**Report on Attendance at the Cooperation Activity and Technical Assistance**

**from the Ministry of Panama On Organizational Management of the Labour Inspection Directorate in Barbados, Hosted by the Inter-American Network for Labour Administration, Panama City, Panama, June 25 - 27, 2019**

The Assistant Chief Labour Officer (Ag.) Mrs. Linda Bowen, Senior Labour Officer (Ag.) Mrs. Judamay Williams-Bryan and Senior Safety and Health Officer (Ag.) Mrs. Alison Elcock, of the Labour Department, represented Barbados at this Activity hosted by the Inter-American Network for Labour Administration (RIAL), held at the Ministry of Labour (MITRADEL) in Panama, June 25 to June 27, 2019.

**Purpose of the Training Activity**

Following a Workshop on 'Strategies to Improve Compliance with Labour Legislation' held in Costa Rica in December 2018, it was thought that the features of the Labour Inspection System which were highlighted by Panama illustrated a modern approach to the organization of Labour Inspection function. This then served to provide the forum by which the Labour Department of Barbados requested the opportunity via a visit, to seek guidance on methods to improve on the quantity, quality and effectiveness of its own workplace inspections and training Awareness programmes, with the aim of fostering improved labour management cooperation.

It enabled participants to:

* Review the methodologies used to determine the scale and nature of inspections within economic sectors;
* Examine the strategies used to educate employers, employees and the general public, on the services offered and to encourage compliance with Legislation;
* Review the programmes and techniques that are aimed at young workers;
* Examine the Administrative arrangements for the notification of requests for inspections and participate the conduct of field visits to industrial and non-industrial workplaces;
* Review post-inspection procedures inclusive of the storage and analysis of information;
* Examine the ways in which technology is applied in the collaboration and management of data; and
* Identified lessons learnt and developed policy recommendations, based on the experiences that were highlighted.

**Description of the Activity**

**Day 1**

In a presentation by Mr Alexis Dioses, Chief of the Labour Inspection Directorate, it was pointed out that prior to creation of the Inspection Directorate; the inspection work of the Ministry was limited to a Departmental level only and under the jurisdiction of the Labour Inspectorate. The Labour Inspection Directorate was later created by the Executive Decree No. 84 on December 31, 1996.

It was emphasized that this Decree was implemented to evaluate the effectiveness of Labour Administration and some of its provisions were to:

* Order the immediate suspension of specific activities within a company that generate risk or imminent danger to the safety and health of workers;
* Advise companies and workers on the most effective way to comply with the provision whose supervision is entrusted;
* Promote in accordance with the Panamanian Institute for Labour Studies (PEL), the implementation of hygiene, safety and environmental programmes at work;
* Keep a record and control of occupational accidents and diseases, in coordination with the Social Security Fund and the Ministry of Health, detailing among other aspects, the causes of diseases, frequency and activities where accidents occur; and
* Supervise compliance with the current provisions on the matter and provide surveillance through a body of specialized Inspectors, in coordination with the Department of General Labour Inspection.

Mr. Dioses also highlighted associated legislative frameworks under which the Ministry functions namely:

* Law 14 of January 30, 1967 - Ratification of ILO Convention 81;
* Labour Code Cabinet Decree 252 of December 30, 1971;
* CSS Resolution 4558 of February 17, 2011;
* Executive Decree No. 2 of February 17, 2008
* Law No. 67 of October 30, 2015.

Mr. Dioses further emphasized that his Ministry viewed Safety Inspection as an analytical safety technique engaged to identify existing hazards and also to evaluate the risks presenting in different jobs. Inspections are carried out exhaustively in all facilities, on equipment and processes in operation, *''ín situ'',* in the field in order to identify existing hazards to assess risks and propose appropriate preventative measures.

Mention was also made of:

* *Requested inspections -* which result from petitions or complaints made by personally, by identified persons or anonymously, via a Trade Union Organization, or through a specific Administrative Unit such as 311 (Call Centre)
* *Occupational inspections* - those that routinely originate as part of the inspection functions by decision of the Ministry authorities to verify particular situations; and
* *Craft inspections -* those that are carried out after a demographic census of commercial, industrial or construction projects, in specific areas.

