

Promoting Collective Bargaining and Dispute Resolution in the Public Service

An ILO training workbook



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Promoting collective bargaining and dispute resolution in the public service: An ILO training workbook

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Preface

This Training Workbook is published to complement our Manual on collective bargaining and dispute resolution in the public service. The Manual showcases an array of mechanisms, mostly interconnected, that governments and social partners around the world have developed to minimise and resolve disputes – and especially interest disputes in collective bargaining – in the public services. By October 2013, the Manual has been published in 11 languages: English, French, Spanish, Arabic, Bosnian, Greek, Macedonian, Portuguese, Russian, Serbian and Ukrainian. The Manual has supported activities to promote the ratification and implementation of the Labour Relations (Public Service) Convention, 1978 (No. 151) in Bosnia and Herzegovina, Botswana, Brazil, Dominican Republic, the Former Yugoslav Republic of Macedonia, Philippines and Serbia.

To further support this effort, the Sectoral Activities Department is publishing this Training Workbook, which contains exercises for use by trainers and practitioners of collective bargaining in the public service. The Workbook is a practical way to strengthen the capacity of member States and public servant organizations to engage in collective bargaining with the particularities of the public sector. This is more relevant than ever in times of fiscal consolidation and austerity measures. We have decided to emphasize the Mutual Gains approach in order to encourage the parties to identify and address common interests through consensus-building. We hope that readers will use this tool to engage in constructive dialogue to craft creative answers to their concerns.

The Sectoral Activities Department wishes to thank the author of this Workbook, Starr Knutson, for contributing to shed light on this important aspect of the work of the ILO. Readers are invited to send comments to Carlos R. Carrión-Crespo, Sectoral Specialist for the Public Service and Utilities, at carrion-crespo@ilo.org.

Alette van Leur
Director
Sectoral Activities Department

Foreword

Social dialogue, including collective bargaining, is one of the core principles of the ILO. It should form part and parcel of the regulation of labour relations in the public sector. Dialogue and bargaining can and should be key contributors to public sector efficiency, performance and equity. However, because competing interests are involved, it is not conflict free. If governments and public sector unions are to be encouraged to bring these dynamics into public sector work, where industrial peace carries a special premium in the public mind, then considerations of conflict management must be uppermost. This is more relevant than ever in times of fiscal consolidation and austerity measures.¹

This training workbook aims at developing and strengthening the collective bargaining skills and expertise of workers, the public sector unions and government officials. It takes an active learning approach, encouraging dialogue and interaction among participants, so that they engage in 'bargaining' already during training.

The training workbook accompanies the *Manual on collective bargaining and dispute resolution in the public service* (2011) published by the ILO. The training workbook is an adaptation of a previously published tool, *Promoting National Social Dialogue: an ILO Training Manual* (2005),² to the realities of collective bargaining in the public service. As a result, most of the titles of the sections and several passages in this workbook are similar or identical to the text in the 2005 training manual.

This training workbook is meant as a practical tool to learn and practice the art of dispute resolution, with emphasis on using a mutual gains method of collective bargaining. These materials are designed to be a user-friendly tool for all who are interested in promoting a better understanding of the use, value and practice of collective bargaining in preventing and resolving disputes in the public service.

I would like to express my appreciation to Mr. Carlos Carrión-Crespo for offering me the opportunity to contribute to this valuable work.

Starr Knutson, M.S.
Arbitrator/Facilitator/Mediator
December 2011

¹ Alette van Leur, Director, Sectoral Activities Department, ILO, *Manual on collective bargaining and dispute resolution in the Public Service* (2011), pg. iii.

² Drafted by Mr. Stirling Smith and coordinated by Ms Junko Ishikawa.

Section 1. Introduction

The workbook is designed for use both by those who are new to collective bargaining and by those involved in established bargaining relationships and other bipartite mechanisms, which may, for a variety of reasons, wish to review how they function. The different political systems around the world have developed diverse labour relations processes in the public service.³ Nonetheless, an examination of the approaches and mechanisms seen in a variety of bargaining relationships around the world provides persuasive indicators on better ways of negotiating. The workbook provides suggestions: within a scheme consistent with ILO norms, it invites government officials and public sector unions to consider a range of options, some relatively integrated, others perhaps opposite to one another. The workbook should be used in conjunction with the manual on collective bargaining and dispute resolution in the public service (Manual). The Manual seeks to build on the work done by the ILO's Sectoral Activities Department by offering a compilation of good practices in collective bargaining, dispute prevention and dispute resolution in the public service.

The focus of this workbook is on using alternative collective bargaining models in the public service to develop an alternative bargaining process that works well in dispute resolution and other value laden issues. This workbook does not deal with other types of collective bargaining. This topic is addressed in many other ILO publications². In some countries, public sector collective bargaining presently includes dispute resolution and this is described in the relevant country examples provided in the Manual.

³ G. Casale and J. Tenkorang: *Public service labour relations: A comparative overview*, Paper No. 17, ILO Social Dialogue, Labour Law and Labour Administration Branch (Geneva, ILO, 2008), p. 2.

How to use this workbook

The workbook is designed to be used in training workshops. By the end of the workshop, participants should have some clear plans on the next steps that will be taken to begin, or improve dispute resolution through collective bargaining.

The aims of a training workshop using this workbook are:

to review the experience of collective bargaining in the public service in the country concerned;

- to think about what needs to be done to strengthen collective bargaining in the public service in that country;
- to develop a shared understanding of how alternative bargaining models may increase dispute prevention and resolution;
- to agree on action to improve collective bargaining and dispute resolution in the public service.

The workbook is divided into sections. Each section of the workbook deals with a particular theme or issue and corresponds to a session of the workshop, which may last from thirty minutes to a whole morning or afternoon. Each section contains one or more learning activities, including problem-solving discussions, case studies and role-plays. The number of sections and activities that can be undertaken during the workshop depends on several factors, including the time available and the willingness of the participants to embrace new models of bargaining.

Apart from the Manual, most sections are linked to documentation which can be referred to during and after the workshop. The workshop facilitator will provide copies of relevant ILO Conventions and Recommendations or other relevant material.

Target Group

The workbook is intended mainly for use in workshops by groups consisting of representatives and members of public service workers' organizations and government officials, however, it may be used by parliamentarians, community leaders, civil society and other stakeholders in society who wish to learn more about issues related to public sector collective bargaining and dispute resolution.

Active Learning

This manual uses active learning methods, which recognize the participants' experience and ideas as the most valuable resource. This requires interaction between the facilitator and the participants.

Active learning focuses on the learner, not the workshop facilitator.

Workshop participants are involved in collective bargaining from the beginning of the workshop. The aim is to create a culture and momentum of inclusive bargaining that regularly produces agreements so that after the workshop, the participants will want to keep going.

Learning activities are suggested throughout this workbook and are designed to assist active learning. These are NOT tests, and usually involve a role-play or group discussions; they take between 30 - 90 minutes. Small groups should be comprised of no more than 4/5 people, and sometimes may be smaller - some activities can be done in pairs. Groups select a reporter to inform the views of the group to plenary sessions. This task is rotated among participants.

Participants are requested to write much of their work on flipcharts, which should be kept on the wall of the workshop room. These may be used as a record of the discussions, since it may be necessary to refer to what was discussed in an earlier session. The flipcharts can then be used to record what is agreed at the workshop. Other forms of communication can also be used and are encouraged including short plays, pictures and oral presentations.

Section 2. Starting the Workshop

The workshop is itself part of the dispute prevention and resolution process. Please begin by sharing some information about yourself with the other participants. It is very important to use neutral body language and vocal tones as you speak.

The workshop then focuses on establishing some guidelines on how you treat each other during the workshop.

Discussion during the workshop needs to be open and honest, and at the same time, all participants should be treated courteously and with respect.

Activity: Introductions

Aims: To help you to:

- find out who is in this workshop
- share information in a neutral manner

Task: Introduce yourself to the other workshop participants by sharing the following information using neutral body language.

- Your name,
- Your organization,
- Your position in the organization,
- Your experience in collective bargaining and labour dispute resolution, if any,
- What you hope to get out of this workshop.

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Activity: Workshop Expectations

Aim: To help you identify what learning experiences and outcomes you want to have at the conclusion of this workshop.

Task: Work in a small group. Discuss your experience in collective bargaining and dispute resolution with the rest of the group. Try to agree on what you and the group would like to learn as a result of the workshop.

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Activity: Working together

Aim: To help you to find mutually acceptable rules for the workshop.

Task: The workshop may raise controversial issues. It may help to agree on some guidelines on how to work together.

In your small group, discuss guidelines you will follow to deal with different opinions and views that may be expressed during the workshop.

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Section 3. What is collective bargaining?

Collective bargaining in the public service is both a means and an end. Like any complex process, there are a number of different methods and approaches. Collective bargaining takes various forms in different countries and at different times. Nevertheless, special considerations exist in the public service. The public interest demands that essential services be maintained and spared from labour disruption, and that key state functions continue at all stages of labour-management engagement.

Collective bargaining is not a new idea. While the public sector is relatively new to the process, many countries currently have public sector bargaining. You may have long traditions of dialogue, consultation and consensus building in your country or community, which could also be applied to collective bargaining.

The ILO adopted the Labour Relations (Public Service) Convention, 1978 (No. 151) with the singular features of the public service in mind and broadly defines collective bargaining as follows:

Collective bargaining consists of methods that allow public authorities and public services workers' organizations to negotiate matters and issues related to terms and conditions of employment while keeping the singular features of the public service in mind.

It is essential that the parties engaging in negotiations embrace an open exchange of ideas, a willingness to listen, and respect each other's opinions. This workbook helps develop collective bargaining in alternative fashions, including the model known as mutual gains, interest-based, integrative or principled bargaining. These alternative models do not promote separating groups that will make statements, speeches and adopting fixed positions from which they will not move. The models use active listening to ensure all organizations have the same understanding of the meaning and intent of the speaker's words.

