

**Report on the National Workshop in Kenya
on the ILO Guidelines on Social Dialogue
in Public Emergency Services in a Changing Environment
(Nairobi, 20-21 January 2005)**

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ACRONYMS

PESs	-	Public Emergency Services
ILO	-	International Labour Organisation
SSP	-	Senior Superintendent of Police
KLGWU	-	Kenya Local Government Workers Union
KUDHEIHA	-	Kenya Union of Domestic Hospitals Educational Institutions Hotel And Allied Workers Union
MOLHRD	-	Ministry of Labour and Human Resource Development
NARC	-	National Rainbow Coalition (the ruling party in Kenya)
CBA	-	Collective Bargaining Agreement
PPE	-	Personal Protective Equipment
OSH	-	Occupational Safety and Health
FKE	-	Federation of Kenya Employers
COTU	-	Central Organization of Trade Unions
C122	-	Employment Policy Convention,1964
C100	-	Equal Remuneration Convention,1951
C111	-	Discrimination (Employment and Occupation) Convention,1958
C87	-	Freedom of Association and Protection of the Right to Organize Convention, 1948

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1. Introduction

The two-day national workshop in Kenya on the ILO Guidelines on Social Dialogue in Public Emergency Services (PESs) in a Changing Environment (hereafter the Guidelines) was held in Nairobi on 20-21 January 2005. It was organized and facilitated by Ms. Shizue Tomoda, Senior Sectoral Specialist Responsible for Public Services, Sectoral Activities Department, ILO Geneva, as a follow-up to the adoption of the Guidelines by the ILO's Joint Meeting on Social Dialogue in PESs (Geneva, 27-31 January 2003) and the Governing Body decision requesting the Director-General to promote them through appropriate actions.

Prior to this workshop in Kenya, national studies on social dialogue in PESs were commissioned in selected countries, one of which being Kenya. The objective of such studies was to ascertain the gap, if any, between what was being promoted in the Guidelines and the reality of social dialogue in PESs as useful background material for discussion in national workshops such as the one held in Kenya.

1.1. Objectives

The objectives of the workshop were threefold: (1) to promote the ILO Guidelines; (2) to examine any problematic areas/issues in promoting the Guidelines in the PESs in Kenya by reviewing the outcome of the national study undertaken; and (3) to arrive at some strategies/recommendations for improved social dialogue in PESs in Kenya.

1.2. Workshop programme

The workshop programme (see Annex) centered around the presentations made by Ms. Tomoda on the Guidelines and by Mr L. Mureithi, national consultant, on *Social Dialogue in Public Emergency Services: A case study on Kenya*. Subsequently, the two discussants on behalf of the Government/ Employers' and the Workers' groups presented their views on these two documents to initiate discussions in the plenary. The workshop participants were then divided randomly into four groups for the purpose of group discussion on the issues highlighted in the earlier presentations. The outcome of each group discussion was presented at the plenary where various views expressed were then consolidated into a set of strategies/recommendations adopted by the workshop participants for improved social dialogue in PESs in Kenya.

1.3. Participants

The workshop was attended by thirty-nine (39) participants (see the list in Annex), representing the Government/the private sector employers and the Workers' organizations.

The government participants included policy makers/ managers representing the agencies responsible for public emergency services, namely, the police, fire -fighting and emergency medical services as well as the MOLHRD. The Office of the President was represented by various assistant commissioners of police and senior superintendents of police (SSP), including personnel from the National Disaster Operation Centre.

The private-sector employers were represented by five participants from the Kenya Ferry Services Ltd., the Kenya Airports Authority and the Delmonte Ltd.

The participants nominated by the Kenya Local Government Workers Union. (KLGWU) and the Kenya Union of Domestic, Hospitals, Educational Institutions Hotel and Allied Workers (KUDHEIHA) represented the workers in the PESs in Kenya.

2. Opening Remarks

The opening ceremony was attended and addressed by Amb. Nancy Kirui, Permanent Secretary, MOLHRD; Mr. J.M. Kavuludi, Labour Commissioner, Ms. Tomoda, Senior Sectoral Specialist Responsible for Public Service, ILO Geneva; Mr. I.B Kirigua, National Programme Coordinator, ILO/SLAREA, representing the Director, ILO-Dar Es Salaam; and Hon.Minister for Labour and Human Resources Development. The summary of the welcome address by Mr. Kirigua and the full text of the keynote address by Hon. Dr. Newton Kulundu, Minister for Labour and Human Resource Development, are as follows:

Welcome address by Mr. Kirigua on behalf of the Director, ILO-Dar es Salaam:

Mr. Kirigua stated that too many people had taken the work of PES workers for granted, yet their dedication to their profession was the driving force behind their fearless and heroic actions. They had played key roles in ensuring the safety of the population at large. They maintained law and order, rescued people and protected lives and property threatened by all types of disaster, both natural and man-made. They were the first ones to rush to the scene to perform their duties, often risking their lives in so doing.

Available data showed that due to the rapidly changing socio-economic and political factors, the volume of work for PESs was rapidly rising and becoming increasingly dangerous and risky. This was further compounded by problems arising from financial constraints, particularly acute in many developing countries, and this had resulted in understaffing in PESs. Therefore, PES workers faced increasing pressure to deliver services as best they could, with diminishing resources.

Under this circumstance, effective social dialogue was the best solution and the optimal way to ensure cost effective and efficient service delivery, where the workforce could be kept motivated and dedicated to their profession. This was the challenge that the government, the workers and the whole community had to face together through consultations and information sharing.

In many ILO member states PES workers were known to work in the most hazardous environment. For example, the occupational safety and health (OSH) records available showed that the injuries and deaths that fire-fighters sustained while performing their duties were among the highest of all occupational groups. Adequate enforcement of and compliance with safety and health laws could minimize the risk that PES workers would have to take while on duty. Workers should therefore be allowed to negotiate their own

safety and health matters as well as participate in the safety standard setting, as they had much to contribute from their first hand experience and knowledge.