These are assigned by the Department Head who schedules the routes to be undertaken.

It was noted that resultant inspection reports should contain:

* general data of the company;
* objectives of the inspection;
* any breaches and violations; and
* all documents requested to aid in the investigation procedure.

Of mention is that in the year 2018, the SUITE System (Unique Work Inspection System) was introduced in the Ministry of Labour, thus allowing for the reception and assignment of Labour Inspections in an easier and faster manner. The electronic file is accessible by the Chief assigned to the Department. The Chief reviews the inspection information and makes recommendations to Inspectors for corrective action to be taken by the company if necessary. Where no follow-up action is required, the record is filed electronically. These electronic records are to be maintained for five (5) years based on the statutory requirement.

In outlining other processes, Mr. Dioses reported that the Social Security Act mandates the recording of all accidents; accidents that occasion any absence from work are to be reported to the MITRADEL; a register of accidents is maintained by the MITRADEL and this register can be verified by the Workers’ Unions and the Social Security Department.

He added that where matters of occupational diseases are concerned, investigations are done jointly with the Health Ministry or that particular Ministry sometimes undertakes the lead as it possesses the required expertise especially in the conduct of Indoor Air Quality investigations, as does The MITRADEL.

Mr. Dioses underscored that engagement of technology especially the use of tablets, significantly served to improve the quality of the inspection function, as this electronic device, while serving to facilitate direct communication (with photos) on assigned duties from Supervisors to Labour Inspectors, not only enabled the ready collection of data in the field and quickened its analysis, but lent to the advantage of efficiency in reporting, document reporting while underscoring greater transparency and accountability.

In concluding the presentation, Mr. Dioses drew attention to the fact that the Occupational Safety and Health Department was established as a separate agency from the MITRADEL in 1996. The organizational structure includes managers at various levels along with ten (10) Inspectors for the capital city; sixty-two officers assigned to different construction projects and eighty officers assigned to other regions of the country. He added that all new staff assigned to this section must undergo a sixty-day basic orientation programme. The Safety and Health Officer as known as the Security Officer, is exclusively assigned to be present on construction sites, but are required to visit the MITRADEL Office every two weeks to update management of the Department on all activities occurring at the site. Also, that it is a requirement implemented by the Government of Panama that all construction projects valued at one million dollars, must pay a dedicated tax contribution, which is used to finance the employment of those Security Officers assigned to this sector. Of interest was the fact that since the positioning of the Security Officers, there has been a significant decline in the number of fatal accidents occurring in the Construction Sector, falling from twenty-seven in 2007/2008 to nine in 2018 and three, up to June 2019.

Mrs. Magaly Venegas, Chief of the Minor Workers Department, next facilitated a presentation on the Management of Minor Workers and the Eradication of Child Labour. She outlined that two main objectives of this Department are:

* to ensure compliance with established labour policies and regulations; and
* preventively apply labour legislation and international agreements ratified by Panama.

In so doing, there are doing, there are specialized inspectors whose job it is to clearly define the situations detected in the inspection, teach employers and workers and request sanction from the country's Judicial Secretary. These inspectors conduct four types of inspection, namely job; requested; re-inspection and citizen service (311).

It was pointed out that Panama's Ministry of Labour (MITRADEL) in its association with the Minor Workers Department, ensures that supervised inspections are carried out on companies; grants work permits to teenage workers and promotes the strict application of national laws.

This programme is governed by National Standards which extend to - Executive Decree No. 1 of January 5, 2006; Executive Decree No. 19 of June 12, 2006 (which approves the list of hazardous child labour conditions within the framework of the worst forms of child labour); Labour Code Articles from Nos. 117-125; Articles 10, 26, 67 and 95 of Panama's Constitution; The Child Abuse Criminal Code and Articles 4, 400, 501 and 507 to 513 of the Family Code Article.

Additionally, there is strict adherence to International Standards - ILO Conventions 138, 182, and 81 and focus is maintained on a culture of prevention which recognizes that all workplaces should comply with established standards, so that both employers and workers consider it normal and a social responsibility. There is also observance of the country's Labour Code which makes it mandatory that employers have the obligation to allow and facilitate inspection and supervision of administrative and judicial labour authorities, which must be practiced in the company, establishment or business and in rural or urban areas.