How you define collective bargaining depends to a large extent on your national context and your experiences.

Now, it is your turn to start thinking about what YOU mean by collective bargaining!

Activity: Views about collective bargaining

Aim: Help you to think about different views on collective bargaining.

Task: In your group, discuss the following statements. Decide how you would respond.

- "A consensus-based collective bargaining system is the best prevention tool against industrial discord."
- "For collective bargaining to work, dispute resolution processes must be in place that recognize and reconcile different levels of trust between workers and government."
- "Before we can talk of collective bargaining, the Government must abolish the laws which are too restrictive on workers' organizations' right to organize and/or the right to strike."
- "Mutual gains bargaining gives too much say to workers and the result will be that government will become less efficient and more costly."
- "Great workplaces are characterized by relationships of trust and respect amongst all stakeholders".

Please write your responses on a flipchart.

Elect a reporter for your group.

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Activity: Defining collective bargaining

Aim: To better understand different models of collective bargaining.

Task: In your group, look at the available information and then, in your own words, try to answer the question: what differences can you identify between mutual gains and positional bargaining?

Try to be clear in describing the differences you see and how those may affect the bargaining process.

You do not need to write down a complete sentence, or something like an entry in a dictionary. You could make a list of key words. You can present your response as a picture, or even as a short play!

Elect a reporter for your group.

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Section 4. Why collective bargaining?

This is a question which government officials and workers' organizations frequently ask. Collective bargaining is not without risks. Using an alternative model may appear to add to that risk.

The real value of using collective bargaining lies in allowing the participants the flexibility to craft their own working conditions. While there is a risk of reaching agreement that is not optimal for one or both of the parties, engaging in the bargaining process may help avoid the ripple effects of labour strife. Collective bargaining provides each group with an opportunity to share information that is important to their constituents and suggest ideas or options to resolve their differences.

Either traditional (or proposal-based) and alternative bargaining models produce benefits for the participants. The bargaining teams may also choose to blend the elements of different models into a system they design to meet their particular needs, issues or circumstances.

Some of the possible benefits of alternative bargaining models:

1. **It has worked.** In many countries, it has delivered prosperity, a level of industrial peace, and real benefits for society.
2. **It prevents disputes.** In the modern-day workplace, adversarial (positional), industrial relations do not produce dispute prevention and resolution processes that are effective from the point of view of all user groups. The alternative models help the bargaining teams to develop mutually acceptable dispute resolution processes.
3. **It builds trust.** To develop a good working partnerships: where parties build trusting and respectful relationships, where they can negotiate with one another more safely and can influence one another more creatively and to reciprocal degrees.
4. **It promotes understanding.** The more one understands the other group or person's concerns, and the more faithfully one conveys one's own, thus enhancing the prospects for an agreement that meets all interests.

5. **It reduces social** conflicts by facilitating a partnership and a problem-solving approach.
6. **It promotes transparency.** Inventing elegant solutions helps the parties share information and consciously engage to produce options and then solutions that would otherwise never have been uncovered;
7. If one party is prepared to commit and trust that the other will also behave in the same manner, much more can be achieved in the agreement making process.

Activity: Why trust collective bargaining?

Aim: Consider the arguments for and against collective bargaining in the public service.

Task: In your group, think about some of the arguments AGAINST collective bargaining, or other alternative, model which people might put forward. Write your list on a flipchart.

Pass your flipchart to the next group. They must try to develop a suitable reply. You must try to develop a reply to the arguments of another group.

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Activity: Advantages/Disadvantages: different perspectives

Aim: Think about collective bargaining in the public service from the perspective of someone who does not have the same background of ideas as you.

Task: You will work in small groups for this activity.

In your groups, discuss the advantages and disadvantages of collective bargaining from the points of view of the groups listed in the table.

Please write your report on a flipchart.

Elect a reporter for your group.

	Advantages	Disadvantages
Government Officials		
Public Service Unions		
Public service workers		
Groups of workers with skills in short supply		
Non-government workers		
Labour administration bodies		

Activity: Why use the traditional or position-based model?

Aim: Explore the benefits of using traditional bargaining to resolve issues.

Certain circumstances may lead to choosing traditional bargaining as the system the parties use for a particular issue or issues. This may occur if the levels of trust are not high enough to allow, for instance, extensive information-sharing; principals or constituencies do not know enough about the alternative model to support it; or it may be that a more arms-length relationship between the parties is necessary to avoid co-option; and so on.

Task: In your small group, talk about your experience or your constituents experience with traditional bargaining.

Discuss the factors that may lead you to choose traditional bargaining.

List some of the benefits of traditional bargaining.

Please write your key points on a flipchart.

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Activity: Why use the mutual gains model?

Aim: To consider the benefits of the mutual gains model of collective bargaining.

Task: In your group, review some of the case studies in the Manual on alternative models of collective bargaining and dispute resolution in the Public Service.

Then make a list of the potential benefits of mutual gains bargaining for your own country.

Please write your responses on a flipchart.

Elect a reporter for your group.

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Section 5. Case study: mutual gains model⁴

Positional bargaining may fall short of delivering worker satisfaction and quality public services. It aggravates matters when positions are declared publically; in other words it appears no room for negotiation. The mutual gains model turns on an empowered bargaining process as an alternative to relying on economic power, whether exercised by the employer, workers or their representatives.

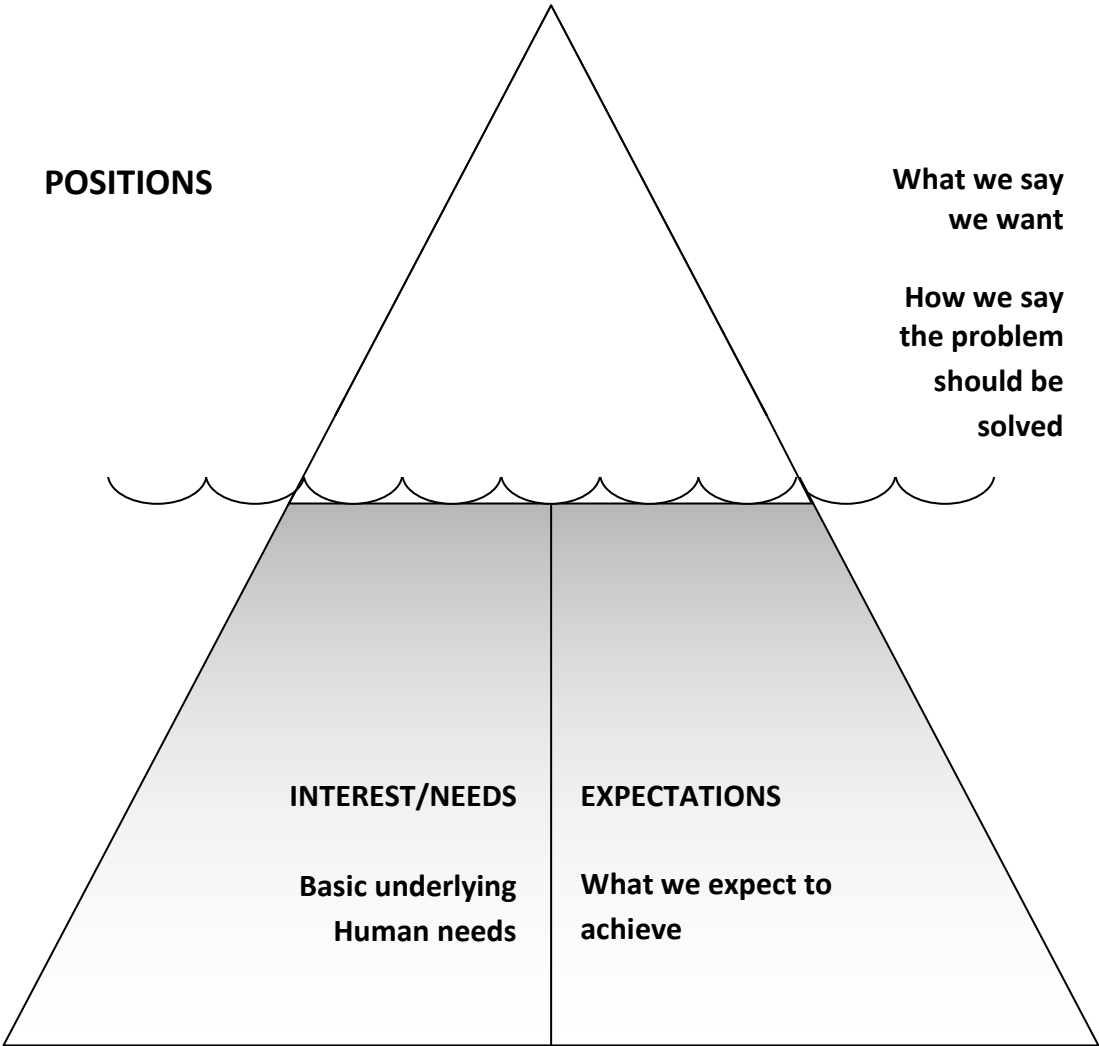
The mutual gains bargaining model normally starts by having each bargaining team poll its members to sift out and understand their current dissatisfaction with the terms and conditions of employment. The organization polls its members without suggesting possible solutions or positions on any issue. The group discusses each item or concern raised by a member and clarifies to ensure it clearly understands the underlying concerns of its members. Those concerns may also be expressed as the values, beliefs, or fears of the member(s). If the bargaining relationship was recently established the bargaining team or leadership may use the polling results to build a list of topics for collective bargaining. Subsequently, each team examines the current bargaining agreement or workplace rules, if any, to select any current provisions of the document that do not adequately address the issues identified in the poll.

