



THIRD THEMATIC PLENARY SITTING

Preparing the future of work we want: Measures and policies to strengthen and redesign institutions in the world of work, including social security, and to ensure that trade union and labour rights are fully upheld

— Objective

In many of the region's countries, the world of work is characterized by a high degree of informality, exclusion, discrimination, inequality, yawning divides in social security coverage, unemployment and underemployment, among other features.

The objective of this panel discussion is to analyse what measures and policies should be adopted and how to implement them, with a view to strengthening or redesigning labour market institutions, including social security, so as to make them more inclusive and fully uphold labour rights. A basic institution and means for achieving these objectives is social dialogue, and the panel will therefore also discuss shortcomings in social dialogue and the ways it can be strengthened.

— Context

The countries of Latin America and the Caribbean, despite the strong points in their legal labour frameworks and significant levels of ratification of international labour standards, are facing the structural and historical challenges that typify the labour market along with the new challenges associated with changes in the world of work, such as technological advances, demographic change and the transition to green economies.

Persistent structural challenges include those below.

a. Application of international labour standards and labour legislation

Some of the noteworthy problems, that do not affect all countries equally are the mismatch between domestic labour legislation and international labour standards; deficient respect for and

application of labour norms, in particular with regard to fundamental principles and rights; weak labour administration and inspection; the absence of rapid and comprehensive labour justice, including with regard to industrial dispute settlement; the absence of a culture of social dialogue; and the need for greater reinforcement of employer and worker organizations.

Shifting patterns of production and work, institutional weaknesses of States and the waning capacity of employer and trade union organizations for collective representation are challenges for labour legislation.

Labour legislation must also take account –when this has not happened already– of the new types of employment, which generally take the form of intermediate or triangular relationships; remote or telework; part-time or flexible hours; or employment of determined duration or for a specific task. Some of these forms are associated with new business models linked to new technologies via online platforms, special applications, which have given rise to the so-called “shared” or “gig economy”.

b. Application of and respect for fundamental principles and rights at work

Upholding fundamental principles and rights at work is a top priority in a region with high rates of inequality, discrimination and exclusion. The Declaration on Fundamental Principles and Rights at Work (1998) established four categories: freedom of association and effective recognition of the right to collective bargaining; the elimination of forced or compulsory labour; the abolition

of child labour; and the elimination of discrimination in respect of employment and occupation.

The difficulties in labour legislation application and compliance have been observed especially in relation to *freedom of association and the right to collective bargaining*. Worker and employer organizations have repeatedly indicated that violation of this fundamental right has served to weaken the system of industrial relations in some countries and given rise to numerous complaints to the ILO by both parties.

The situation varies widely in Latin America and the Caribbean when it comes to collective bargaining. Argentina, Brazil and Uruguay have collective bargaining coverage rates on a par with those in high-income countries, which tallies with the fact that they are the only countries with sector-based collective bargaining. However, there are other countries where coverage stands at about 5 per cent. (source: ILO).

Collective bargaining has experienced interesting developments in terms of promoting gender equality and fighting discrimination against women. Numerous collective work agreements contain specific clauses on preventing and combating sexual harassment; on pay equality and equal opportunities to obtain better and more qualified positions and occupational training; on the elimination of discrimination in selection and promotion processes and broader legal protection in respect of maternity and paternity; and on a better balance between family responsibilities and paid work.

Despite the progress made towards reducing *child labour and forced labour*, challenges remain. An estimated 10.7 million boys, girls and adolescents are working as child labourers in the region, 6.5 million of them in hazardous jobs.

And despite the positive measures taken by most States in the region to adopt a legislative and institutional framework to combat trafficking in persons, over 1,280,000 persons are engaged in forced labour in the Americas (ILO, 2017).

Regarding *gender and non-discrimination*, the region's labour market has some gaping holes: approximately one out of every three women does

not have an income of her own, partly because women's participation in the labour market remains much lower than that of men (50.2% as opposed to 74.4%). In addition, both the unemployment and the informality rates are higher for women than for men, and occupational segregation is strong, with women concentrated in the low-productivity social, community and personal services sector and in retail (63%).

c. Indigenous and Afro-descendant peoples

Practically all social, labour and income indicators reveal wide gaps between indigenous and non-indigenous populations. Indigenous people are more likely to be working in the informal economy and to not be covered by social security than non-indigenous people. The statistics also show that indigenous peoples are disproportionately represented among the victims of discrimination, child labour and forced labour. There is a persistent pattern of social exclusion of indigenous peoples, both in urban and rural areas, closely linked to lower labour market inclusion and insufficient productive development. In addition, an important challenge in several countries is how to reconcile respect for rights of indigenous populations with investment and productive development projects, which, if well designed, can bring prosperity to the various communities where they operate.

d. Labour administration and inspection

The establishment of effective labour administration systems is a matter of constant concern in the region. Although labour ministries continue to face severe funding shortfalls, application of the law is an ongoing preoccupation and many efforts are made to guarantee it. Labour inspection systems face major challenges and have also been the object of specific programmes and substantive reform. The number of inspectors in Latin America and the Caribbean varies significantly between countries, from one for every 40,000 employees (the lowest) to one for every 5,000. The same holds true for the annual number of visits per inspector (between 20 and 400).