While Mrs. Venegas noted that dangerous child labour is work done by children that threatens their health and physical and mental development, interferes in their schooling, depriving them of the possibility of attending classes, she cited that the law allows for the engagement of teen workers, done under a special protection regime and with proper authorization of MITRADEL, which undertakes the administrative work.

She identified a typical working day for such workers as six (6) day time hours, totaling thirty-six (36) hours per week, performing tasks that do not impact their psychosocial health. To be considered for this programme, applicants are to be between 14 to 17 years old; be studying, a graduate; or make application in the company of a parent or guardian to be evaluated by Social Workers. Jobs allowed for teen workers were identified in fields such as administrative; customer support; customer service assistants; sellers; accounting; data collectors and receptionists.

Documents to be provided by prospective teen workers include health certificates, birth certificate, certification from the school being attended along with class schedule, diploma (if a graduate) and identification from father, mother or guardian.

Mrs. Venegas shared the following statistical information on child labour which showed a marked decrease in this activity over the years:

* 2000 - 47,979
* 2008 - 89,767
* 2010 - 60,702
* 2012 - 50,410
* 2014 - 26,710
* 2016 - 23,855

Mrs. Venegas ended her presentation by speaking to further successes in this programme, by making reference to a four year CLEAR II Global Project, funded by the United States Department of Labour (USDOL), operating under the execution of WINROCK International and its partners. This project partners with MITRADEL and offers technical assistance through a curriculum that contains guidelines to help Labour Inspectors in their regular work, in their strategic planning in conducting surveys, in improving collaborative relationships with relevant stakeholders, in providing advice to companies on the best way to self-regulate to ensure that children are not being exploited and overall, to aid in providing Labour Inspectors with the knowledge and skills to identify, and to prevent and assist in eliminating child labour in all sectors in Panama.

**Afternoon Activity**

The activity for the afternoon period focused on a group visit to Grupo Verde Azul, which was a construction site nearing completion. There the opportunity was had to engage the Management and the Security Officer present on the several safety measures to be observed on that site; the processes to be undertaken in obtaining approval to commence construction and the Labour Inspector's role in ensuring that work is performed in accordance with standards and policies.

During that visit, it was learnt that that the Security Officer is required to verify a range of details during the inspection, including compulsory Social Security contributions; maintenance records; work permits; fire certificates; construction tax payments. (Authority under Law 67 of October 2015) and that additionally:

* The MITRADEL is usually a member of the joint health and safety committee within organizations.
* Each construction project must present a Management plan to the MITRADEL prior to the commencement of the project. The project is only permitted to start if there is no reply from the MITRADEL after three months.
* Cranes must be examined and a permit issued before the commencement of a project. These inspections are conducted by Municipal Inspectors - officers from another government agency.
* There is a strong emphasis on Union involvement on construction sites. Union representation is required where there are more than twenty workers. Generally, most projects tend to have the Union representatives on site.

**Day 2**

Mrs. Mercedes De La Cruz, Chief of the Youth Employment Programme facilitated a presentation and subsequent discussion on the Panama Pro Joven Project. She itemized the objectives of this Project as namely - to contribute through training, to improve youth employability, develop and potentiate attitudes in young people in order to raise their professional profile and develop job skills to contribute to their social and productive existence.

It was outlined that this project is aimed at accommodating young graduates without work experience and has its manual of Administrative and Fiscal Procedures for regulation as:

* Persons should have either Technical or Vocational Certification or a Bachelors’ Degree.
* Be between 17 and 23 years old.
* Should display good behaviour.
* Must belong to a Public School.

We were informed that this project entails visits to colleges for the purpose of student recruitment; engages training in socio-emotional skills for life and work; undertakes business diagnoses and project promotion; promotes labour insertion through the process of internships and provides re-imbursement to companies following their participation. In furtherance of these activities, around fifty schools are visited nationwide in an effort to promote such benefits to interested students.

Mrs. De La Cruz in explaining the method of training of students in socio-economic skills, spoke to students' involvement in a three-day camp, where they are exposed to training in life and work skills by a Technical Team comprising Psychologists and Social Workers which engages the students in playful games while focusing on participatory techniques. On completion of these particular activities, an individual interview is applied to each student.