Mr. Kirigua was convinced that the output of the workshop would immensely contribute to improved social dialogue in PESs in Kenya, where adequately trained, equipped and motivated PES workers would be able to deliver quality services to meet the changing needs of the Kenyan community. He wished the participants fruitful deliberations.

Keynote address by Hon. Dr. Newton Kulundu, Minister for Labour and Human Resource Development (a full text)

It gives me great pleasure to be with you this morning, on this very important occasion. First and foremost, let me welcome you all to this important workshop on social dialogue in public emergency services, and thank you for accepting to participate. May I also take this opportunity to thank the ILO for organizing and hosting this important workshop.

Ladies and Gentlemen, this workshop has come at an opportune time, and against the background of calamities facing human kind and Kenya is no exception to this. The 1998 bomb blast in Nairobi that killed 214 people and injured 5600, the Mtongwe ferry disaster of 1994 in which 70 people lost their lives and the Mombasa bomb blast of 2002 that took the lives of 15 people are still fresh in our memories, and the recent Tsunami tragedy confirms how vulnerable Kenya is, in terms of disasters, and hence the need to establish and nurture strong public emergency institutions. One of the strategies towards this is the institutionalisation of effective social dialogue in these institutions.

Kenya has several public institutions mandated to deal with emergency services, among them, the Office of the President, the Local Authorities, medical institutions. Their efforts are complimented by private organisations such as St. John's Ambulance, the AAR (African Air Rescue) Kenya, the Red Cross and private hospitals, among others. We must thank these institutions for being in the forefront in assisting the Kenyans overcome disaster through time.

Ladies and Gentlemen, as you may be aware, the ILO's Joint Meeting on Public Emergency Services held in Geneva from 27 to 31 January 2003 reviewed the emergency services issues such as trends in working conditions, safety and health, human resource planning, among others. The meeting adopted the Guidelines on Social Dialogue in Public Emergency Services in a Changing Environment, which were approved during the 288th Session of the Governing Body (November 2003) for promotion among the ILO member states.

Subsequently in an effort to promote the said Guidelines among its member states and as part of the follow-up activities to this end, the ILO commissioned a study in Kenya to examine the gaps between what is being promoted in the Guidelines and the reality on the ground, and I am glad to report that the study was completed, and this now constitutes the main subject of discussion in this workshop.

Distinguished participants, I have had an opportunity to peruse the report, and am glad to note that the report is exhaustive, the consultant having examined the following salient issues in the public emergency services: (1) employment issues; (2) working conditions; (3) occupational health and safety; (4) human resources planning and training; and (5) state of social dialogue and rights at work.

The report also points out grey areas that need to be addressed so that the Guidelines are fully implemented, and this is the humble duty we are entrusting you with for the next two days.

The report points out understaffing, as a key constraint afflicting the public emergency services, and I appeal to you today as representatives of these organizations to come up with tangible strategies and recommendations as the best way to address the issues of understaffing, training and career succession as a means of strengthening the public emergency services.

Ladies and Gentlemen, the public emergency services play a very strategic role in Kenya, and this is the right time to institutionalise social dialogue in these institutions. Through dialogue, it is possible to address all the grey areas, including the issues relating to the freedom of association and the right to collective bargaining, as well as occupational health and safety. It is through this process that we shall be able to recruit and retain a well- motivated workforce in the public emergency services which would be able to respond adequately to distress calls and on which the Kenyans would be able to rely whole heartedly.

The Government's commitment to the welfare of the working people is already evident through our constitutional provisions on the right to associate freely, legislation on terms and conditions of employment, the recent labour law review to ensure compliance with the International Labour Standards, as well as the ratification of the core ILO Conventions. The Government will continue with this process by engaging in dialogue with the social partners and other stakeholders.

Distinguished Participants, the report you are going to discuss lays a foundation of institutionalising the fundamental principles and rights at work within the public emergency services and the effective exercise of these rights. An effective dialogue amongst the partners involved will lead to the achievement of quality working conditions that are still to be desired, which would lead to the delivery of efficient and quality services by motivated and adequately trained personnel in the public emergency services. This is in line with NARC's Philosophy of improving service delivery within the Government.

Since the devastating earthquake and the Tsunamis that affected the countries around the Indian Ocean, we have all struggled to grasp the enormity and devastation of this disaster. Each day brings new information on the impact of this disaster and the dire warning of its long term consequences. We mourn for those who perished in this tragic event and offer our deepest sympathies and condolences to their families and kin.

Ladies and gentlemen, at this juncture, let me wish you fruitful deliberations in this workshop, on this very important sector of our economy. The recommendations you come up with will form the basis of promoting the ILO Guidelines on Social Dialogue in the Public Emergency Services in Kenya. I wish you well, and its now my humble and pleasant duty to declare this workshop officially opened. Thank you.

3. ILO Guidelines on Social Dialogue in PESs in a Changing Environment

Before presenting the ILO Guidelines, Ms. Shizue Tomoda gave background information leading to the adoption of the Guidelines by the Joint Meeting on Social Dialogue in PESs (Geneva, 27-31 January 2003). She stated that within the framework of “Public Service” in the ILO’s Sectoral Activities Programme, a number of international meetings had been organized to discuss employment and labour issues relating to public service. In addition to the meetings on human resource development in the context of structural adjustment and transition (1998) and the impact of decentralization and privatization on municipal services (2001), the most recent one, held in 2003, had addressed social dialogue in PESs in a changing environment, covering the police, fire-fighting and emergency medical services.