After the issues have been identified, the two bargaining teams should discuss what terms and conditions of employment do not meet the needs or expectations (interests or needs) of one, the other, or both of the bargaining groups. This discussion happens as a form of dialogue where each group identifies, explains and clarifies what it believes does not work in the current workplace. During the initial discussion the

⁴ For further information about the mutual gains model, please refer to ILO, *Manual on collective bargaining and dispute resolution in the public service*, pp. 36-43.

representatives do not suggest or identify solutions (positions).

POSITIONS, NEEDS AND EXPECTATIONS⁵



⁵ Source: International Training Center of the ILO, *Labour Dispute Settlement Training Course Participants Workbook* (2002), p. 53.

The third step of the process involves the parties jointly developing options through a structured brainstorm.⁶ The goal is for the team to produce as many options to address the issue as possible without any restriction.

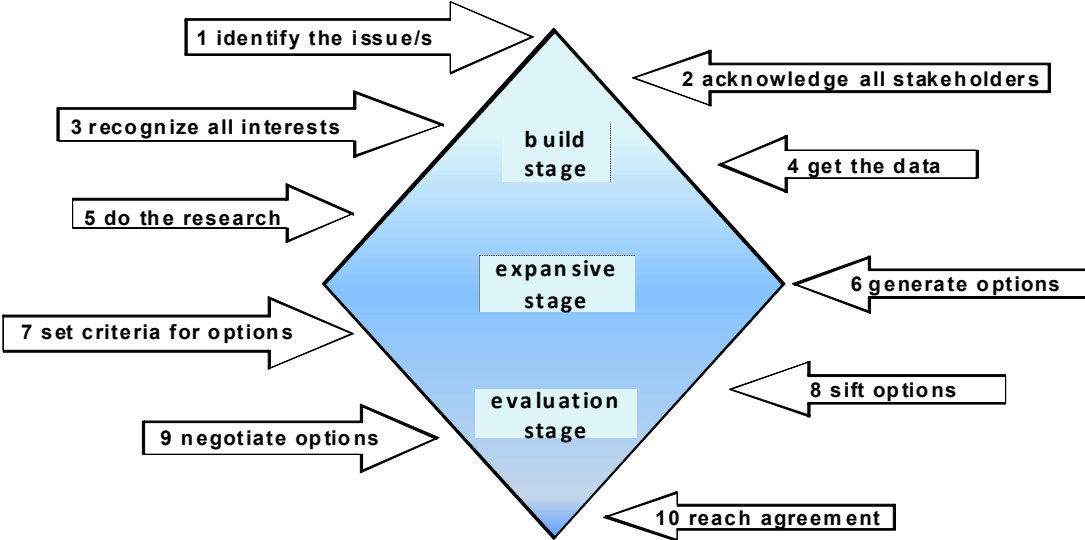
The fourth step occurs prior to bargaining, in which the parties jointly develop a list of criteria that the team believes each solution must satisfy. There are five standards that are frequently used and recommended: that the issue is legal, affordable, ratifiable, practical and that it addresses the parties' interests. Although these are recommended, the team may create their own, or decide to add to the list. Then the parties should verify if any options in the list developed before do not meet the standards they have agreed.

In the fifth step, the group comes to a resolution by using consensus. The parties work together to identify which options they would like to begin discussing. The team then engages in open and critical discussion of each option. Once the parties begin the discussion of an option, it does not imply that the option being picked will be the resolution. Rather it is the initial phase of critically analyzing how it could be a resolution to the issue. Typically several options are discussed and fashioned together to create the best solution at that time to meet the interests (or needs) of the parties.

Participation from everyone is important when evaluating each option for potential solutions. Without the insight from everyone who has different information and viewpoints, effects of the potential solution could be overlooked in the analysis resulting in a less satisfying result than that which could be. With everyone's input a resolution is molded that will meet everyone's interests and addresses the issue that was originally brought to the table.

⁶ The following four paragraphs were adapted from in an unpublished paper submitted by Christy Yoshitomi for the ILO's Southern African Sub-regional Workshop on Social Dialogue in the Public Service held in Johannesburg, South Africa, in March 2009.

Thus, mutual gains problem solving works jointly to –



Source: ILO, *Manual on collective bargaining and dispute resolution in the public service* (2011), p.111.

Activity: Distinguishing Positions from Needs⁷

Being able to distinguish positions from needs is the cornerstone of successful consensus building, be it through problem solving, negotiation or mediation.

A **POSITION** is how the party states the conflict should be resolved i.e. a demand or an ultimatum for a particular solution.

A **NEED** is the concern or essential underlying need that motivated the party to choose the particular solution or position.

Indicate which of the following paired statements are positions, and which are needs:

PAIR ONE:

- A. We will not negotiate prices until a framework agreement is in place.
- B. We are concerned that the terms, which will guide our bargaining, should be agreed before we start bargaining on prices.

PAIR TWO:

- A. I refuse to work on Sundays.
- B. I need to spend more time with my family.

PAIR THREE:

- A. We are facing serious financial difficulties.
- B. We will not give in to your demand.

⁷ Source: International Training Center of the ILO, *Labour Dispute Settlement Training Course Participants Workbook* (2002), p. 60.

Section 6. Successful Collective Bargaining

By this stage of the workshop we hope that everyone is convinced of the benefits of using alternative bargaining processes for problem solving. Good. The next question is: how to do it?

For employers and unions in the public services to reap the benefits of dispute-minimizing models of collective bargaining, two matching changes in thinking must occur:

- Government officials should fully recognize trade unions for collective bargaining and related engagement purposes; the representative role of trade unions flowing from the principles of freedom of association must be fully respected.
- Public sector unions must move beyond their traditional “defender” role to incorporate also a “contributor to the organization” role, and then be able to manage the dualism successfully. This requires, among other things, that the leaders and negotiators are exposed to new possibilities in collective bargaining.

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Activity: Conflict resolution: what works?

Aim: To reflect about other experiences of conflict resolution.

Task: In your group, discuss previous experiences of conflict resolution in your country. Consider any public, private or community models that may have been used. Discuss what worked in the past as well as what did not work. It is important not to assign blame, this exercise concerns what worked and what did not.

Try to agree on what worked and what did not. Where your group cannot agree, make a note.

Please write the key points on a flipchart.

Elect a reporter for your group.

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Activity: Lessons from other models of conflict resolution

Aim: Recalling the last activity, reflect on the other experiences of conflict prevention and/or resolution in your country that you identified.

Task: In your small group, talk more about those other forms of conflict resolution. Think about what you learned from those experiences that may be applied to labour relations matters.

Please write your key points on a flipchart.

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Activity: Using the traditional bargaining model

Aim: To practice bargaining using a position based process.

Task: In the large group, review some of the member's experiences with traditional bargaining. Review the issues raised during those bargaining sessions. Do not have an in-depth discussion at this time concerning the issues.

Separate into small groups of four and decide on an issue about which to bargain. Break into pairs, each pair representing either management or workers. Each pair will write down the main provisions of its position. Develop a proposal and a strategy for convincing the other pair that your proposal will work for the constituents of both groups.

Meet in your small group and take 5 minutes for each pair to share their proposal and the possible benefits of accepting it.

Separate again into pairs and develop a response or modify your own proposal or form a new proposal.

Meet with the other pair again for 5 minutes to see if you can reach agreement.

Record your outcome, if any, on a flip chart.

Elect a reporter for your small group.

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Joint problem solving: a key component of bargaining

Joint problem solving applies outside of labour relations. However, it can also be seen as a dimension of mutual gains bargaining. Problem solvers tackle each issue in a collaborative way whereas conventional bargainers focus on advancing their respective positions. In other words, negotiators compete with each other and problem solvers work together to find mutually agreeable solutions.

Positional bargainers have as their objective the maximization of gains for their side. For problem solvers, on the other hand, the goal is to secure the optimum collective agreement for all stakeholders. Their prize is the same as that of the omniscient independent arbitrator: the achievement of a deal that best reconciles the different interests of the stakeholders and best promotes their common ones.

Successful joint problem solving process demands working in good faith. It can be useful for complex issues that arise before or during negotiations. Problem solving and good faith are about trying to understand each other's interests in an open and transparent way. Problem solving techniques include brainstorming, generating multiple options for solution and selecting the best outcome based on objective criteria developed by the participants.

Activity: From problem solving to collective bargaining

Aim: To apply the skills and experiences of joint problem solving to collective bargaining.

Task: In your group, think about the skills and experiences of joint problem solving in your country, for example in sports teams, neighbourhood or community committees. This probably involved reaching compromises, understanding others' points of view and finding areas of common interest and agreement.

Can these skills and experiences of joint problem solving be applied to collective bargaining?

What lessons would you suggest could be taken from joint problem solving to promote effective collective bargaining?

Please write the key points on a flip chart.

Activity: What makes a “good” problem solver?

Aim: To think about those qualities present in a constructive partner for problem solving.

Task: Individually make a list of what you think it takes to make a “good” partner for problem solving.

Try listing the attributes of a “bad” partner.

Now share your list with the group. See if you can come up with a mutually agreeable list of “good” qualities.

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Activity: Successful joint problem solving

Aim: To draw up some guidelines for joint problem solving.

Task: Based on the two previous activities, draw up a checklist of how successful joint problem solving can be developed.

You may use a list of do's and don'ts.

Please write your list on a flipchart.

Elect a reporter for your group.

To create successful joint problem solving.....	
Do....	Don't....

Activity: Building trust⁸

Given that there is unlikely to be 100% transparency or complete sharing of information in the public sector, we need trust between the social partners if disputes are to be resolved or prevented from arising in the first place. The key concepts for an understanding of trust are:

Uncertainty – we only need to depend on trust if (i) we do not have all the information we need about a person/situation (if we have total knowledge/information then we can anticipate the outcome) and (ii) if we cannot control the outcome.