Another step outlined in this project related to the fact that the Technical Team creates a database of possible participating companies while liaising with respective Chiefs of Human Resources. Visits are undertaken to selected companies and those that buy in to this programme commence the process of documentation and the Labour Internship Cooperation Agreement in that business, is signed.

Mrs. De La Cruz highlighted further that students usually performed a three-month internship in a private company; the intern benefits from tutoring during internship; and as part of MITRADEL's promotion of and engagement in the programme, it contributes the sum of Three Hundred Bolivars added to which the associated company supports with an economic incentive. MITRADEL further grants each student an insurance policy. No statutory deductions are applied to the stipend given to each student.

Of note is that all costs associated with this activity are borne by MITRADEL even extending to its association with the Business Reimbursement Procedure, which sees the company initially absorbing the total payments to the student intern and thereafter compiling attendance sheets and payment vouchers. These are then verified by the Technical Team and the process of reimbursement to the company begins.

A presentation on the Characteristics of Labour Migration Inspections by Mr. Dionel Càrdenas, Chief of the Labour Migration Department, then followed. Mr. Cardenas posited that guaranteeing the fulfilment of the existing norms concerning the protection of the workforce of nationals was the objective of the Labour Migration Programme. He explained that this Programme was grounded in the legal foundation of Articles 20 and 73 of the Constitution; Law 14 of January 30, 1967, which approves Convention 81 relating to Labour Inspections; as well as Title 1 of the General Labour Protection Standards, Chapter 1 on the Protection of the Work of Nationals - Articles 17-20 and the Law of September 12, 2017 which was modified and added to the Labour Code. This mandates that employers are obligated to financially contribute to the Conciliation Fund of the Ministry of Labour and Labour Development or to deliver it directly to the migrant worker.

It was further pointed out that the Migration Department, at the request of parties, conducts inspections of all economic activities where foreign workers perform labour activities that displace local labour, in order to verify that these workers are indeed authorized to work in the Country. Regular night inspections are also undertaken at nightclubs or places where such workers may be engaged; home visits are conducted to the home of foreigners married to Panamanians - done at the request of the Employment Directorate. Other duties extend to the inspection of artistic events at the request of the Employment Directorate to verify the validity of the Work Contracts under which Artists and Musicians are engaged. This is done specifically to verify compliance with Decree 10 of August 12, 1985, which mandates the protective standards for artists and workers of National music.

Mr. Càrdenas reported that there has been a significant improvement in the migrant workers’ awareness of their rights since the 2017 introduction of new penalties based on the number of foreign workers (Law 59 of 2017). He gave examples of penalties imposed for any breaches as:

* $500 - 1st offence
* 1, 000 **-** 2nd offence
* $10,000 **-**3rd offence, plus the MITRADEL will request that the Ministry of Commerce and Trade suspend the operations of any offending company.

Additionally, work permits are processed within one and a half to two and half months and may be issued for one year or for an indefinite period, depending on certain established criteria. International artistes require a work permit in order to perform and these are issued for a three-month period with a requirement that local artistes and folk groups are included in productions involving such international artistes.

Featured characteristics of a Labour Migration Inspection is that there is no provision for re-inspection and by legal provision, the Labour Inspectors of the Department must be accompanied by a Judicial Secretary - specified in Article 2 of Law 59 of 12 - 9, 2017. Labour inspection powers extend to being able to enter freely and without prior notification and at any time of day; enter any place and any time when workers are assumed to be busy; examine, monitor, survey, carry out tests and investigations deemed necessary to ensuring legal provisions are complied with, interrogate the employer on any matter relating to the application of legal provisions (only with witnesses) and require the presentation of books, records or other documents required by labour legislation and in accordance with proper working conditions.

Of note is that there are:

* Collaborative efforts between the Migration Department and the Ministry of Labour which serves to ensure there is proper evaluation of migration issues and the implementation of strategies to assess the levels of migration flows, and monitor conditions of those migrants to guard against abuse as it relates to payment of salaries and wages which are way below the minimum rate.
* Inspections are coordinated between Security agencies and Labour Migration Inspection personnel in order to determine if there are any breaches in the rules relating to hiring foreigners or abuses of their entitlements to work benefits.