She underscored the fact that although there had been a meeting held on the fire-fighting service in 1990, the one held in 2003 was the first time ever that the police service was covered in an ILO meeting. She said that the police and the military being essential services of special nature, the governments were allowed to exclude them from the scope of the application of the ILO Conventions which they had ratified, including the core ones. It did not mean, however, that the fundamental human rights of those who were employed in these services could be disregarded. In C87 and C98, the two of the core Conventions guaranteeing the fundamental human rights in the world of work, it was provided that “the extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws and regulations.” In other words, it was up to each ratifying State to prescribe in its national laws or regulations how workers’ fundamental rights guaranteed in C. 87 and C. 98 should be treated with regard to the police. Therefore, some governments guaranteed the police all the rights as in any other services; some others provided them with the right to organize and bargain collectively with certain limitations, while the rest imposed considerable restrictions on workers’ fundamental rights in the service.

Despite the exclusion of the police permitted from the application of the International Labour Standards, the ILO’s Governing Body had decided that a meeting on social dialogue in PESs, including the police, would be held under the Sectoral Activities Programme. The decision was made in recognition of the vital role that PES workers played in contributing to the safety and security of our society while risking their own lives in performing their duties.

The report prepared as the background material for the discussion at the meeting (the entire text can be accessed at www.ilo.org/sector, under “public service”) highlighted a number of employment and labour issues in PESs. They included: (1) the declining

employment levels due to budgetary constraints, which affected adversely the working conditions such as remuneration and hours of work; (2) working hours longer than those established statutorily for the rest of the population, for which they were often not adequately compensated; (3) despite the fact that PES workers worked under dangerous and hazardous environment, national occupational safety and health laws often did not apply to them; and (4) being in essential services, PES workers in many countries did not fully enjoy the right to associate freely and to bargain collectively, which meant that they were unable to negotiate for more decent working and living conditions.

Against this background report the meeting discussion took place and the ILO Guidelines were adopted (See Annex for the full text). The decision in adopting the Guidelines was made in view of the fact that if we were to ensure quality service by PES workers, they should be given proper means, tools and funds so as to be able to respond effectively to changing needs of communities. It was important that efforts be made to retain properly trained and experienced personnel. It was also recognized that an enhanced social dialogue mechanism was the optimal way to allow the participation of PES workers and their representatives in improving their working conditions and ensuring quality services.

The Guidelines stressed the necessity of (1) allocating sufficient budgetary resources to ensure adequate training and staffing levels, as well as employment diversity, for decent work and quality service; (2) allocating resources and allowing information sharing, including worker participation in the design and implementation of OSH measures, for safer workplaces; and (3) promoting effective social dialogue to ensure that PES workers remain motivated and committed to quality service delivery.

The major challenges faced by PESs today included (1) how best to provide cost effective and quality services with limited resources, which was a problem shared by many countries, both developing as well as industrialized ones; and (2) how to improve social dialogue in all the PESs, while recognizing their being essential services of special nature, so that all stakeholders, including workers, would be able to contribute to improving the service delivery.

Ms. Tomoda stated that the Guidelines were not binding, unlike ILO Conventions which the ILO member States ratified. Instead, they were intended to provide guidance on how to achieve better PESs in a changing environment through social dialogue. Therefore, all ILO tripartite constituents should make a good faith effort to use them for a common objective to ensure quality services delivered by competent and committed personnel, particularly at a time of heightened security consideration.

4. Presentation of the national study on Kenya

The study *Social Dialogue in PESs: A Case Study on Kenya* undertaken by Mr. Leopold Mureithi (the entire text can be accessed at www.ilo.org/sector, under “public service”) was presented by the author himself. It looked into front-line PES personnel such as firefighters and emergency medical workers in Kenya. It, however, did not cover the police personnel in view of, according to him, the sensitive nature of the organization.

The primary information was established through interviews of several stakeholders from PESs. It was, however, not possible to conduct interviews with any police personnel. Secondary information was obtained through statutory documents such as the Employment Act, the Trade Dispute Act and the Factories and Other Places of Work Act, while additional and useful information was made available by key informants.

Although the equality of employment opportunity was guaranteed in the Kenya Constitution and various statutes against discrimination, gender composition in PESs was not very balanced. Among the emergency medical personnel, for example, women constituted over 66 per cent of the workforce, mostly in the lower skills ladder and five to 10 per cent of them being employed on part-time basis to replace regular staff who were absent from work for any reason. On the other hand, fire-fighting in Kenya was apparently considered too dangerous a career for women to be engaged in. There was none employed by the City Council of Nairobi, though the management envisioned future deployment of women in pre-fire, communication and post-fire operations. While the age distribution among the medical staff was more or less even, the fire brigade was composed of predominantly older people: less than 5 per cent of them were below 30.

The study pointed out that leave granted was within the provisions of the law or the collective bargaining agreements (CBAs) entered into. However it was noted that firefighters were granted longer leaves. The provision for sick leave was less favourable in law than provided for in CBAs. Firefighters and emergency medical personnel worked on shifts. They, however, worked for 48 – 64 hours per week, which was longer than statutorily provided for, but were provided with equivalent off days. Both fire and medical personnel enjoyed a rent allowance, as provided for in the law, but there existed a wide discrepancy between the lowest and the highest rates paid, the difference being 16 times between the highest and the lowest rates among firefighters and 5 times among emergency medical staff.

Clauses regarding the notice of termination were provided for in law. However, no redundancies had been reported, as the services had been understaffed or had been losing staff as some had left for employment elsewhere with better terms and conditions of work. The retirement age was 55 years with full benefits.

There were insufficient provisions of OHS devices and equipment especially in terms of Personal Protective Equipment (PPE) for firefighters and emergency medical workers, though laws were explicit on these issues. Work environment in some cases were found to be inadequate and some pieces of PPE were reported to be shared among a number of workers, which placed them under certain risks of injuries and serious contamination. Compensation through the Workmen's Compensation Act was found to be grossly inadequate for those who became disabled or died while on duty. Necessary attention should also be paid to the development and the implementation of stress management in PESs in Kenya, which was currently being given informally by colleagues and managers.

