

Tripartite Workshop on the Employment Relationship in India

Bangalore, 22-23 October 2007

As a follow up to the adoption of the ILO Recommendation on the Employment Relationship, 2006 (No. 198) and the Resolution aimed at assisting constituents in developing national policies, setting up monitoring and implementing mechanisms and promote good practices, the ILO, in cooperation with the Confederation of Indian Employers (CIE), organised the Tripartite Workshop on the employment Relationship in India. The workshop aimed at better understanding changes in the patterns and structure of work and employment relationships in India, sharing international experience and improve the understanding of the provisions of the Recommendation.

The meeting was attended by some 60 participants –among which the tripartite constituents and national and international experts. It was inaugurated by Shri Oscar Fernandes, Minister of Labour and Employment, who stressed the importance that the government attaches to this issue. The distribution of the benefits of growth among the population was one of the main challenges in India. He made a plea to the social partners to arrive to a consensus on issues such as compensation and contingencies, and suggested to work on the principles. Speeches were also delivered by Mr. K.G. Baalakrishnan, Chairman, Council of Indian Employers; Mrs. Leyla Tegmo Reddy, Director, ILO Subregional Office; Mr. N M Adyanthaya, Member ILO Governing Body; Mr. G. Casale, Director Dialogue, ILO Geneva and Mr. Gotabaya Dasanayaka, Senior Specialist for Activities with the Employers' organizations, ILO. The panel stressed the importance of the issue in India and the need to come up with solutions to address the concerns of all parties. Mr Casale indicated the use of the recommendation as a reference to guide national policy to ensure protection.

Throughout the two days, the various presentations addressed issues of common concern. Mr. Giuseppe Casale provided in-depth information on the evolution of the discussions and the preparatory work that conducted to the adoption of the ILO Recommendation No.198 (2006) on the Employment Relationship. The recommendation was aimed at orienting countries to avoid situations in which triangular relations and various forms of disguised employment left workers unprotected. According to Professor Venkata Ratnam, the problems regarding the employment relationship in India related to the existing law with numerous pieces of legislation -and lack of coherence between them-, low coverage of labour law and a Contract labour Act that dealt with abolition, but not with regularization and absorption.

While India was a country that had enacted specific legislation for contract labour, because of the dramatic change in the environment, some discussants highlighted that existing provisions were not adapted to the new forms of relationship in India. Other criticism made to the Act was the fact that it contained no provisions for Regulation as well as its weak implementation.

The good practice of the State of Karnataka in regulating the employment relationship was presented by Mr. Sanjiv Kumar, ILO-SRO India. Mr Dr S Balakrishnan Raju, Chairman Central Advisory Contract Labour Board, Government of India, gave an overview of the role and work of the Central Advisory Contract Labour Board. The Board was a tripartite structure created to receive complaints of the workers and the employers on the implementation of the Contract Labour Act. In its recommendations, the Board always tried to find an amicable settlement, taking into account the interests of both parties.

During the workshop it was acknowledge that the controversy that existed in the international arena also existed in India. There was a general understanding that the number of casual

workers had increased –the same trend was heard from Sri Lanka-, resulting in increased number of trainees in the organized sector and outsourcing. Discussion also focused on the effects of casualization of workers on wages, health and safety –higher number of accidents was reported by research carried out by the State of Karnataka- on protection and on training.

The long term risk that the lack of investment in training would bring was seen as a main threat for sustainable development, in particular considering the current shortage of skilled and semi skilled workers in the country.

Concerns were also expressed on the weak implementation of existing legislation -criticism was made to the effectiveness of the labour inspectorate- and on the lack of safety and security nets. On this issue, the views from the workers and the employers, who had prepared specific papers for the workshop containing specific proposal, seemed somehow divergent. Income protection was suggested by one employer as opposed to the concept of job protection.

Participants also identified some of the key elements for a national policy to guarantee effective protection of the workers engaged in an employment relationship: wide coverage, establishment of minimum remuneration, continuity of work, social protection to all, effective implementation of labour law provisions and right to organize were mentioned, among others.

Participants also provided ideas on what should be done to effectively monitor and evaluate a national policy on the employment relationship. Issues mentioned were: reinforcing social dialogue mechanisms, have the issue on the employment relationship systematically on the agenda, create a State advisory board or mechanisms and extend the scope and frequency of meetings of the Standing Labour Committee.

On a positive note, many participants stressed the fact that workers and employers were in the same boat. The need for consensus and alliances between workers and employers on this issue was repeatedly mentioned throughout the workshop and highlighted by Mr. I.P. Anand, Governing Body Member (Employers) in the closing session. Mr. S Krishnan, Additional Secretary, Ministry of Labour, Government of India, reminded that globalization would also bring a need to comply with standards, and a clearer definition of an employment relationship was needed in India. Mr. R.A. Mital, Secretary, Hindu Mazdoor Sabha, made a plea to advance to ensure proper employment relationships and advance in the implementation of Convention 198, and Mr. B.C. Prabhakar, President, Karnataka Employers Association and Ms. Marleen Rueda, Sr. Specialist on Social Dialogue and Labour Administration, ILO, New Delhi delivered the vote of thanks in the name of all participants.