Risk – when we trust a person or an organization we assume that the benefits of our relationship with them will outweigh any costs to us. Indeed, trust is only necessary if the cost of a loss will be greater than the possible gains – so we are only willing to tell the boss bad news if we trust her not to “shoot the messenger”, and we only give employees confidential information that enables them to make better decisions if we trust them not to give that information to our rivals/competitors/media.

Perception – we need trust when we do not have complete knowledge of another person’s intentions. Therefore, our trust in someone is based in large part on our perceptions of that person’s trustworthiness. The latter is based on such factors as reputation, prior experiences with the person, stereotypes about identity group members (e.g. race, sex, religion, nationality) and/or organizational group membership (e.g. political party, profession, trade union, etc.). We often rely more on stereotypes when we are under pressure of time, and our perceptions often turn into self-fulfilling prophecies as we tend to look for, or focus on, information that confirms our prior perceptions about a person’s trustworthiness (and/or ignore any contrary evidence).

In general, our assessment of another person’s trustworthiness, especially those in authority, is based on:

Competence – is the person effective in her/his work?

Consistency – is the person’s behaviour predictable over time and across situations?

Integrity – is the person honest, does s/he tell the truth, keep her/his promises?

Reliability – does the person follow through on his or her commitments?

⁸ The activities contained under this title were drafted by Prof Peter Turnbull of Cardiff University.

Fairness – does the person make decisions based on fairness, rather than favouritism, and treat you with respect?

Communication – is the person open, willing to listen, transparent in her or his dealings, and willing to provide an explanation for decisions, etc.?

Government officials and union leaders tend to focus on their technical skills and competence to build trust – especially when they first start a new job or become involved in “new public management”⁹ initiatives – rather than develop the other determinants of trustworthiness. Employees, in contrast, want much more than a competent boss. Citizens want much more than a competent representative. Union members want much more than competent officials. Employees/citizens/members tend to focus on integrity, reliability, fairness, and effective communication when deciding whether or not a person can be trusted.

There are three forms of trust:

- “Calculative trust” is the lowest form of inter-personal trust. In these (bargaining) situations, individuals do as they say they will (i.e. behave predictably) because they have rationally considered the rewards and consequences associated with other courses of action and determined that trusting behaviour brings the highest rewards. But calculative trust – “I trust you because it is in my immediate interests to do so” – is often superficial and short-lived. In some sectors, most notably those characterised by short-term employment contracts or casual labour (e.g. construction or ports), calculative forms of behaviour prevail and it is often very difficult to foster trust or achieve agreement between the social partners on the “state of the world” (e.g. prevailing economic conditions affecting the sector). In

⁹ “New public management” includes a redrawing of the boundaries between the private and public sectors, both by transferring services from public ownership to private hands and by subcontracting or outsourcing processes; various forms of organisational restructuring aimed at subdividing large, bureaucratic structures into smaller, independent units with devolved managerial authority, in order to make them closer to citizens’ demands and more transparent in costs and results; a shift from management by hierarchy to management by contract, through the introduction of market or market-like mechanisms of governance into the financing and provision of public services, such as compulsory competitive tendering, market testing and internal markets; strengthening the powers and prerogatives of managers, subject to tighter financial controls and the promotion of management techniques typical of private sector companies; and the reform of personnel policies and labour relations.

fact, it is not uncommon for both parties to dispute “known facts”, sometimes motivated by malice, in an attempt to maximise their (short-term) returns from the employment relationship.

- *Knowledge-based trust* develops out of repeated interactions and multi-dimensional relationships. Clearly, long-term relationships and regular communications between the social partners are necessary for knowledge-based trust to develop. It takes time and commitment to develop a reflex for information sharing, consultation and negotiation.¹⁰ Nonetheless, the unlimited exercise is designed to facilitate information exchange and allow the parties to make promises.
- *Identification-based trust*¹¹ is strongest when we empathise with the other party’s desires and wishes. In other words, the parties have a shared or common identity and they have internalised each other’s preferences. Arguably, they understand and appreciate each other’s wants and desires to the point where each party could, in effect, act for the other (e.g. one party may substitute for the other in inter-personal transactions or at a meeting with a third party). Identification-based trust is not uncommon in some sectors, such as professional services or public administration, and is often found amongst particular employee groups (such as senior managers) across the entire spectrum of economic sectors. It is also very strong in organizations with a “shared mission” or a commitment to “common values”. Public service organizations and trade unions usually meet these criteria.

¹⁰ Kenya, for example, has some of the oldest institutions for tripartite consultation and social dialogue in Africa, but several of these institutions have not functioned properly over an extended period of time. The National Tripartite Labour Committee, for example, did not operate for 15 years. See Fashoyin, T. (2001) ‘Social Dialogue and Social and Economic Development in Kenya’, InFocus Programme on Strengthening Social Dialogue, W.P.3, Geneva: International Labour Office, p.14.

¹¹ Sometimes referred to as “affective trust” or “relational trust” in other taxonomies.

Activity: Building Trust and Judging Fairness

Aim: To illustrate the importance of trust and fairness in bargaining situations, the benefits of cooperation rather than competition and how our underlying social values and norms can influence outcomes (for good and ill).¹² These exercises also illustrate how bargaining can build (knowledge-based) trust and produce better outcomes for all concerned.

Task: Please answer the following questions:

1. <i>Generally speaking, would you say that most people can be trusted, or that you can't be too careful in dealing with people?</i>	1	2	3	4	5	6	7	8	9	10
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1 = "can't be too careful"
 "most people can be trusted" = 10

2. <i>To what extent do you think that most people in the country obey the rules when it comes to:</i>	1	2	3	4	5	6	7	8	9	10
paying taxes										
traffic laws										
showing consideration of others in public places										

1 = "do not obey the rules at all"
 "obey rules completely" = 10

¹² Many of these bargaining exercises have been developed to question the assumption of rational self-interest that motivates the behaviour of "economic man", as well as to expose the shortcomings of the "free rider" hypothesis which dominates conventional thinking on individual behaviour within groups. "Free riding" refers to the absence of contribution towards the provision of a public good by an individual, even though he or she will not be excluded from benefiting from that good. The free rider hypothesis is based on the assertion that under such conditions it is irrational for an individual to voluntarily contribute.

3. How much do you personally trust:	1	2	3	4	5	6	7	8	9	10
Parliament										
Legal system										
Political parties										
Press										
Government										
Police										

1 = "do not trust at all"

"trust completely" = 10

Activity: The Prisoner’s Dilemma Exercise

Aim: To determine whether and why participants trust each other.

Task: In this exercise, two suspects are arrested but the police have insufficient evidence for a conviction. Having separated the prisoners, the investigating officer visits each prisoner to offer the same deal. If one testifies for the prosecution against the other and the other remains silent, the “defector” who confesses goes free and the silent accomplice receives the full one-year sentence. If both remain silent, both prisoners are sentenced to only one month in jail for a minor charge. If each betrays the other, each receives a three-month sentence. Each prisoner must choose to betray the other (compete) or to remain silent (cooperate). Each one is assured that the other would not know about the betrayal before the end of the investigation. The decision matrix for two prisoners, X and Y, is the following:

	Prisoner X stays silent	Prisoner X confesses
Prisoner Y stays silent	Each serves 1 month	Prisoner Y: 1 year Prisoner X: goes free
Prisoner Y confesses	Prisoner Y: goes free Prisoner X: 1 year	Each serves 3 months

It is important that you read these instructions in full detail and to be clear about the *choices* faced by Prisoners X and Y and the *consequences* of their respective decisions (what happens if you stay silent/confess and your accomplice stays silent/confesses). *Unless everyone* understands *the dilemma the exercise will not work*. In particular, you must know how each prisoner is *expected* to act if you behave in a rational, self-interested way.

Imagine you are Prisoner Y. If Prisoner X decides to stay silent about committing the crime then you are better off confessing, because then you will get off free. Similarly, if Prisoner X confesses then you will be better off confessing, since then you get a sentence of 3 months rather than a sentence of 1 year. From this point of view, regardless of what

Prisoner X does, Prisoner Y is better off confessing. Thus, confessing (competing) is the dominant strategy. However, if both stay silent (cooperate) then the “joint cost” (1 month each) is better than any other combined outcome (12 months if one stays silent and the other confesses or 6 months in total if both confess). In sum, rational self-interested decisions lead to worse sentences – hence the seeming dilemma.

To “play” this exercise in the classroom, you should divide into groups of three and each plays the exercise once with each of the other two participants. The pay-off matrix is usually represented by money – rather than a prison term – as illustrated below. Although the sums/sentences differ, the logic of the decision-making is the same. *Refer to the table above, and play the exercise using money.*

“Pay-off” Matrix for the Prisoner’s Dilemma

	Player X stays silent	Player X confesses
You (Y) stay silent	2 for X 2 for Y	3 for X 0 for Y
You (Y) confess	0 for X 3 for Y	1 for X 1 for Y

There are three variations of the game which can be played in the following sequence:

- (i) *Limited* – no interaction allowed before playing the game. Participants will no doubt already know the other members of their group of three but they are not allowed to discuss the exercise before making their decision. Ideally, each group of three should be comprised of at least one union and one government representative (it should be interesting to compare the results where union/union or government/government participants play the exercise compared to a union/government combination).
- (ii) *Intermediate* – after playing the limited exercise, participants are allowed time to discuss their decisions in the limited exercise and get to know each other a little more. However, *they may not make any promises about their behaviour in the imminent exercise.* Allow only 5-10 minutes for this interaction before participants play the exercise again.
- (iii) *Unlimited* – in the third and final iteration of the exercise, participants are allowed to make promises (e.g. not to confess/defect). However, *they are also told that the anonymity of their responses would render such promises unenforceable.* The purpose of the final exercise, therefore, is to determine whether participants keep their promises.