The need to improve inspections has prompted various governments in the region to adopt modernization processes. These include the introduction of

more strategic and proactive inspection models and more sophisticated electronic management tools; improved data collection and processing for greater efficiency; the creation of integrated inspection systems; and penalty system reform.

e. Labour justice and labour dispute settlement

The discredit generated by procedural sluggishness and by the inability to execute decisions or awards has led to major changes in the design and strategies of labour justice and labour dispute settlement in various countries. The world of work needs efficient, effective, predictable, transparent and corruption-free judicial processes in which application of the law and regulations is not a matter of discretion.

Labour justice was rendered ineffective by changes in labour market conditions and greater labour unrest, in particular over individual rights and protection against anti-trade union discrimination. In most countries, the chief reason for individual disputes was dismissal. Greater efforts have to be made to strengthen dispute settlement mechanisms, ensure that specialized justice is done and guarantee enhanced and more effective oversight when fundamental rights are at stake at work. Changes should be oriented towards nimbler and simpler procedures affording guarantees to the parties.

f. Social protection

Social protection is a fundamental component of the labour institutions of any country and its social development model, in other words, of its well-being. The region has made progress in terms of social protection in the past ten years, but great gaps remain to be bridged. In Latin America and the Caribbean, over half of all workers do not contribute to a social security system to guarantee incomes and protect them from social risks such as illness, unemployment and old age. The region's existing systems are caught between the conflicting demands of coverage needs (proportion of the population reached), adequacy (level of benefits) and sustainability (capacity to ensure coverage and benefits).

According to the recently published ILO thematic labour overview, entitled *Presente y futuro de la*

protección social en América Latina y el Caribe (Present and future of social protection in Latin America and the Caribbean), coverage of contributory pension systems based on employment increased from 36.6 to 44.6 per cent between 2005 and 2015. This is a positive development, although it also means that 55 per cent of the working population has never contributed.

Contributory coverage mainly benefits public (80 per cent) and private employees (62.5 per cent), whereas only 15 per cent of the self-employed and 26.6 per cent of domestic workers are covered. It is also markedly higher in the Southern Cone region (including Brazil), where it covers 58.6 per cent, compared to the Andean countries (31.4 per cent) or Central America and Mexico (31.2 per cent).

Social protection in the region faces many structural challenges: the high incidence of informality (on average, almost one of every 10 workers in the region is working informally and does not contribute to social security), in response to which coverage strategies have been expanded beyond promoting formalization and strengthening contributory systems; employment growth in less productive and formal service sectors; the growing participation of women in the labour market, chiefly in less productive, more informal, lower income and less stable sectors and occupations; the falling demographic bonus and ageing population, which increase dependency rates; growth of the middle class, with greater demands for social protection and stable incomes in old age; and weak institutional capacities.

In addition, social protection is increasingly affected by the pace of change in the organization of production and labour brought about by technological disruptions. The emergence of new forms of employment also represents an additional challenge, to the extent that the social protection systems do not adapt to these new realities in terms of coverage, adequacy and sustainability. The incidence of natural disasters is also generating risks for, and specific demands on, social protection systems.

In the face of all these challenges, the construction of a new social protection floor as part of a system of minimum income guarantees is unavoidable.

— Social dialogue

In this daunting situation and in such pertinent fields, the countries of Latin America and the Caribbean face a fundamental challenge: **How to come up with sustainable and long-lasting solutions that serve to offset inequalities, develop in an environment in which the law is applied and respected, and meet the challenges of the future?**

Since 1919, the ILO has been advocating social dialogue as the governance model for achieving greater social justice and promoting employment, good labour relations and social and political stability. Social dialogue embodies the democratic principle that those affected by policies should have a voice in decision-making, but it is above all a means of making economic and social progress, because, in addition to fostering efficient legislation and labour market institutions, it can facilitate consensus on economic, social and labour policies.

There is still a long way to go to strengthen the culture of social dialogue in practice in the region. Several countries are characterized by a high degree of social unrest and deep mistrust of governments and public institutions and between sectors. The culture of dialogue to reduce social conflict is undermined by institutional fragility, and there exists a culture of confrontation and profound distrust that affects governability. In addition, the absence of a broad policy consensus based on robust social dialogue processes tends to limit the promotion of an agenda for development, employment, inclusive growth and greater positive social justice able to mobilize the various stakeholders in constructive directions.

There is a clear need for strong and free trade union and entrepreneurial organizations that have the technical, operational and political capacity to engage in dialogue about the broad range of challenges – economic, social, relating to sustained, inclusive and sustainable growth with production development and decent employment – facing the region.

Fostering unionization is therefore an important objective for ILO action on social dialogue. Social dialogue is also a challenge when governments are not sufficiently engaged in a genuine process of consultation or when they enjoy too little trust and credibility among their industrial partners.

— Suggested discussion points

- 1) **What are the main ways in which labour market institutions and regulations should be changed or redesigned to make them more inclusive and enabling for an environment which allows a healthy entrepreneurial development?**
- 2) **What tripartite action could be taken to achieve full compliance with international labour standards, and in particular with labour rights?**
- 3) **What are the key factors for social dialogue to work properly in Latin America and the Caribbean and what tripartite action can be taken to that end?**
- 4) **How can progress be made towards greater coverage and adequate benefits in social protection systems?**
- 5) **How can social dialogue help promote greater participation and inclusion of indigenous peoples, as well as promote sustainable investment that allows for the generation of prosperity in these communities?**