Workers in both services enjoyed opportunities for advancement through training which ranged from certificate to degree courses. Study leaves were also granted, but these were more prevalent for firefighters than emergency medical personnel. There was no training policy, however, and any further training was left at the initiative of the workers and the discretion of the bosses. There should be more training made available to them locally, preferably at local universities and polytechnics.

In Kenya the right to bargain collectively was practiced, including in the firefighting and emergency medical services, through which terms and conditions of service were fixed. Although no dispute in PESs had been reported in recent years, the issues such as long working hours, absence of medical and insurance coverage for firefighters, inadequate PPE, tools and vehicles in PESs, to mention a few, had not been fully addressed.

Strengthened social dialogue in PESs was therefore necessary to enhance and improve on the issues pointed out above and to enable PES workers to provide more effective services. The services had to be funded adequately for workers to perform their duties effectively. They should also be allowed to be involved in the acquisition and design of PPE to ensure quality service delivery in safer work environment. Above all, they should be able to fully exercise their freedom of association, through industrial trade unions or craft unions, and the right to bargain collectively for better terms and services so as to be able to remain motivated and committed to their professions.

5. Commentaries on the ILO Guidelines and the national study

On behalf of the Government/Employers

The commentaries on behalf of the Government/Employers on the two documents were made by Mr. Ajanga Joseph Yidah, Assistant Labour Commissioner, MOLHRD. He stressed that the Government endeavored to promote the Decent Work Agenda, along with employment and social protection, by implementing the ILO's Fundamental Principles and Rights at Work, as this was the only way to ensure decent and productive work in conditions of freedom, equity, security and human dignity and to alleviate poverty at the same time.

In Kenya social dialogue based on consultations, exchange of information and negotiations on a tripartite or bipartite basis thrived through strong and independent social partners, such as the Federation of Kenya Employers (FKE), the Central Organization of Trade Unions (COTU) and the Government, represented by MOLHRD. This was based on the recognition of freedom of association and the right to collective bargaining as well as the political will to engage in social dialogue. The legal and institutional frameworks were based on various labour laws and the Industrial Relations Charter.

He thought that the national study under discussion provided a practical view of social dialogue in PESs in Kenya, though it had been produced based on very scanty data and information. In his view, it rightly pointed out that equality of employment was not

provided in the Employment Act. For example, the country had no official employment policy, which could have addressed the issues raised in the Guidelines, such as the employment levels required for providing adequate service, employment diversity and training needs in PESs. The study did not attempt to analyze labour standards (e.g. C122 on Employment Policy, C100 on Equal Remuneration and C111 on Discrimination) that shaped the employment situation.

The study, in his view, limited itself only to the Employment Act and the Kenyan Constitution when focusing on employment issues, while there were six other core legislations, including the Industrial Training Act, which could have been examined. The report rightly stated, however, that the working conditions of PES workers showed that their work had been undervalued and that this had adversely affected their productivity and service delivery. The study also addressed adequately occupational health and safety issues in reference to the appropriate legislations and the Collective Bargaining Agreements. However, it should have covered issues on communicable diseases, particularly HIV/AIDS, as well.

He concluded his presentation with the following recommendations for improved social dialogue in PESs in Kenya:

- An enabling environment and proper institution for effective social dialogue should be created for all levels of PES workers.
- Social dialogue must be encouraged to ensure the decision-making processes that are more accountable, transparent and worker-centered.
- Collective bargaining should be promoted and enhanced to address working conditions for PES workers.
- There is need for social dialogue in PESs in Kenya and this should be encouraged through sensitization campaigns among policy-level executives right down to the rank and file members of trade unions.
- There is need for the establishment of a fully resourced National Disaster Preparedness Commission.
- There is need for effective policy coordination among various PES agencies.
- There is need to fully embrace the ILO Guidelines.
- Laws on PESs must constantly be reviewed and strengthened to keep pace with the environmental changes.
- The uniformed workers, especially the police, must be part and parcel of the processes for formulating policies and establishing working conditions affecting them, not necessarily through trade union activity, but by allowing them to be represented.

On behalf of Workers

The commentaries on behalf of the Workers were made by Mr. Noah Chune, Economist, the Central Organization of Trade Unions (COTU). He appreciated the Guidelines developed and adopted by the ILO as a useful intervention in support of PES workers.

He, however, thought that the definition of the PES workers in the Guidelines covering only the fire-fighters, police and emergency medical personnel was too narrow and it should have also embraced other categories of workers, such as those in the media, as they provided useful information and mobilized resources for any emergency situation. PES workers should also include recognized vigilante groups active in community policing and the National Youth Service who were often called upon to handle emergency situations in Kenya. The PES workers should therefore be redefined to give the necessary flexibility and to accommodate local circumstances of member countries.

The term “public”, he thought, was generally associated with the State and it might be misconstrued that PES workers referred to in the Guidelines included only those who were in employment of the State authorities.¹ This would imply that those in private enterprises providing emergency services might be deemed to be outside of its meaning and application.

Noting that the Guidelines placed strong emphasis on the issues of equality, training and OSH, he thought that these were often ignored by the authorities because of cost implications. The emphasis on them might require model guides, however, on how to raise funds in support of these activities. It might call for the review of various rules and regulations, especially in public sector divisions of PESs, with a view to improving procurement of goods and services, as and when they were required.

Bureaucracy and lack of facilities impeded effective public emergency delivery. Coordination of services based on dialogue involving all parties concerned was a crucial factor, but he expressed his concern on this matter as there was usually disconnection between the public and private emergency service providers.

There was also a need for gender sensitization and mainstreaming in PESs so as to bring the sector into conformity with the Guideline with regard to employment diversity and the promotion of C100 and C111.