For each group of three, record the outcomes of each exercise (limited, intermediate and unlimited) on a flip chart or whiteboard. Rather than use names, give each person in the group of three a number or a letter. If the group is happy to identify each number/letter in the group then this will facilitate the discussion. For example, in a group of three are the outcomes different where the two union representatives played the exercise with each other rather than when each played the exercise with the government representative? If so, explore the reasons why.

Activity: The Ultimatum Exercise

Participants are randomly paired but remain anonymous to each other and do not interact. A sum of money (e.g. \$10) known to both parties is given to the “proposer” who then divides it as s/he pleases with the “responder”. All the responders do is accept or reject the offer. If rejected, neither party gets anything, but if it is accepted, they each keep the shares of money offered by the proposer.

Section 7. Promoting collective bargaining in the public service

The public service accounts for a very significant proportion of employment in all countries around the globe. It is unsurprising, then, that the ILO has a keen interest in promoting international norms on good labour relations in this key sector of the world of work. However, it is also true that very special public interest factors come into play here, informed principally by the need for uninterrupted essential services. The international Labour Conference adopted the Labour Relations (Public Service) Convention, 1978 (No. 151) with the singular features of the public service in mind. The Convention applies to all persons employed by public authorities. Articles 7 and 8 deal with the pivotal areas of setting the terms and conditions of employment and dispute settlement respectively:

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organizations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters. (Article 7)

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation, and arbitration, established in such a manner as to ensure the confidence of the parties involved. (Article 8)

The two areas are intimately linked: the success of negotiating arrangements can depend on their underlying dispute resolution measures. With a view to advancing the objectives set out in Article 7, this workbook seeks to give guidance to governments and unions on ways to promote the negotiation principles seen in Articles 7 and 8 of Convention No. 151.

Collective bargaining operates as an important tool and a means to prevent workplace conflict through consensus. Part of that process includes implementing the matters agreed in bargaining by the constituents of both parties. Constituency education plays an important

role in ensuring workers and government officials understand the benefits of the agreement.

The benefits may be obvious to you. However, if your constituents see the collective bargaining process as a distant or obscure process that produces outcomes they do not like, the agreement will not be sustainable. If negotiators wish to adopt alternative and perhaps more expansive approaches, then they need to engage their constituencies in an exploration, education and consent-gaining process well before the onset of any actual bargaining.

Activity: Make the case for mutual gains

Aim: To help you to appreciate the problems that some representatives in mutual gains bargaining may have in convincing their own members about the benefits.

Task: This is a role play exercise. You will be divided into groups of four. Groups will be called “officials” or “workers”.

Workers’ groups: in each group of four, one person will play the part of the leader of a worker’s organization who is in favour of mutual gains bargaining. One person will take the part of another leader who is sceptical. They must try to convince each other of their case in five minutes.

The other members of the group will observe, using the observers’ checklist below.

After five minutes, swap roles: the observers become the representatives of the workers’ organizations.

Government officials groups: in each group of four, one person will play the part of the leader of a government entity who is in favour of mutual gains bargaining. One person will take the part of civil servants (managers) who are sceptical. They must try to convince each other of their case in five minutes.

The other members of the group will observe, using the observers’ checklist below.

After five minutes, swap roles: the observers become the representatives of government.

De-brief: when completed, each group will summarize the strong and weak arguments, and report back to the whole group.

Background – for all groups

The situation is that following a wave of protests and work slowdowns concerning gender equality, public sector negotiations have produced a package with the following elements.

- No general wage increase.
- Women and men doing work that is different but of equal value will be compensated equally.
- A flexible work schedule designed to balance work-family life.
- Equal access to continuing education for all women.
- Increase the number of promotional opportunities with gender equality in mind.

You will play one of the following roles:

Workers' organizations

Workers' leaders

You have accepted that the government has limited funds for wage increases. You also believe in gender pay equality. This will particularly affect some groups of workers who believe their wages should be raised an amount equal to whatever any other group receives no matter the reason. Equal access to continuing education will affect many people and gender crosses many other vulnerable group populations. Increasing wages and promotional opportunities for women will increase your ability to recruit women into your organization. A growing body of studies also highlights the importance of reducing inequality to achieve poverty reduction. You used *A Resource Kit for Trade Unions: Promoting Gender Equality Through Collective Bargaining*, Booklet 2 (Geneva, 2002) to back up your case.

The workers

Increasing inflation, higher medical costs exist for all workers; however, your leaders have agreed to no general wage increase. Your opportunities for continuing education and promotion will be decreased. You really don't care much about gender equality; you have your own problems to worry about.

Observers' Checklist

- Preparation and opening introductory remarks
- Did the group show that they appreciated and understood the concerns expressed?
- What were the strong points and weak points in their arguments?
- Were the arguments well-organized?
- Did all members of the group participate or did one person dominate?
- Overall outcome: Did the leader convince their membership of the benefits of mutual gains bargaining? What techniques used were successful? Which were not?

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Background – for all groups

The situation is that following a wave of protests and strikes concerning gender equality, public sector negotiations have produced a package with the following elements:

- No general wage increase.
- Women and men doing work that is different but of equal value will be compensated equally.
- A flexible work schedule designed to balance work-family life.
- Equal access to continuing education for all women.
- Increase the number of promotional opportunities.

You will play one of the following roles:

Government representatives

The civil servants (managers)

Your mandate in negotiations was to secure industrial peace, to create a stable environment for economic growth. At the same time your Government ratified ILO's Convention No. 154.¹³ You agree with the ILO that collective bargaining can be an important way to promote gender equality. The workers' organization has agreed to no general wage increase in order to allow you to implement measures to bridge the wage differential. You accepted that flexible work schedules will not decrease productivity and will enhance worker satisfaction.

The Minister (leader)

Some of your colleagues said that the new package gives too much to the workers. Many women will join the workers' organizations which will greatly increase their power in the workplace. You believe the elements of the agreement result in more women being included in workers' organizations and will lead to stronger unions.

¹³ Excerpts from Convention No. 154 can be found in ILO, Manual on Collective Bargaining and Dispute Resolution in the Public Service (2011), pp. 163-165.

Observers

Use the checklist below to provide feedback to the groups.

Observers' Checklist

- Preparation and opening introductory remarks
- Did the group show that they appreciated and understood the concerns expressed?
- What were the strong points and weak points in their arguments?
- Were the arguments well organized?
- Did all members of the group participate or did one person dominate?
- Overall outcome: Did the leader convince their membership of the benefits of mutual gains bargaining? Which techniques were successful? Which were not?

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Section 8. Institutional support for collective bargaining in the public service

Public authorities should give collective bargaining enough space to deliver its social dividends. As part of this process, governments need the necessary administrative and technical capacity to uphold the principle of freedom of association in order to create an enabling environment for collective bargaining. Well-built and efficient labour administrations are important for that purpose. These administrations function to provide oversight and assistance to the parties in reaching agreement.

Effective collective bargaining involves an encouragement to dialogue and promotion of consensus. A number of countries have endeavoured to do this by setting forth a statutory duty in the legislation intended to oblige the parties at the bargaining table to engage in fully informed negotiations. The purpose of this duty is to ensure that the parties have every possible opportunity to reach agreement. In some instances, this duty is limited to a duty to negotiate, while in others it is expressed as a duty to bargain in good faith.

Activity: Collective bargaining institutions

Aim: To discuss institutional support mechanisms for collective bargaining.

Task: In your group, review what arrangements exist, if any, for (a) maximizing opportunities for agreement; (b) ensuring that the results of collective bargaining are implemented; third party resolution or contravention of impasse.

Is there a body, such as a labour ministry responsible for this function in your country?

Who has oversight of that ministry? Does it help?

Is there a mechanism, even an informal ad hoc one, for monitoring implementation?

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Activity: Positive publicity

Aim: To help you reflect about how collective bargaining is publicly promoted.

Task 1: In your group, discuss how you inform your membership, colleagues, or other ministries about collective bargaining outcomes.

How could this be improved?

Task 2: Prepare a poster, press release, play, etc. that illustrates a positive outcome of collective bargaining.

Writing a press release

Keep the press release to a single side of A4 page

- Type on one side of the paper only.
- Type it in double spacing, using a clear type face.
- Include the following information:
 - ◆ contact name, address, telephone number and email address of the person in your group dealing with the media;
 - ◆ the words PRESS RELEASE at the top and the embargo time, if appropriate;
 - ◆ heading and current date;
 - ◆ the content of the press release itself, giving a clear, concise summary of the issue or event which you are publicizing.

Adapted from Cathy Aitchison and Linda Ludwin, *The Arts Broadcasting Directory for London* (1989), Chapter 4.

Section 9. The ILO and collective bargaining in the public service

Achieving the goal of decent work in the globalized economy requires action at the international level. The world community is responding to this challenge in part by developing international legal instruments on trade, finance, environment, human rights and labour. The ILO contributes to this legal framework by elaborating and promoting international labour standards aimed at making sure that economic growth and development go along with the creation of decent work. The ILO's unique tripartite structure ensures that these standards are backed by governments, employers, and workers alike. International labour standards therefore establish the basic minimum social standards agreed upon by all actors in the global economy.

How does the ILO promote collective bargaining in the public service?

The State is the largest or the single most important employer in almost all countries. The public service personnel comprise persons employed by public authorities at central, regional and local levels and include both civil servants and other public employees. The sector covers public administration and various services provided in the public or general interest, whether delivered publicly or privately. Increasing numbers of workers are employed in public services operated by the private sector.

Public authorities must provide high-quality services to their citizens and decent work for their workers. Sustainable national development and poverty alleviation can be achieved by promoting good governance and transparency through effective social dialogue in the public service. The current economic crisis has affected governments and their employees in several ways, and the ILO has developed tools to assist governments in addressing these issues.

