational health and safety at work (as further illustrated in the other modules of the training package) under the control of the ministry of health.

Without good coordination, the effectiveness of the different services would be undermined.

### 7.3 Coordination with agencies

In the framework of public sector reform, since the 1970s many functions have been delegated to parastatal or private bodies. Nowadays, more and more agencies are actively involved in the provision of job services. In the field of vocational training, for example, governments often delegate educational tasks to private training providers through a licensing system. Another such field is occupational safety and health, where private agencies or individual professionals can obtain a governmental license to perform inspections of dangerous products or workplaces — a task that, in some countries, is assigned to labour inspectors.

Decentralized functions and services need to be closely supervised by a centralized body able to design clear policy, plan effectively, establish clear and transparent criteria, and systematically monitor and evaluate the activities implemented by the different bodies.

Article 9 of Convention No. 150 calls for the creation of supervisory arrangements to ensure efficient coordination between ministries and parastatal, regional, and local agencies — bodies which may be semi-public or have legal personality and thus operate quite independently.

Supervision will involve a reporting scheme. In addition, supervision may be ensured by financial means through budget allocation and budget control, by legal provisions or by the appointment of members to the board of management of the agency concerned.

### 7.4 Functions delegated to social partners

In addition to involving social partners in the decision-making processes of all areas of labour administration, Convention No. 150 (Article 2) also considers the possibility of “delegate[ing] or entrust[ing] certain activities of labour administration to non-governmental organisations, particularly employers' and workers' organisations, or — where appropriate — to employers' and workers' representatives”.

Social partners are often represented on the administrative boards of employment offices, social security funds and offices, occupational safety and health agencies, and vocational training bodies.

Social partners' organizations or related agencies are often involved in the direct implementation of training and re-training programmes. In some countries, national bipartite agencies have been created for this purpose.

### 7.5 Territorial coordination

To ensure effective service delivery to workers and employers, the labour administration system needs to decentralize by conferring powers and authority on individual provinces, regions and districts.

Article 4 of the Convention calls for the efficient operation of the labour administration system throughout the territory. This could include, for instance, systematic planning and the use of appropriate instruments to monitor and evaluate implementation, such as reporting on a regular basis.

Recommendation No. 158, Paragraph 26, deals with “Field Services”, stating that “there should be appropriate arrangements for the effective organisation and operation of the field services of the system of labour administration. In particular, these arrangements should (a) ensure that the placing of field services corresponds to the needs of the various areas, the representative organisations of employers and workers concerned being consulted thereon; (b) provide field services with adequate staff, equipment and transport facilities for the effective performance of their duties; (c) ensure that field services have sufficient and clear instructions to preclude the possibility of laws and regulations being differently interpreted in different areas”.

The organizational and structural arrangements of a labour administration system are largely concerned with coordination between central and decentralized functions and services.

In an area of shared jurisdiction, it is important that the federal and provincial governments coordinate their activities effectively, with a view to providing a consistent and integrated set of services.

## ▶ 8. The importance of qualified human resources

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To be able to perform all the functions mentioned, labour administrations need to have qualified staff.

“The staff of the labour administration system shall be composed of persons who are suitably qualified for the activities to which they are assigned and who are independent of improper external influences” (Convention No. 150, Art. 10). This is particularly important for services for which specific technical competencies are required. Qualifications “should be ascertained by the appropriate body” (Recommendation No. 158, Para. 23(2)).

Labour administration staff “shall have the *status*, the material means and the financial resources necessary for the effective performance of their duties” (Convention No.150, Art. 10(2)). This provision is particularly relevant for labour inspectors, therefore it will be further analyzed and discussed in other modules of this training package.

### 8.1 Training

Labour administration staff should have access to the training necessary for performing their duties (Convention No. 150, Art. 10).

The need to provide learning opportunities for staff is further underlined by Recommendation No. 158, which urges that the staff of a labour administration system “should receive initial and further training at levels suitable for their work” (Art. 23(1)). Reference is also made to lifelong training, recommending that permanent arrangements be established to ensure that training is available to labour administration staff throughout their careers. In fact, effective lifelong learning is one of specific actions specifically stated in the ILO Centenary Declaration for the Future of Work, 2019,<sup>24</sup> as a means of strengthening the capacities of all people to benefit from the opportunities of a changing world of work.

In many developing countries, national administrations cannot afford to provide initial and lifelong training to their staff, due mainly to a lack of financial resources and the limited number of trainers with sound technical and methodological expertise. In these cases, “consideration should be given to supplementing national programmes and facilities for training ... by international co-operation in the form of exchanges of experience and information, and of common initial and further training programmes and facilities, particularly at the regional level” (Recommendation No. 158, Art. 24).

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<sup>24</sup> The ILO Centenary Declaration for the Future of Work, adopted by the International Labour Conference, 2019.



## ► Summary

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ILO Convention No. 150 and Recommendation No. 158 provide guidance on developing labour administration systems that cover all aspects of national labour policy formulation and implementation.

Convention No. 150 makes a distinction between the concepts of labour administration and a system of labour administration. According to Article 1, the term “labour administration” means public administration activities in the field of national labour policy, while the term “system of labour administration” covers all public administrative bodies responsible for and/or engaged in labour administration, whether they are ministerial departments or public agencies. It also includes parastatal and regional/local agencies or any other form of decentralized administration and any institutional framework for the coordination of the activities of such bodies and for consultation with and participation of employers and workers and their organizations.

The four areas in which a labour administration system is to exercise its functions, according to Recommendation No. 158, are labour standards, labour relations, employment and research on labour matters.

A key role of labour administrations is to prepare, develop, adopt, apply and review labour standards. Labour legislation regulates both individual employment relationships and collective labour relations, protects basic freedoms and rights at work, and ensures minimum labour standards.

Labour administration can play a vital role in facilitating, promoting, supporting and strengthening industrial relations, primarily by providing a conducive legal framework.

In more and more countries, labour administrations are establishing systems for preventing and resolving labour disputes, setting up voluntary conciliation machinery which is expeditious and free of charge to assist the parties involved in finding solutions to labour disputes by themselves.

Social dialogue is of vital importance. Labour administrations can promote bipartite, tripartite and tripartite-plus bodies at different levels (national, sectoral, or relating to specific issues) to foster social dialogue. They can provide an institutional framework and administrative support in the form of facilities and secretariats, and engage in social dialogue in the public sector.

Designing, implementing and monitoring employment policies and services are the cornerstones of labour policy. Matching labour supply and demand is a challenge which requires a reshaping of public employment services (PES) so that they can offer efficient services to both job-seekers and employers. These services will include the provision of information, skills assessments, vocational guidance and counselling, and the creation of effective databases.

Research and statistics provide vital input for evidence-based labour policy design. Sex-disaggregated data collection and gender-focused studies contribute to the elaboration of inclusive policies, strategies and programmes.

In the context of globalization and economic crisis, challenges relating to the informal economy, migrant workers, employment relationships and undeclared work, supply chains and platform work have become particularly urgent.

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