He underscored the restriction on the right to organize in the case of PES workers because of the Government’s claim that they performed essential services. For example, doctors and nurses, to date, continued to be represented through their professional associations. Many essential services were barred from exercising their freedom of association, contrary to Article 9(1) of C87 and the provisions of the Constitution, which expressively guarantee that freedom. However, Mr. Chune believed that the freedom to exercise the right to organize and to bargain collectively would enhance, rather than diminish, the discipline in these services, as there would be proper channels for handling grievances and complaints. They should therefore be accorded the right to

¹ As far as the ILO is concerned, the “public service” is clearly defined. Whether they are delivered publicly or privately, services such as health, education, utilities, posts, telecommunications, transport, the police and fire-fighting are considered to be public services because they are provided to sustain the well-being of each citizen and help the development of society as a whole. Therefore, private-sector employers are always invited to take part in ILO meetings on public services.

representation, consultation and negotiation, although their right to mass industrial action could be limited.

6. Group discussion and the consolidated strategies/recommendations of the workshop participants for improved social dialogue in PESs in Kenya.

The workshop participants were divided randomly into four groups and all groups dealt with the issues in PESs in Kenya highlighted in the national study, namely, (1) shortages of funds and employment levels, (2) benefits and allowances, (3) OSH, (4) further training, (5) working conditions, including pay and (6) social dialogue, including in the police service. After engaging in several hours of group discussions, each group presented its results and recommendations. Their different views were then consolidated into a set of workshop strategies/recommendations for improved social dialogue in PESs in Kenya, which was adopted by the workshop participants at the end. The consolidated strategies/recommendations given below indicated what role each of the ILO's tripartite constituents in Kenya was expected to assume for improved social dialogue for quality service delivery in PESs.

6.1. Role of Government

- 1). Shortages of funds and employment levels:
 - Provide adequate budgetary resources
 - Provide an enabling political environment
 - Lift ban on the employment embargo in PESs
 - Introduce cost sharing in order to raise funds

- 2). Benefits and allowances
 - Review the benefits and allowances
 - Review legislation on compensation
 - Introduce risk allowance in PESs
 - Ensure insurance coverage for PES workers and their families
 - Harmonize/rationalize pay and benefits
 - Ensure equal pay for work of equal value

- 3). OSH issues
 - Speed up enactment of the proposed bill into law of the reviewed Factories and Other Places of Work Act
 - Enforce the provisions of the Factories Act
 - Train employers and employees on the provisions on OSH issues.
 - Develop a national policy on PPE in order to meet the local needs
 - Supervisory role of government to be strengthened through recruitment of appropriate technical staff
 - Proposed fire-fighting bill should be enacted into law
 - Strengthen National Advisory Committee on Occupational Health and Safety

- 4). Further Training

- Establish a national disaster and emergency response training center
 - Establish a curriculum for all cadres involved in PESs.
 - Solicit for scholarship and distribute transparently.
 - Develop a training policy
- 5). Working Conditions, including pay
- Enhance health and safety inspections
 - Enhance wages inspections
 - Review the Pensions Act, to enhance pension levels
- 6). Social dialogue (including in the police service)
- Allow freedom of association in all sectors and services
 - Review labour laws concerning the right to exercise the freedom of association
 - Kenya Police Representative Association should be revived
 - Allow for institutions and mechanisms to handle employee issues expeditiously

6.2 Role of Employers

- 1). Shortage of funds and employment levels:
- Prioritize PES issues when allocating funds
 - Determine appropriate staffing levels
 - Conduct succession planning
 - Enhance revenue collection and eradicate corruption
- 2). Benefits and Allowances
- Need of constant upward review of benefits and allowances
 - Introduce Risk Allowance
 - Prompt payment of salaries and allowances
 - Provide insurance coverage for all PES workers
- 3). OSH issues
- Establish health and safety committees in workplaces
 - Implement the decisions taken by the OSH Committees
 - Develop a clear OSH policy and educate/train managers and workers on OSH issues
 - Annual OHS audit and voluntary audit should be encouraged even for employers with less than 20 employees
- 4). Further Training
- Develop a training policy for all cadres
 - Conduct training needs assessment and provide budget for training
 - Distribute training opportunities fairly.

- Train and retain employees (as quality service can be delivered only by experienced workers)
- 5). Working conditions, including pay
 - Provide adequate transport
 - Provide housing near the place of employment
 - Provide recreational facilities
 - Observe agreed working hours
 - Grant off-days when due
 - Constant review of salaries
 - Employees rights to be recognized and respected
 - 6). Social dialogue (including in the police service)
 - Allow employees to join trade unions
 - Foster consultations and negotiate in good faith
 - Establish works committees
 - Implement agreed decisions

6.3 Role of Workers

- 1). Shortage of funds and employment levels:
 - Utilize existing funds well
 - Utilize existing resources (other than funds) properly
 - Improve productivity
 - Lobby for budget increases to enable adequate service delivery
- 2). Benefits and Allowances
 - Negotiate for better benefits and allowances
- 3). OSH Issues
 - Observe OSH standards
 - Utilize properly the PPE provided
 - Participate in OSH Committees
 - Report any discrepancies in OSH laws and practices in the workplace
 - Be mindful of their duty to take care of themselves and those around them
- 4). Further Training
 - Take personal interest in and be available for training
 - Engage in self training
 - Utilize skills gained in training
- 5). Working Conditions

- Submit proposals to management
 - Negotiate adequately
- 6). Social dialogue
- Form and join trade unions
 - Participate in the works committees
 - Observe agreed decisions
 - Engage in positive consultations with management

7. Closing remarks by AMB. Nancy Kirui, Permanent Secretary, MOLHRD

The Permanent Secretary noted that the workshop was timely as it had been held when Kenya was endeavoring to put in place a strong and reliable institutional framework on disaster management. She was convinced that the workshop participants could now be counted on as agents of change in their organizations in terms of promoting positive attitudes desired by the public and creating an enabling environment towards effective emergency responses.

