

## RIAL COOPERATION FUND OF THE IACML OF THE ORGANIZATION OF AMERICAN STATES

Report on site visit to the Ministry of Labour and Immigration of Barbados.

Bridgetown, Barbados; November 8<sup>th</sup> -12<sup>th</sup>, 2010 on Dispute Resolution.

Study Tour by the Labour Occupational Safety and Health Officers of Guyana to the Occupational Safety and Health Department of the Ministry of Labour and Immigration Barbados.

### **BACKGROUND**

The department of Labour Occupational Safety and Health were merged during the year 2006 since limited resources were available to the Government of Guyana.

Approximately eighty percent (80 %) of the officers within the department have less than three (3) years experience in Industrial Relations and Occupational Safety and Health.

Taking the foregoing into consideration, the Government of Guyana thought it necessary to expose all officers within the department to relevant training so as to have competent and professional staff.

The Government therefore recognized the importance of the assistance and cooperation given by the international community and embarked on it immediately.

RIAL Cooperation in lending support to the Guyana Government acknowledged the need for training for officers within the Labor Department and provided assistance by providing sponsorship during 2005 where five (5) officers were trained in Trinidad and Tobago. In 2009, another five (5) officers were trained in Barbados and there again another three officers was trained in Barbados.

## **OVERVIEW**

The three (3) officers who were Ms Dawn Gardener, Ms Maxine Bess and Ms. Donna Shortt-Gill arrived in Barbados on 9<sup>th</sup> November 2010 at approximately 9 am on the same morning of the Training and were welcomed at the airport by Ms. Khame Salankey, Labour Officer after which, the programme commenced immediately with an Introduction from Mr. Vincent Burnette, Chief Labour Officer (a.g) (Barbados), Mrs. Claudette Hope-Greenidge, Asst. Chief Labour Officer (a,g) (Barbados) Mr. Felix (D.C.LO) Deputy Chief labour Officer.

## **BRIEF DESCRIPTION OF THE ACTIVITIES**

### DAY 1

Mr. Henry Husbands discussed the Barbados Partnership model. He explained that the model comprised of representatives from Government, employers and the unions. He also said that he once represented union and employer and presently representing Government.

He reported that the model is a workable one as compared to other countries. He reported that with the assistance of the social partnership, the Barbados Trade Union Staff Association Movement was formed during the 1990`s as the umbrella body for trade Unions.

He said that during the 1990 the Barbados Government entered into a wages agreement with the (I.M.F) International Monetary Fund.

Discussions were held in relation to Dispute Resolution in Guyana and the steps were explained by Ms Dawn Gardener, who stated that the system was legal and the Labour Law gives the Minister of Labour the authority to appoint an advisory committee and or impose compulsory arbitration.

She also explained that disputes were brought to the Ministry of Labour by either party. She reported that the Chief Labour Occupational Safety and Health Officer delegates an officer to act as a Conciliator for any dispute.

She also explained disputes where Section 4 of the Labour Laws mandate or give the Minister of Labour the authority to appoint an advisory committee or impose compulsory arbitration.

## Day 2

Officers attended and participated in the Labour Department's Annual Employers Industrial Relations Seminar.

The participants were drawn from various organizations using electronic media. Present were employers, employers' representatives and employees.

The Law was discussed where Labour officers explained the interpretation of the law. Questions were asked and were answered by Labour officers. Participants were educated and guided by said Labour Officers including the Chief Labour Officer.

A courtesy call was paid to the Minister of Labour who extended her greetings and was very happy that Barbados was the country chosen for this study tour.

The (3) three officers attended and observed a conciliation meeting between Rayside Construction and Barbados Workers Union. Ms Salankey, Labour Officer was the conciliator.

It was observed that Ms. Salankey on more than one occasions during the meeting appealed to the employer to engage in discussion. The meeting was adjourned.

Mr. Felix Deputy Chief Labour Officer gave an overview of the Historical, Legal and Institutional framework in Barbados. He explained that Trade Unions found contact with judicial institutions difficult, expensive and to their disadvantage.

Mr. Felix said that the largest trade union and the main player within the Industrial Relation System in favor of workers/employees was the Barbados workers union. He stated that there were some employees that were not unionized but benefited from negotiation made by the unions.

He also said that the Labour Department enforces the following labour Legislations:

- The Factories Act
- Employers Act
- Employment of women Act
- Shop Act
- Holiday with Pay Act
- Protection of wages

And the department is mandated to receive and investigate all representations of employers and employee with a view to settling all disputes, grievances and conciliation.

### **Day 3**

Officers visited the Barbados workers Union and discussions were held with Mr. Hunte Senior Assistant General Secretary and Ms. Griffith vice president CTUSAB.