The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Labour Relations (Public Service) Convention, 1978 (No. 151) guarantee public employees the rights to organize and to bargain collectively. Convention No. 151 also establishes that disputes related to the determination of the terms and conditions of employment should be resolved through negotiations or through impartial and independent machinery.

However, it should be noted the following:

- Convention No. 87 does not apply to the armed forces and the police, unless national laws or regulations determine otherwise.
- Convention No. 98 does not apply to the armed forces and the police, unless national laws or regulations determine otherwise. It does not apply either to public servants engaged in the administration of the State. .
- Convention No. 151 does not apply to the armed forces and the police, and to high-level government employees whose functions are normally considered as policy-making or managerial or employees whose duties are of a highly confidential nature, unless national laws or regulations determine otherwise.

The International Labour Organization (ILO) is the only tripartite U.N. agency with government, employer, and worker representatives. This tripartite structure makes the ILO a unique forum in which the governments and the social partners of its Member States can freely and openly debate and elaborate labour standards and policies.

The ILO Constitution recognizes and commits the Organization to formulating labour policies and promoting collective bargaining:

. . . policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection; the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive

efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures; (ILO Constitution; the Declaration of Philadelphia, paragraph III (d) and (e)).

The Public Service accounts for a very significant proportion of employment in all countries around the globe. The ILO has a keen interest in promoting international norms on good labour relations in this key sector of the world of work. However, it is also true that very special public interest factors come into play, informed principally by the need for uninterrupted essential services.

In this workbook, we will look at different ways in which the ILO supports collective bargaining through:

- Standard-setting;
- Technical assistance/policy advice;
- ILO departments; and
- Technical cooperation.

Standard Setting

International labour standards take the form of Conventions and Recommendations. They are adopted by the International Labour Conference which meets every year in Geneva.

ILO Conventions are open to ratification by member States. They are international treaties that are binding on the countries that ratify them.

These countries voluntarily undertake to apply their provisions, to adapt their national law and practice to their requirements, and to accept international supervision.

ILO Recommendations are not international treaties. They set non-binding guidelines that may orient national policy and practice. Governments do NOT ratify Recommendations.

The main Conventions of particular importance to collective bargaining are: The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), and the Labour Relations (Public Service) Convention, 1978 (No. 151) guarantee most public employees the rights to organize and bargain collectively. Convention No. 151 also establishes that disputes related to the determination of the terms and conditions of employment should be resolved through negotiations or through impartial and independent machinery.

The ILO has steadily promoted a common platform of standards for both the private and public sectors, which in practice has meant the closing of a historical gap. The Collective Bargaining Convention, 1981, (No. 154), and its Recommendation (No. 163) broadened the concept of collective bargaining first articulated in the Labour Relations (Public Service) Convention, 1978 (No. 151). The Collective Bargaining Convention, 1981, (No. 154) Part III, Promotion of Collective Bargaining, Article 5 (1) states “Measures adapted to national conditions shall be taken to promote collective bargaining”.

Sectoral Activities

The Sectoral Activities Department carries out its work through the implementation of a variety of activities. To support the implementation of the sectoral Conventions and Recommendations, as well as to assist the improvement of working conditions at the sectoral level, a rich body of sectoral codes of practice, guidelines, manuals and tools have been developed, translated and widely disseminated. Capacity building of constituents is carried out through specialized training and advisory services to governments, employers' and workers' organizations at sectoral level, with an emphasis on the most hazardous sectors (e.g. agriculture, construction, fishing and mining). Training programmes are implemented at regional and national levels based on materials specifically designed to address priority issues, such as prevention of HIV and AIDS, promotion of occupational safety and health, and enforcement of labour inspection in particular sectors.

The sectoral approach is highly effective, as it is at the sector level, that governments, employers' and workers' organizations are typically best placed to shape the world of work. It thus offers an opportunity for the tripartite constituents to foster the Decent Work Agenda, particularly within the framework of Decent Work Country Programmes (DWCPs). By examining decent work through a sectoral lens, issues of deep concern in specific economic areas are not overlooked in national programmes and can be used as stepping stones to address systemic shortcomings.

Governance and Tripartism

The Governance and Tripartism Department promotes social dialogue and the adoption or reform of labour law in accordance with international labour standards, best comparative practice and in consultation with the social partners.

Labour law and social dialogue are at the core of ILO member States' economic and social organization. Effective social dialogue is a means to promote better wages and working conditions as well as peace and social justice. As instruments of good governance they foster cooperation and economic performance, helping to create an enabling environment

for the realization of the objective of Decent Work at the national level.

Changes in the world of work pose numerous challenges to industrial relations institutions and actors, labour legislation and collective bargaining processes. They also create new impetus for innovative practices. Moreover, labour law needs to reflect the evolving labour market situation and address current needs and challenges.

The Department provides services to tripartite constituents through technical cooperation, advocacy and capacity building, as well as research and knowledge-sharing activities.

Labour Administration, Labour Inspection and Occupational Safety and Health

The Labour Administration, Labour Inspection and Occupational Safety and Health Branch of the Department of Governance and Tripartism aims at assisting constituents in promoting Decent Work through the strengthening of labour administration machinery, including labour inspection, and making them more effective. The 100th Session of the International Labour Conference issued a Resolution which stated that “[p]romoting and enforcing decent working conditions, safety and health standards and respect for fundamental principles and rights at work are at the core of labour inspection activities. . . . General compliance and preventive strategies are essential for ensuring fairness in the workplace and consequently sustainable enterprises and economic growth. These strategies should cover all workers, including those in the public sector.”

This Branch pursues technical assistance and technical cooperation programmes with a view to assisting the ILO constituents, in particular Ministries of Labour and labour administration/inspection systems, to play a crucial role as their functions include improvement of working conditions, compliance with labour legislation, prevention and settlement of labour disputes, promoting tripartism, transparency and fluidity of the labour market, and development of adequate vocational training systems. The Branch provides comparative information and advice based on ILO standards and international practice.

Inclusive Labour Markets, Labour Relations and Working Conditions

The branch brings together the ILO's technical expertise in the area of labour market institutions and worker protection to develop well designed policies and institutions that improve labour market performance and worker' wellbeing.

The Branch also assists in improving the working conditions and protection of workers while contributing to achieving inclusive labour markets able to provide access to quality employment for all. Supporting the development of sound industrial relations and collective bargaining is at the heart of the strategy to realize such outcomes and to ensure a just share of the fruits of progress to all.

In addition to its work on integrated policies, the Branch monitors trends, carries out analysis and provides technical assistance in the following policy areas:

Labour relations and collective bargaining including negotiation between workers' organizations and employers (and their organizations), the application of collective agreements, consultation and information exchange between the social partners, and worker participation in decision making. It focuses on how to strengthen and improve the functioning of industrial relations systems as a distinct institutional domain. It is primarily concerned with the employment relationship and employment relations, including in respect of informal and atypical forms of employment. Here the objective is to promote inclusive labour relations and collective bargaining.

Employers' Activities

The Bureau for Employers' Activities of the ILO (ACT/EMP) is a specialized unit within the ILO Secretariat. Its task is to maintain close and direct relations with employers' organizations in member States, to

make the ILO's resources available to them and to keep the ILO constantly aware of their views, concerns and priorities.

ACT/EMP's mission is to foster well-functioning employers' organizations, which are crucial in shaping an environment conducive to competitive and sustainable enterprises that can contribute to socioeconomic development. ACT/EMP assists employers' organizations in responding to the challenges faced by their members by:

- assisting them to develop their management systems and processes and improve their services to members,
- assisting them to anticipate and respond to the issues faced by business at the national, regional and international levels.

Workers' Activities

As the main link between the International Labour Office and one of the three ILO Constituents: the workers, the Bureau for Workers' Activities (ACTRAV) coordinates all the activities of the Office related to workers and their organizations, both at headquarters and in the field. ACTRAV's mission is to maintain close relations with the trade union movement throughout the various countries of the world, to provide trade unions with the support of the International Labour Office in endeavours to strengthen their influence by promoting activities which defend and advance the rights of all workers. The mandate of the Bureau for Workers' Activities is to strengthen representative, independent and democratic trade unions in all countries, to enable them to play their role effectively in protecting workers' rights and interests and in providing effective services to their members at national and international levels, and to promote the ratification and implementation of ILO Conventions.

ACTRAV contributes to the attainment of these objectives by supporting trade union activities in a wide range of fields, including in the public sector:

- Strengthening the labour movement
- Promoting equality and fundamental rights and principles at work

and the widespread ratification and implementation of ILO Conventions

- Collective bargaining and social dialogue
- Combating the exploitation of child labour
- Improving working conditions and the environment
- Fighting unemployment and underemployment
- Worker education and training, especially through the ILO Training Centre in Turin

International Training Centre of the ILO (ITC-ILO)

The ITC-ILO was established by the International Labour Organization, with the support of the Italian Government, in 1964 in Turin, Italy. .

The ITC-ILO is committed to assisting countries in their social and economic development through learning and training. Within the framework of the ILO's Decent Work agenda, it contributes to achieving the ILO's four strategic objectives. To this end, it identifies and disseminates the best thinking and practice concerning the world of work. Its demand-driven training portfolio consists of courses in key work-related areas. In addition to regular courses it offers customized training programmes to meet specific needs. Training takes place in Turin, Italy, in course participants' home countries or via the Internet.

Activity: ILO standards and collective bargaining

Aim: To examine the main ILO standards related to collective bargaining.

Task: You may review excerpts of the relevant conventions in the ILO’s *Manual on Collective Bargaining and Dispute Resolution in the Public Service* (2011), pages 154-169. If your country has ratified any of these Conventions, what has been the experience? Make any suggestions you have about improving the implementation of the Convention.

If the Conventions have not been ratified, what obstacles stand in the way of ratification?