Mr. Càrdenas concluded his presentation by naming some migrant professions which are legally protected from abuse. These extend to Security Agents, Surveyors, Agronomists, Architects, Dental and Medical Assistants, Educators, Nurses, Civil, Electrical, Mechanical and Industrial Engineers, Barbers and Cosmetologists, Accountants and Attorneys. He also shared that the Migration Department operated under the motto - ‘***There is surveillance that the Panamanian Worker be Guaranteed.’***

**Day 2 - Afternoon Activity**

A visit to a construction site named Mirador - a set of Town Houses where there was a tour and observation of the major works undertaken. It provided the opportunity for interaction with the Security Officer and Construction Manager on site and engagement of questions and answers on compliance, extent of union involvement regarding the workers and observance of safety rules and regulations.

**Day 3**

The Barbadian Delegation was taken to the Offices of CONEP (National Council of Private Enterprise), which was described as a vital stakeholder in the Labour administration process. There the group was able to engage Mr. Juan Antoni Ledozma - Commissioner of CONEP and Ms. Analisa Montenegro - Executive Director of CONEP.

Information was shared that this organization, is regarded as the foremost representative of employers and the private sector and is an umbrella organization made up of twenty-four business associations and consisting of approximately Forty-five companies out of fifteen sectors of economic activity. Some small businesses are also included. CONEP is also the South American representative of employers at the International Labour Organization (ILO).

CONEP has as its vision - *to create the necessary and right environment as well* *as the legal context to promote free enterprise*. There are three strategic pillars around which all programmes are built, these being - institutionality, education and sustainable development.

Through assistance from international donors, CONEP is able to provide free training to its members and the provision of assistance from the International Labour Organization enabled the development of a diagnosis guide to help companies comply with Labour Laws. CONEP does not however provide Workplace Inspection services to its members.

It was reported that there is a general culture of compliance arising out of an Annual Training Programme with emphasis on labour matters. A high standard of communication and buy-in from business sectors is also attributed to the achievement of this culture. Further, there is a tripartite arrangement between CONEP, Workers’ Unions and the Government, which benefits from a high level of cooperation between the parties and a Tripartite Committee has an annual workplan that directs the focus of weekly meetings. It was noted that most of the activities relate to the review of Labour Legislation, which dates back to the 1960’s and sector-specific minimum wages, which are reviewed every two years by the Tripartite Committee.

One major concern expressed was the perceived burden on some businesses especially small businesses, due to the high level of government inspections and scrutiny by various departments, but the key priorities for CONEP were identified as:

* improvement to the Labour Code in order to address current and future work issues;
* concerns that as much as 30% of current occupations may not exist in the next year; and
* the influx of foreign workers and the accompanying challenges this may cause.

Mention was also made of the **I DO COMPLY** Programme.

The **“I DO COMPLY**” programme seeks to promote harmonious relations between workers, employers and unions. Companies interested in participating in such a programme will approach MITRADEL. The process involves inspection of the company’s operation to verify compliance with labour standards, such as statutory contributions; terms and conditions of employment; safety plans (where applicable) and occupational safety and health.

Once compliant, companies are issued with a sticker decal that is publicly displayed at the facility, for example, on the entrance door. The company is subject to an annual re-inspection to ensure it remains compliant. The re-inspection was initially every three (3) months but the MITRADEL found this timeframe to be too short.

It was learnt that since the start of this programme in 2014, one hundred and thirty-two companies have been assessed and certified and this includes fourteen construction projects. As a result, approximately sixty-three thousand, six hundred (63,600) workers have benefitted. A database of certified companies is available and accessible to the Ministry of Labour and the Ministry responsible for economic affairs.