Mr. Hunte explained that the Barbados workers union was one of the largest unions in Barbados and has a training college.

He stated that ongoing training was provided for workers /members in the area of Industrial Relations. Mr. Hunte stated that since the branch members were trained in dispute resolution, most disputes were resolved at the branch level.

Meetings were also held with Ms. Griffith vice president C.T.U.S.A.B. She explained that CTUSAB was the umbrella body for the trade union and all negotiations were done through that body.

She further explained that increases on wages and salaries were done every two years and proposals were submitted to the CTUSAB by all unions. She also explain that the executive of C.T.U.S.A.B usually meet with the executive of each union to discuss proposals before commencing negotiations.

She stated that the social compact was working and a member of C.T.U.S.A.B was a representative of the said compact committee. She also stated that the system of dispute resolution was voluntary and ongoing training were taking place at the Barbados workers union college. Employees/ workers she said were trained to resolve dispute at their branch level.

Meetings were also held at the National union of public workers where discussions were held with Mr. Dennis Clark

Mr. Clarke expressed concerned of the functioning of the social compact. He said that the committee should work harder.

He stated that employees were trained to resolve disputes at the branch level and only those unresolved were referred to the secretariat of the union.

He reported that the system of dispute resolution was voluntary and should remain as is since results were seen.

## Day 4

The team from Guyana along with (3) three staff members from the Labour Department Mr. Jamal Jones, Mr. Richard Hope and Pauline gave us the opportunity to visit and observe how the labour Department in Barbados conducts inspection.

Inspections were conducted in several shops in Holetown, using inspection forms that were similar to the ones used in Guyana, except that the department of labour in Barbados was divided into two sections Industrial Relations and Safety and Health, while in Guyana the two departments were merged.

Questions were asked by Ms. Bess as to how effective the inspection was, since two of the said shops visited, were inspected a few weeks back and the employer failed to correct the breaches.

A conclusion of the week's activities was done with a review of the programme and brief remarks from the Chief Labour, & Deputy Chief Labour Officers.

In closing, all the participants were given an evaluation form and were asked what was the most important thing learnt and whether the programme met all their expectations.

### Review Of The week Activities

The Chief Labour Officer gave a review of the activities that were done during the four (4) days and each officer was given the opportunity to express their gratitude and state what they had learnt during the period.

### MAIN RESULTS AND FINDINGS

The lesson learnt, from Dispute Resolution, was that in Barbados, there is a voluntary system of dispute resolution which is different from what obtains in Guyana.

It was noted that ongoing training was taking place at the Barbados Workers Union Collage where employees from various unions were trained.

The Ministry of Labour in Guyana should have ongoing training from trade unionist and also encourage trade union leaders to plan ongoing training for employees.

## **NEXT STEPS**

The Ministry of Labour should utilize the information gathered on the methods used in Barbados as another way of resolving disputes so that the Labour Officers can operate in a more effective and efficient manner in dispute resolutions.

The Ministry currently has a large backlog of dispute cases to be resolved. These Officers can now use the skills and training acquired during the four (4) day training period to assist other Labour Officers in reducing this backlog.

## **EVALUATION OF THE ACTIVITIES AND RECOMMENDATIONS**

The objectives and expectation of the training program were met as was outlined in the programme, as the team from Guyana was exposed to new and varied methods of conflict resolutions; hence the team from Ministry of Labour Guyana is more knowledgeable on Dispute Resolution.

### **Recommendations:**

1. It would be a nice experience for Guyana to be the host country for conducting training for staff from MOL Barbados.
2. Staff of the Ministry of Labour should have on going training in Dispute Resolution, since there are always new disputes and challenges arising.
3. Employers and employees should be sensitized to the fact that the Ministry of Labour would support the initiative of having disputes settled at the branch level, rather than having to intervene by imposing arbitration or resorting to Court action.

## **CONCLUSION**

The training programme was very informative and such training opportunities should be pursued and attended as it serves to better equip staff to discharge their responsibilities. Training should be more detailed, continuous and regular to assist staff at every level to function more effectively.

Despite some obstacles which prevented us from travelling as was planned, the expectations were met since a great deal of learning took place and full support and cooperation was given from the staff of the Ministry of Labour.

The team will like to thank the Ministry of Labour and the staff of the labour department of Guyana and Barbados for the support given.

Mr. Husbands, Ms Griffith, Mr. Dennis Clarke, Mr. Walcott and all the other Trade Unionists and employers and employees in Barbados who supported us and made our study tour an educational one.