Could ratification of any other ILO standards assist in developing or strengthening collective bargaining at the national level? Which ones and how?

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Technical assistance: how can it help with collective bargaining?

ILO technical assistance can take several forms, for example:

- Workshops to promote knowledge and understanding of Conventions Nos. 87, 98, 151, 154 and other ILO standards;
- Promote and support the implementation of international labour standards;
- Help build consensus among constituents;
- Develop and share knowledge on emerging trends and challenges of the public service through the collection and analysis of public service data, focused research, and publication of reports and working papers;
- Strengthen the capacity of government and workers' organizations for advancing the decent work agenda in the public service through the implementation of action programmes, providing technical assistance and training.

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Activity: Planning a technical assistance programme

Aim: To reflect about the design of a project that would help promote collective bargaining.

Task: In your group, decide what should be the main components of a programme or project to help to develop a strong national collective bargaining process.

Consider:

- Assistance in drafting a new law;
- Methods to promote the benefits of collective bargaining;
- Training for government officials and workers’ organizations;
- Building up institutions and capacity;
- Other ideas.

Try to give as much detail as you can.

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Section 10. Collective Bargaining Issues

This section provides an opportunity to examine an appropriate issue for collective bargaining.

It may be that where there is trust between the parties, they may be able to tackle difficult issues successfully. However, for other issues the areas of disagreement may be larger or more complex. Subjects exist where a full, straightforward dialogue can take place that is likely to achieve agreement. That description fits the subject of dispute prevention and resolution.

In an earlier section, we shared alternative models for collective bargaining, such as mutual gains, integrative, or principled bargaining. The alternative models provide an approach that lends itself well to designing a dispute prevention and resolution mechanism.

It may be that in your view, dispute prevention and resolution are not problems in your country. However, analyzing your current process for quality improvement may be a good practice.

Then we will look at a more controversial subject.

Activity: Working for consensus

Aim: To identify issues where agreement can be reached.

Task: For one or two of the areas suggested, think about how mutual gains bargaining may be used to develop a dispute prevention plan.

Possible issues for bargaining	Current process	What matters to me on this point	Possible options for solutions	Do we have the resources?
Structure				
Framework				
Principles				
Characteristics				
Gender perspectives				
Objective Criteria				

Activity: Alternative bargaining and the economy

Aim: To help you to prepare for alternative bargaining on macroeconomic issues.

Task: National level macroeconomic policies have a direct impact on the world of work and can be an important topic for national level collective bargaining. This may include a managerial decision to allow bargaining representatives to negotiate flexible ranges of wage increases or total cost of the agreement.

Discuss a recent macroeconomic policy that affects the world of work. Identify your concerns with the policy and how it was announced.

Did the preparation process for the policy include inputs from all stakeholders, including workers' organizations?

Working in your group, draw up a strategy for developing a pre-bargaining process or forum that could feed into the economic policy framework. Identify the key responsibilities of each organization.

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Section 11. Collective bargaining in the Public Service and poverty reduction

Trade Unions and poverty¹⁴

According to ILO estimates, 1.39 billion workers worldwide – almost half of the world’s total workforce, and nearly 60 per cent of the workers in the developing countries – do not earn enough to lift themselves and their families above the US\$ 2 a day poverty line. Millions of workers have no direct representation, no social protection and engage in survival activities. Inequality between and within countries is increasing. Indeed, the vast majority of people are not sharing in the benefits of globalization and shaping it.

Trade unionism is a means for workers to liberate themselves from poverty and social exclusion. Workers use trade unions as their representative voice to demand their rights and improve their living and working conditions. The formation of trade unions was a reaction against the mechanisms of pauperization, notably: low pay, long working hours, child labour and generally appalling working conditions. And so trade unionism has always been about eradicating poverty. The historical, as well as the current role of trade unions, is to fight against poverty and to promote social justice in the global economy.

Hence, the central message, “Fight Poverty – Organize!”, communicates that trade unions help workers to escape poverty, exploitation and the violation of their basic human dignity. It encompasses organizing collective bargaining and other forms of negotiations and creative social dialogue and engagement. Furthermore, it means organizing effective trade union participation in the design and implementation of public policy based on the priorities of our members and ILO Conventions. Finally, it

¹⁴ The International Workers’ Symposium on “The role of trade unions in the global economy and the fight against poverty”, Labour Education 2005/1-2 No. 138-139

means engaging in the struggle for democratic governance, decent employment and quality public services, with full access for the unemployed, underemployed, and working poor.

The participants in a recent Symposium on “The role of trade unions in the global economy and the fight against poverty” stressed that labour standards, in particular those dealing with freedom of association and collective bargaining, are crucial in securing decent working conditions and social progress. In this respect, certain categories of workers, most of whom are women, are particularly vulnerable to denial of, or restriction to, basic rights. These include workers in the export processing zones, those in the informal economy, in the rural sector, migrant workers and domestic workers. It was felt that reaching out to these workers was particularly important in the trade union fight against poverty.

Collective bargaining and wages

The ILO Global Wage Report 2008-09¹⁵ finds a positive relationship between collective bargaining and wage elasticity. It seems that in the presence of significant collective bargaining coverage, real wages are much more strongly connected to economic growth.

The contribution of trade unions to the reduction in wage inequality is a well-established empirical finding.¹⁶ Recent economic studies have increasingly recognized that collective bargaining has a positive effect on wages without much negative impact on the overall employment or economic performances.¹⁷ A comprehensive review of the literature published by the World Bank concluded that comparative studies “reveal little systematic difference in economic performance” between countries that effectively guarantee freedom of association and collective bargaining and countries that do not.¹⁸ Similarly, the most recent body of research has also dispelled some simple stereotypes about minimum wages, showing that – if set at a reasonable level – they can increase the number of workers with access to decent wages and reduce the gender pay gap with little or no adverse impact on employment levels.¹⁹ At the same time, while a growing body of research has dismissed widely held beliefs about the detrimental impact of minimum wages or collective bargaining on a number of socio-economic variables, policy-makers should not ignore the fact that poorly designed policies can have adverse effects on employment or economic indicators.

The role of collective bargaining goes much beyond protecting vulnerable workers – it actually benefits a broader spectrum of workers than do minimum wages. Collective bargaining also goes beyond wage negotiations to include other aspects of working conditions, such as hours of work and quality of employment. Second, minimum wages that set wage rates for many categories of workers in different industries can

¹⁵ See ILO, *Global Wage Report 2008/09*, pg. 41-45.

¹⁶ See Machin (2008) for a review

¹⁷ Cahuc and Zylberberg (2004); Manning (2003); Tzannatos (2008).

¹⁸ Aidt and Tzannatos (2002), p. 4

¹⁹ See in particular the comprehensive research commissioned by the UK's Low Pay Commission.

end up discouraging collective bargaining instead of stimulating it. While some negotiations between social partners over minimum wages have contributed to stimulating collective bargaining, in the majority of cases complex minimum wages were found to “crowd out” collective bargaining. This negative experience points towards the importance of careful and coherent policy design.

Role of the ILO

The ILO provides technical assistance to member states to implement Decent Work Country Programmes, in which worker and employer organizations agree with national governments regarding the priorities for each country.

The Office also follows up on the findings of the ILO's Committee on Freedom of Association, a tripartite body that provides guidance on the state of freedom of association in specific countries upon request from employers and worker organizations, and of the ILO's Committee of Experts on the Application of Conventions and Recommendations.

The ILO has emphasized supporting member states' institutional capacity to engage in social dialogue and collective bargaining.

A particular concern has been to mainstream gender into all of the ILO's activities. For information on gender and collective bargaining in the public service, please see the *Manual on Collective Bargaining and Dispute Resolution in the Public Service* (2011), pages 62-69, and Shauna Olney et al., *Gender Equality: a guide to collective bargaining*, available at www.ilo.org/public/libdoc/ilo/1998/98B09_13_engl.pdf.

Activity: Poverty and collective bargaining

Aim: To review the relationship between collective bargaining and economic status in your country.

Task: Collective bargaining is one of the most effective ways to reduce wage inequality at the bottom of wage distribution and reduce the gender pay gap.

What factors contribute to wage inequality in your country?

Try to get a copy of your national wage policy. See what it says about issues that affect collective bargaining.

What is the proportion of workers covered under collective bargaining agreements in your country?

Who are the main vulnerable workers in your country? Does collective bargaining have any effect on their economic status? Could that be changed?

Working your group, draw up a strategy for developing a process that could narrow the wage differential in your country.

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Section 12. The next steps

We now come to planning what will happen after the workshop. By working through the next activities, you should be able to agree on some concrete steps to build up collective bargaining in the public service.

Activity: Choosing issues

Aim: To begin selecting substantive issues for collective bargaining in the public service.

Task: In your group, choose some issues where you think alternative models of collective bargaining would be useful and which you think might lead to successful outcomes.

This is a 'brainstorming' activity. Work in groups of three, and take no more than 15 minutes. Be ready to give 3 reasons for selecting the issues that you have chosen. You might find this template helpful.

Subject or Issue	Underlying concerns	Reasons for your choice

Activity: Planning for successful collective bargaining: where do you want to be?

Aim: To begin drawing up a shared vision for collective bargaining.

Task: During this workshop, you have discussed how diverse models of collective bargaining can enhance dispute prevention and resolution. Consider how you might introduce mutual gains bargaining in your country. What information would be necessary? What issues would be likely to have mutually acceptable solutions? Where do you want to be? This activity is designed for bargaining teams or groups.

In particular, consider the current use of collective bargaining to design dispute prevention and resolution processes.

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Activity: Capacity building for collective bargaining

Aim: To think about how government officials and workers' representatives should prepare for collective bargaining.

Task: Work in a group composed by government officials or workers. Discuss how your group would prepare to take part in collective bargaining. What capacity building would be needed? What kind of help/support/information would you need to enable you to be more effective?