Having seen the consolidated recommendations adopted by the workshop participants, she stated that she could confidently divide them into two categories: (1) those that entailed the provision of working tools like vehicles, adequate office space, funding, staffing and proper infrastructure, and (2) those that concerned better salaries and working conditions. She noted that there already existed structures and mechanisms of addressing the recommendations and all that was needed was a good will and a coordinated approach. The Government would therefore take the recommendations made with the seriousness they deserved.

As the Government would chart the way forward, she also noted the challenge faced by the Employers' and Workers' Organizations to put in place the mechanisms needed for promoting the ILO Guidelines. She thanked the ILO for its effort in promoting the Guidelines in Kenya, and was gratified to note that the workshop of this kind was the first one held in the region.

It was the Government's hope that the ILO would continue to support its effort in institutionalizing the Guidelines within the PESs in Kenya by working directly with the organizations and constituents concerned. Finally, she noted that the recommendations adopted indicated specific roles expected of the tripartite constituents and thought that they were needed to be implemented through concrete action plans.

She then declared the workshop closed.

Annexes

Guidelines on social dialogue in public emergency services in a changing environment

The Joint Meeting on Public Emergency Services: Social Dialogue in a Changing Environment,

Having met in Geneva from 27 to 31 January 2003,

Adopts this thirty-first day of January 2003 the following guidelines:

General considerations

- A. A changing economic, social and security environment requires the enhancement of public emergency services (PES).² Such services must be adequately funded so that well-trained and properly resourced workers can deliver quality services, which are effective, responsive to different sections of community needs and defined by high standards of ethical behaviour on the part of service deliverers. There should be recognition of the vital role played by front-line PES workers in responding to the increasing threats to life and property in these uncertain times.
- B. To these ends, all PES workers should be able to effectively exercise their fundamental rights at work, in accordance with the 1998 ILO Declaration on Fundamental Principles and Rights at Work, so as to achieve quality working conditions which help ensure design and delivery of quality services.
- C. Social dialogue mechanisms based on the ILO Declaration on Fundamental Principles and Rights at Work between PES employers and the workers should be constructed where they do not exist. Such mechanisms are the key to an effective voice in determining the conditions that make for effective services.

1. Employment and human resource development

Employment levels

- 1.1. Decisions intended to enhance services for effective delivery should balance a number of considerations:
 - 1.1.1. application of new technologies;
 - 1.1.2. staffing levels necessary to ensure decent work and quality working life;
 - 1.1.3. the nature and scope of anticipated needs;

² Public emergency services are defined to include police, firefighters and emergency medical personnel including doctors and nurses and paramedics called to respond to an emergency situation. For purposes of these guidelines, the definition excludes military personnel.

- 1.1.4. contingency planning for unanticipated incidents;
- 1.1.5. budgetary allocations and use of funds.

- 1.2. Investments in PES should therefore be planned so as to avoid reductions in employment which erode services over time, and where necessary to increase staffing levels so as to provide better response rates and quality.

Employment diversity

- 1.3. The need to achieve greater gender, ethnic and other diversity in PES employment requires enhanced efforts to eliminate prejudice and discrimination in these services in line with the equality of employment opportunity and treatment principles set out in the ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111).
- 1.4. To enhance employment diversity, PES employers, in cooperation with workers and their organizations by means of social dialogue, should undertake to define and implement a policy on diversity. Such a policy should include as part of planning and management tools:
 - 1.4.1. documentation and follow-up of a service's employment composition over time based on age, gender and ethnicity;
 - 1.4.2. establishment of objective recruitment benchmarks;
 - 1.4.3. an objective system of evaluating results.
- 1.5. To increase and/or maintain employment diversity, an active campaign to recruit and retain youth, women and ethnic minority candidates who are interested in and qualified for serving in PES should be an integral part of human resource planning. Recruiters' attitudinal changes should also be ensured where these are considered barriers to meeting objectives.
- 1.6. Measures to facilitate the achievement of recruitment/retention benchmarks may include:
 - 1.6.1. legislation or regulation to facilitate maternity leave and reintegration to professional activity;
 - 1.6.2. policies aimed at helping to balance work and family life such as increased access to childcare facilities;
 - 1.6.3. analysis and action to correct career progression obstacles;
 - 1.6.4. provision of initial and continual training opportunities linked to career development;
 - 1.6.5. study and provision of appropriate personal protective equipment and its effective use;
 - 1.6.6. ensuring a work environment free of harassment, accompanied by gender and racial sensitivity training for all staff;
 - 1.6.7. a complaints policy which is equitable and impartial for all staff.

- 1.7. Social dialogue should be an effective means of achieving commitment to more employment diversity in PES that greater reflects the community based on age, gender and ethnicity considerations.
- 1.8. To effectively apply new orientations towards community-based service in response to law and order questions, a proactive communications policy for information sharing, the building of trust and the creation of partnerships between PES, especially police, should be achieved primarily through better diversity of ethnic representation.

Training

- 1.9. Staff training and empowerment for improving services and the work environment should be considered as paramount for improved working quality and service delivery and should be adequately funded. Training programmes should be tailored to meet the increasingly specialized nature of PES work, providing personnel with the necessary skills and competences to meet their obligations and maintain a high degree of professionalism in a rapidly changing work environment. PES workers should have the right and responsibility to participate in the development of training standards that will ensure the availability of needed skills to provide quality services.