Special thanks also to the staff of the office of American state especially Ms Henry, the immigration and customs staff of Guyana and Barbados who made our travel an enjoyable one and all the others who contributed to the success of this program.

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Dawn Gardener- Labour Occupational Safety & Health Officer

Maxean Bess – Labour Occupational Safety & Health Officer



Appendices

**Question: The System of Dispute Resolution in Guyana**

- **Overview**
  - **Definition**
  - **Legal Framework**

**Process of Dispute Resolution**

**Challenges Face in Resolving a dispute.**

- **Definition**
- **Dispute: Argument, a disagreement, or difference of opinion**
- **Resolution: A Declaration, award, end, resolve**
- **SOME FACTORS THAT CAUSES DISPUTE:**
  - **Wages**
  - **Dismissal**
  - **Termination**
  - **Suspension**
- **Legal Frame work**
- **The Labour Act Chapter 98:01**
- **Collective labour Agreements**
- **Public Utility Undertakings and public Health Service Arbitration Act54:01**
- **Public Appellate Tribunal (P.S.A.T)**
- **According to section 4 of the labour Act chapter 98:01 the Minister of Labour has the mandate where a difference exist between a employer and employee to exercise all or any of the following powers:**

**Inquired into a cause and circumstances of the difference**

**Take such steps as to him may seem expedient for the purpose of promoting a settlement of the difference**

**With the consent of both parties to the difference refer the matter for settlement to the arbitration of one or more persons appointed by the Minister.**

**The arbitrator who is appointed by the minister is mandated to enquire into the cause and circumstances of the difference by communicating with both parties to bring about a settlement and report the proceedings to the Minister.**

### **The Collective Labour Agreement (C.L.A)**

**According to the Labour Act #9 of 1994 the CLA is an agreement or arrangement which for the time being is subsisting and –**

- **CLA is an agreement or arrangement ( In whatever way and in whatever form) by or on behalf of one or more organizations of employees and either one or more employers, one or more organizations or employer or a combination of one or more employer and one or more organizations or employer and one or more organizations of employers: and**
- **Is either an agreement or arrangement prescribing ( wholly or in part) the terms and conditions of employment of employees of one or more descriptions, or an agreement or arrangement relating to one or more of the procedural matters specified in subsection (2) or both.**

**The Collective Labour Agreement (C.L.A) became a legal document during 1984 after the Temal Case. Prior to 1984 conciliation was voluntary process**

**Before the enforcement of this document, it must be agreed and signed by both parties in the presence of an Officer at the Ministry.**

**Two main Types of Collective labour Agreement.**

- **Procedural Agreement Recognition Agreement**
- **Substantive Agreement**

## **DISPUTE Resolution Process**

|                   |                               |   |
|-------------------|-------------------------------|---|
| <b>Bi-Lateral</b> | <b>Conciliation/Mediation</b> | <b>Arbitration</b>                          |
| <b>Settlement</b> | <b>Settlement</b>             | <b>Settlement by party by outside party</b> |
|                   | <b>Violence</b>               | <b>Court</b>                                |
|                   | <b>Threats</b>                | <b>Arbitration</b>                          |
|                   | <b>Go-Slow</b>                | <b>Fact Finding</b>                         |
|                   | <b>Work to Rule</b>           |   |
|                   | <b>Strike</b>                 |   |

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

## **THE PROCESS OF SETTING A TRADE DISPUTE**

There are (3) Three stages in setting a trade dispute:

### **Process of dispute Resolution**

- **Bi- Lateral Level**
- **Conciliation /Mediation**
- **Arbitration**

## **Bi-Lateral Level**

Where there is a collective Labour Agreement the system is clearly outline commencing at the branch level /Grievance Committee, failing the General Secretary of the union may request in writing a meeting with the P.S Failing at this stage the matter should be refer to the Ministry of Labour for conciliation.

## **Conciliation/Mediation**

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

“Conciliation can be described as the practice by which the service of a neutral third party are used in a dispute as a means of helping parties to reduce the extent of their differences and arrive at an amicable settlement or agreed so solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of the conciliator”

## **Some reasons why conciliation/ Mediation is chosen**

Voluntary in nature, attempts at compromise win/win outcomes and addresses both conflict and dispute

To discuss consensus based- processes including negotiations conciliation/ mediation, joint problem solving and rights based processes including voluntary arbitration, compulsory arbitration and labour courts:

The conciliator

The conciliator is not an arbitrator and cannot substitute his judgment for that of the parties. The conciliator cannot impose a settlement; it is for the parties to agree to a solution under the guidance and skill of the conciliation who must maintain a strictly impartial and neutral attitude towards the two parties. The conciliation function requires independent judgement and a conciliator