Put the main points of your discussion on a flipchart. Appoint one member of your group to report back to the entire group.

We suggest a possible structure:

	Resources	People	Data
What we need			
What we already have			
What we can do to get what we need			
When and how			

Activity: Planning for successful collective bargaining: what next?

Aim: To formulate an action plan to follow up after the workshop.

Task: Look back over what you have discussed during this workshop and particularly the previous activity.

Think about the steps you are going to take after this workshop. Formulate an action plan, using the format below.

Action Plan for collective bargaining

What are we going to do?	What is the timetable?	What resources do we need?	What may be the problems – and possible solutions?

Section 13. Finishing the workshop

Well done! You should now have completed most of the learning activities and have some action plans drawn up for after this workshop.

There is one last task. We are running this workshop in a number of countries and we would like your feedback to see what improvements we should make. Please go to your groups for one last time, and prepare a short evaluation of the workshop.

Thank you!

Activity: Workshop Review

Aim: To help us to evaluate this workshop and improve it.

Task: In your group, prepare some bullet points on what you think about this workshop.

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Feedback Form: Participants

1. Did the workshop meet the aims? (Look back at the section on aims to remind you).

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2. What was the most useful part of the workshop?

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3. What was the least useful part of the workshop?

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4. Were facilitators and participants gender and culturally sensitive?

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5. Was there an adequate representation of women participants?

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6. What did you think of the training methods used on the workshop?
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7. What improvements would you suggest to the workshop?
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8. Suggest five key points which you would report back to colleagues who did not attend the workshop.
- a.
 - b.
 - c.
 - d.
 - e.

9. Any other comments?
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Facilitator/Trainer's Feedback Form

This form has been developed to assist in collecting feedback on an ILO training workbook on collective bargaining – Manual on collective bargaining and dispute resolution in the Public Service – and the accompanying workbook.

After you have used this workbook to run a training workshop or a seminar please send us your comments, using the feedback form below. Your feedback is important to improve the quality of this workbook as well as to enrich the profile of case studies. Please send your comments to the Sectoral Activities Department, sector@ilo.org.

Feedback Form: Facilitator/Trainer

Name of person completing this questionnaire

Organization

Position in organization

Address

Telephone number

Fax number

E-mail

If you have facilitated a training workshop, using this manual, please give brief details:

When and where was the workshop held?

How many people attended the workshop?

Please indicate the level and gender breakdown of the participants attending the workshop.

PART 1

General comments on the Manual:

1. Overall content and structure, with suggested additions, deletions

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2. User friendliness, including style, language and accessibility

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3. Format

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4. Suggestions for illustrations, graphs, design and layout

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5. Other general comments

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General Comments on the Workbook

1. Overall content and structure, with suggested additions, deletions

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2. User friendliness, including style, language and accessibility

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3. Timing for activities

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PART 2

Case studies

In running the workshop, you may have developed your own case studies in order to make the examples relevant to the country concerned. SECTOR would like to compile case studies from different parts of the world and to use these case studies in future publications. Please send the case studies you have developed to the SECTOR secretariat (sector@ilo.org).

Thank you for your cooperation.

Section 14: Case exercises

The following exercises will give you an opportunity to explore the benefits of collective bargaining. You will each be assigned to one of two groups, the workers' union or the public managers.

1. Central University

Background

Central University, a public institution of higher education, is located in Urban City, a farming community of several thousand people. Ten thousand students are enrolled for the current term. The university was established over one hundred years ago and has a reputation for graduating excellent students. The management team has recently undergone numerous changes and one of the new officials manages the Central Services Department (CSD) where the majority of the bargaining unit works.

The student population has grown by 12% over the past five years and the growth has strained the capabilities of the CSD to provide the services needed by the students. The cost of supplies and food have also risen which has caused the CSD to run over budget several months of the last biennial budget year.

In addition, the new CSD manager has implemented a new disciplinary standard that the workers believe is unfair. This new standard has resulted in a large increase in the number of worker grievances that were filed during the last six months.

One group of employees consists of people assigned custodial, maintenance, food service, skilled trades and landscape maintenance work. The workers are represented by the University Labour Association (ULA). The current grievance process in the collective bargaining agreement is twenty five years old. The union believes the grievance process does not work to address the concerns of its members and

submits the issue to the university officials for collective bargaining. ULA thinks the current process takes too long, does not provide fair outcomes for employees, and works to benefit the employer.

The university managers also believe the grievance process is broken, however the managers think the union has too much control over the process, frequently delays the process, that overutilization of the grievance process results in lower productivity. It agrees to talk about changes to the grievance process during upcoming collective bargaining sessions.

Role Play

Each of you will be asked to participate in one of the following bargaining teams:

Workers: You belong to the University Workers' Union; you are aware of several members who are very concerned that they have not received adequate representation from the union due to the current grievance process, which is unfair because the CSD manager does not listen to or address the issues you have brought to him. You would like a grievance process that moves quickly to a higher level, gives you the opportunity to express your concerns to an official with the authority to resolve issues, and involves the citizens of Urban City to ensure an impartial person takes part in the outcome of the union's issues. You believe the citizens will champion your cause.

Managers: You are the managers and directors of various university departments. While you agree the grievance process takes too long, you believe it allows the union to protect employees who need to improve the quality of their work. You are concerned that the union membership has historically consisted of males and recently a number of female workers has come forward claiming the union is not representing their concerns.

Preparation

In each of your groups, prepare for the initial bargaining meeting. Take about 15 minutes.

1. Identify and clarify what you consider to be primary concerns of your group with the current dispute resolution process.
2. Review the primary concerns and clarify what values and beliefs might be underlying those concerns.
3. Determine what model of bargaining you believe will deliver the best outcome for your members. Develop the reasons you believe this model will result in an acceptable outcome.

Bargaining Meeting

The groups meet, to share their concerns and beliefs about the current system and try to agree on what model of bargaining to use.

The first decision the group must make is how the meeting will be conducted. The meeting should last no more than 30-45 minutes.

Next Step

Once you have completed the bargaining session, please consider how you did in explaining your concerns to the other party, what positive outcomes you achieved and what actions you would take next.

2. Green County

Background

Green Province is an urban region with the second highest population of any area in your country. It has an experienced fishing supervision department that has been recognized nationally for its expertise. It shares a large body of water with the neighboring county which is much larger. Recently the country has experienced a period of rapid growth in its fishing industry and the public officials of Green Province decided to increase the number of patrol boats on that body of water. The neighboring province's government also decided to increase its water patrol capability. The revenues from the fines and confiscations of improperly licensed vessels and over catch will more than pay for any increase in workers. Your country's law allows for such a division of revenues and diversity of jurisdictions.

The neighboring county has already increased the number of law enforcement officers on the shared waters, therefore the Green Province government decided to increase the number of fire prevention vessels on the water in order to minimize the number of jurisdictional disputes with its neighbor.

The Green Province Employees Guild represents the employees of fishing supervision employed at Green Province. The guild had expected to increase its membership when additional law enforcement officers were hired to patrol the water. In fact, the guild suspects that some of its current members may be laid off in order to hire more fire prevention and suppression employees. The guild recently became aware of a recent attempt of the neighboring province's Fishing Patrol Union to take over representation of the Green Province fishing supervision officials. The Guild has threatened to strike.

The Green Province government officials are concerned about the loss of revenue should the guild strike or drag out the bargaining process. Additionally, it believes the other county will claim it has jurisdiction over the entire body of water because it already has its personnel patrolling the area. The county fears that could lead to annexation of the shoreline currently part of Green County and the loss of the related fees and revenues.

The national labour ministry sent a letter to the officials and the guild concerning a recent change to the law which established a dispute-preventing off-set to the right to strike. The guild could only exercise the right to strike if it first attempts to bargain a resolution to the dispute with the county government. If the guild and the government agree, the labour ministry will provide a facilitator for the negotiation. Both parties do not want the neighboring county to gain sole jurisdiction of the water patrol.

Role Play

The group will be divided into two groups: guild members and government officials.

Guild: You are members of the Green Province Employees Guild and you are interested in bargaining a resolution to this dispute with the provincial government. Although your guild has never engaged a facilitator for negotiations in the past, you are open to the idea. You are concerned about appearing ineffectual to your members if you do not hammer out a deal which preserves the guild's right to the water work.

Provincial Government: As the governing body for the county, you want to preserve the province's jurisdiction over the current shoreline and you want to maintain your right to make decisions involving employment. You want this matter resolved as quickly as possible in a manner that will preserve your authority in matters of government.

Preparation

In your group, prepare for the initial bargaining meeting by:

1. Discussing the advantages and disadvantages of having a facilitator.
2. Determine what values and beliefs lie underneath your concerns about the possibility of a facilitator.
3. Discuss your BATNA and WATNA. (Best and Worst Alternative to a Negotiated Agreement.)

Goldberg, Sander and Rogers explain this in the following terms: “The reason you negotiate with someone is to produce better results than you could obtain without negotiating with that person. If you are unaware of what results you could obtain if the negotiations are unsuccessful, you run the risk of entering into an agreement that you would be better off rejecting or rejecting an agreement that you would be better off entering into.”²⁰ Your BATNA and WATNA represent the risks you run if you don’t seek a compromise agreement with the other side.

Bargaining

Both groups meet, discuss and bargain concerning having a facilitator, or not, during negotiations. Try and reach an agreement on whether to have facilitated negotiations and what the guidelines for those meetings would be. If no agreement can be reached, the meeting is over.

Next Step

Once you have completed the bargaining session, please consider how you did in explaining your issues to the other party, what positive outcomes you achieved and what actions you would take next.

²⁰ S. Goldberg, F. Sander and N. Rogers: *Dispute resolution: Negotiation, mediation and other processes*, third edition (New York, Aspen, 1999), p. 39