2. Working conditions

- 2.1. To avoid that the work of PES workers is undervalued, while productivity and quality service delivery is ensured, installation of a climate and mechanisms for effective social dialogue on better working conditions and appropriate pay structures and levels should be an overriding policy consideration for PES employers and workers. Salaries and other terms and conditions of employment should be considered as integral parts of HRD policies designed to recruit, train and retain well-qualified and experienced workers.
- 2.2. Faced with increasing workload and responsibility, PES workers' representatives³ should be fully recognized through the social dialogue process

³ Throughout this text when the term “workers’ representatives” is used, it refers to Article 3 of the Workers’ Representatives Convention, 1971 (No. 135), which reads as follows:

For the purpose of this Convention the term “workers’ representatives” means persons who are recognised as such under national law or practice, whether they are:

- (a) trade union representatives, namely, representatives designated or elected by trade unions or by the members of such unions; or
- (b) elected representatives, namely, representatives who are freely elected by the workers of the undertaking in accordance with provisions of national laws or regulations or of collective agreements and whose functions do not include

in determinations over the organization of working time. Mindful that PES workers are different from workers in other sectors in terms of their responsibilities, the exigencies of service delivery and therefore their work organization, their unique social role should not be used to deny these workers the right to effective social dialogue on these issues. Such a denial would over time work against the objectives of rapid and quality service delivery.

- 2.3. Establishment of working conditions in PES should take account of the demands or needs of different local and national authorities. Terms and conditions of work should therefore be determined through collective bargaining or its functional equivalent at the appropriate level according to national law and practice. The extent to which the police are covered by such mechanisms should be determined by national laws or regulations.
- 2.4. PES workers in developing countries should be entitled to a guaranteed minimum income for a decent living in law and in practice. Minimum wages should represent a salary level that meets workers' needs for adequate living conditions, health and education of themselves and their families. An effective minimum wage could reduce or eliminate their work during off-duty hours to supplement their incomes which puts them at extra risk due to fatigue, and may also endanger the health and security of the public. Where not established by national law or practice, a legal mechanism should be set up with the participation of workers and/or their representatives to define the criteria for fixing minimum wage levels, their application and implementation.
- 2.5. In recognition of their obligation to work odd and irregular hours, and to respond immediately to emergencies, the following principles should be observed in defining working time and organization:
 - 2.5.1. laws stipulating maximum weekly hours of work, the minimum daily consecutive rest period and the minimum weekly consecutive rest period should be observed, except in unusual circumstances;
 - 2.5.2. when on duty, the rest periods of PES workers should be counted as working hours;
 - 2.5.3. in shifts of any length beyond normal working hours where the employer requires the worker to stand by for specific service requirements or at specific locations, such stand-by time shall be treated as working hours unless other compensatory arrangements exist. The employer shall be responsible for notifying the workers of such policy.

The application of these principles should be discussed and resolved through social dialogue and collective bargaining.

- 2.6. Pay structures should be established based on many factors, including required qualifications for employment, hours of work, risk and stress level.

activities which are recognised as the exclusive prerogative of trade unions in the country concerned.

Comparability between different occupational groups of PES, including police officers, firefighters and EMS workers, should reflect local and national circumstances based on job and pay evaluation systems that are designed and operated through social dialogue. Parties understand that each sector of PES plays a unique yet equally vital role in the provision of public safety. This equality of work should command equal value in areas of wages, benefits and funding.

- 2.7. Based on available information indicating that women are concentrated in support positions and tend to earn lower salaries and wages than men in PES, the provisions of the Equal Remuneration Convention, 1951 (No. 100), should be applied to pay structures in order to ensure that work of equal value is compensated equally, irrespective of the sex of the official performing the duty.
- 2.8. Given the nature of PES workers' early retirement and pension schemes based on the hazardous work they perform, and the increasing imbalance between numbers of staff reaching retirement age and decreasing recruits, employers should plan for, design and finance retirement systems which guarantee benefits on retirement. Such systems should be managed by bodies on which all stakeholders, including PES workers, are represented.

3. Occupational safety and health

- 3.1. To reduce the psychological and/or employment impact on individuals, co-workers, families and organizations as a result of the death, injury, disability and illness of PES workers in the line of duty, PES employers should commit to high standards of workplace safety and health based on a proactive policy and preventive measures. Workers should participate in the process of design and implementation of these measures.
- 3.2. Concrete measures to this end should include:
 - 3.2.1. application to PES workers of local or national safety and health laws applicable to other workers, and their adequate enforcement;
 - 3.2.2. allocation of adequate resources for their protection and own rescue in situations whereby they risk their lives to save others;
 - 3.2.3. adaptation of new technologies developed in the area of safety and health to constantly improve the PES working environment;
 - 3.2.4. making available modern equipment that meets international standards to workers in developing nations;
 - 3.2.5. provision for collective bargaining, where applicable, over safety and health standards and their application.
- 3.3. In view of physical, chemical and psychological hazards they face in rescuing others, PES employers should provide PES workers with the best preventive measures available, including properly designed personal protective equipment (PPE) and materials. Protective clothing, boots and other equipment provided to women PES workers must be designed to meet their physical requirements in the interests of women workers' safety and health and efficient service delivery.

There should be provision for ongoing research on ways of improving occupational safety and health and responding to the occupational diseases that directly affect PES workers.

- 3.4. The knowledge and experience of front-line PES workers, including representation of women workers on the relevant bodies, should be taken into account through social dialogue processes to appropriate design and use of PPE.
- 3.5. To reduce the impact of negative stress, the incidence of “burnout”, and of violence on PES workers while on duty, notably the consequences of critical incidents such as horrific accidents and tragic deaths leading to post-traumatic stress disorder (PTSD), PES agencies should implement the following practices:
 - 3.5.1. establish adequate stress management and counselling programmes to protect their staff and immediate family resulting from a cumulative or a specific incident of stress, including critical incident stress debriefings (CISD), with particular attention to rural areas and developing countries which do not often have such provisions;
 - 3.5.2. adopt a “zero-tolerance” policy towards workplace violence and ensure a dynamic intervention to deal with any problems arising from violent incidents;
 - 3.5.3. undertake risk assessments of critical incident stress and violence possibilities;
 - 3.5.4. provide for regular review of challenges, policies and measures to deal with problems through effective social dialogue on stress and violence issues.
- 3.6. In relation to increased concern among PES workers about contracting HIV/AIDS and other communicable diseases while handling the injured and the sick, cooperation of employers’ and workers’ organizations should strive to ensure that workers are educated, sensitized and given proper protective equipment against such diseases. In the campaign against HIV/AIDS and other communicable diseases, prevention strategies should be based on the application of the “universal precautions” principle, including the ILO code of practice on HIV/AIDS and the world of work. This may include provision of protective clothing (especially in rural areas), immunization where available, training in the application of the principle and the establishment of a monitoring mechanism to assess effective application.
- 3.7. Where protective measures are not sufficient to prevent infection, workplace compensation for PES workers should be provided where infection is work-related.
- 3.8. With regard to stress management and counselling programmes, as well as measures to reduce vulnerability to, and prevalence of, HIV/AIDS and other communicable diseases, confidentiality should be strictly observed and formally prescribed to avoid the stigma and potential workplace isolation that is