**Main Results and Findings**

* The General Inspections Department periodically conducts censuses of the geographical areas (three to four times a year) from which inspections are assigned to each officer in a manner that ensures that the entire geographical area is covered.
* Solicited/requested inspections are done as a result of workers requesting an inspection of their workplace either by visiting the office or through the **311** central hotline. This central hotline is a national mechanism that covers other departments as well. Complaints received via the **311** hotline are expected to be responded to within 45 days; however, where immediate response is appropriate, a response is made within 1 to 2 days. Each complaint is given a case number which the complainant can use when seeking updates on his/her matter.
* Re-inspection or follow-up visits are made based on the discretion of the management and are usually done within 1 to 30 days of the original inspection.
* Phase verification inspections are done primarily in the construction sector to confirm that a specific phase has been completed. This is of particular importance to migrant workers’ permits. This is the main type of inspection requested by employers.
* In the event of breaches discovered during inspections, written instructions are issued stating what work in prohibited or what infractions need to be addressed. The documentation also outlines the duration of time by which the corrective action should be completed. During the period, the establishment is closed. An employer may request an inspection on completion of the required works, especially when this is achieved ahead of the deadline stated.
* The ‘SUITE’ software programme was introduced in May 2018 but is currently used for the Central Panama City area only. This programme allows for ready access to certain inspection-related statistics and has made the generation of reports easier. Inspectors use tablets to enter the data directly into the ‘SUITE’ during field visits. This programme took five months to develop and implement.

**Next Steps**

* The assignment of case numbers to complaints to our Department could be adopted. This would allow for improved tracking of complaint matters.
* It is evident that in Panama, much more emphasis is placed on the control function of management and the very high level of involvement of management in directing the work of officers, virtually on a daily basis, allows for a higher degree of supervision. As such, this aspect of reviewing inspection reports is to emulated as it would allow for a measure of quality assurance and furthermore mandate the duty of management to offer recommendations for follow-up action, including referrals for sanctions, while giving management a measure of control over the work of the respective work sections.
* The current reporting practices of Barbados’ Safety and Health Officers and Labour Officers, already allow Supervisors to review work undertaken and offer recommendations on appropriate follow-up actions. However, much less focus is placed on directing day to day activities. While this may not be the direction that our office may wish to pursue, there is much merit in giving greater attention to quality assurance measures.
* Merit is seen in the practice of conducting a Census of Workplaces, which allows for the provision of up-to-date and more accurate information and improved inspection services. Given that the Occupational Safety and Health Section (OSH) in Barbados last conducted a similar activity in 1998 when a factories Survey was undertaken, it would be useful to undertake a census-type activity periodically, perhaps every 3-5 years. Consideration will be given to examining if there are existing programmes by other agencies that are of this nature and with which collaboration can be established for the sharing of information.
* Where large scale construction projects are in existence, regular inspections, sometimes weekly, are generally done by the OSH Section to monitor safety standards. No attention is given to labour standards/terms and conditions of employment. Furthermore, there is no obligation on the company to submit a safety plan, although the Barbados’ SHaW Act requires that risk assessments be undertaken. Therefore, it is recommended that our Labour Department should examine the implementation of a requirement for written safety plans to be submitted. This should be done in consultation with relevant stakeholders. It is considered that the development of a template/guidance document would be useful, but it would be necessary for resources to be allocated for its preparation.
* Barbados’ ACTION programme bears a number of similarities with the **“I DO COMPLY”** programme. It was particularly interesting to learn about this programme. It is significant to note that unlike the **“I DO COMPLY”**, the ACTION programme is limited to compliance with the Barbados SHaW Act and OSH best practices, only. As such, the Barbados Labour Department will consider reviewing the criteria for the ACTION programme to include compliance with the Employment Rights Act, recognizing that this would require that the requisite administrative arrangements be put in place.
* Given the proposed digitalization of all Labour Department’s records, there could be consideration to the expanded use of technology during field activities similar to that utilized by Panama.

Insomuch therefore as the above represented the experience for the study tour, we now express appreciation that the stated objectives were realized and wish to formally thank the RIAL Technical Cooperation Fund, for graciously assisting us and making this activity, a reality.

Sincere thanks are also extended to MITRADEL Panama for the warm and accommodating reception we experienced.

Mrs. Linda Bowen - Assistant Chief Labour Officer (Ag.)

Mrs. Judamay Williams-Bryan - Senior Labour Officer (Ag.)

Mrs. Alison Elcock - Senior Safety and Health Officer (Ag.)