often attached to those who undergo testing, stress management and counselling programmes.

3.9. To take account of changing PES response and work environments, information sharing on planning and implementation of new safety and health measures, particularly on new technology developed and applied to PPE, should be encouraged at the international level. Such information sharing, especially on new challenges and on best practices, will especially aid safety and health improvements for PES workers in developing countries.

3.10. Where appropriate, regional standards on PPE could be referred to when developing international standards for PES.⁴

4. Social dialogue and rights at work

4.1. It is widely recognized that effective social dialogue mechanisms between employers and workers, and where appropriate, users of services, are critical means to ensure the input of all stakeholders on key decisions concerning the full range of needs and constraints in the provision of public emergency services. Given that social dialogue can improve the ability of all parties concerned to make improvements based on common interests, and contribute positively to reaching compromises over divergent viewpoints, it should be the overall aim of PES employers and workers to institute effective social dialogue mechanisms to ensure that PES are well run, efficient, accountable and provide quality service.

4.2. Synonymous with respect for basic rights (cf. General considerations, paragraph B), elements of social dialogue should include the recognition of other parties, mutual respect and readiness to listen to others. These elements would ensure shared responsibility in implementing what has been agreed through social dialogue.

4.3. To ensure the respect for basic rights and the institution of social dialogue mechanisms, the following principles should be borne in mind when adopting policies and practices:

4.3.1. the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), enshrine basic workers' rights to organize and bargain collectively, including those in public services. The extent to which these provisions are applied to the police shall be determined by national laws or regulations. Under these circumstances the relevant provisions of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154), should be applied.

4 For example the European Directives on PPE as applicable to the Members of the European Union.

- 4.3.2. the process of collective bargaining should be on a voluntary basis between the interested parties.
- 4.4. Where possible, disputes should be resolved through negotiations. In the event of failure to do so, fair, effective and speedy dispute settlement procedures, including conciliation, mediation and arbitration as appropriate, or if these procedures are unsuccessful, a mutually agreed legal process. These processes should be made available to all PES workers, including those whose rights to strike are restricted. Existing procedures should be improved with the close involvement of all parties concerned at all stages of the process.

5. Coordination in public emergency services

- 5.1. Good coordination must be ensured among different branches of PES for effective service delivery, especially to realize the life-saving mission of PES. Effective coordination is best achieved by clearly defining the roles and responsibilities of each agency within a clearly established chain of command, authority and accountability structure. Elements of good coordination practices should include:
 - 5.1.1. Clearly defined parameters for each service, identifying specific duties in the provision of public safety. Each service plays an equally vital role and should be considered of equal value;
 - 5.1.2. coordination of services in a network of shared information and reliable communications, especially on crisis management and dangerous substances, at both national and international levels;
 - 5.1.3. delegation of authority within accepted and clear senior management guidelines and protocols;
 - 5.1.4. provision for continuous and joint training and drills involving personnel of different agencies concerned so as to identify weaknesses in the existing coordination mechanism and ensure its smooth functioning when an emergency actually strikes;
 - 5.1.5. provision of adequate funds for effective coordination to avoid competition for funds resulting from inter-agency “turf” battles.
- 5.2. Establishment of an international early warning system should be envisaged to better combat disasters that are international in scope.



INTERNATIONAL LABOUR ORGANISATION

National Workshop on the ILO Guidelines on Social Dialogue in Public Emergency Services in a Changing Environment (Nairobi, Kenya, 20 - 21 January, 2005)

PROGRAMME

Day 1 - Thursday, 20th January, 2005

08:00 REGISTRATION

09:00 OPENING

- Introduction by the Chairperson: Mr. Johnstone Kavuludi, Labour Commissioner, Ministry of Labour and Human Resource Development
- Welcome Statement by Mr. Isaiah Kirigua, National Project Co-ordinator, ILO/SLAREA, Kenya, on behalf of Director, ILO Dar Es Salaam
- Opening remarks by Amb. Nancy Kirui, Permanent Secretary, Ministry of Labour & Human Resource Development
- Opening address by Hon. Newton Kulundu, Minister for Labour & Human Resource Development

09:30 COFFEE/TEA BREAK

10:00 Background and objectives of the workshop (Ms. Tomoda)

- Introduction of the workshop participants
- ILO's Joint Meeting on Public Emergency Services (Geneva, Jan. 2003)
- The Guidelines on Social dialogue in public emergency services adopted in 2003.

11:00 Presentation and discussion of the case study on Social Dialogue in Public Emergency Services in Kenya (Mr. Leopold Mureithi)

12:30 LUNCH

14:00 Commentaries on the ILO Guidelines and the National Study on behalf of the Employers (including the Government) and discussion

- 14:45** Commentaries on the two documents on behalf of the Workers and discussion
- 15:00** **COFFEE/TEA BREAK**
- 15:30** Group work and discussion on the strategies for improved social dialogue in PESs in Kenya (on each of the following topics):
- Employment and HRD
 - Working Conditions
 - Occupational Safety and Health
 - Social Dialogue and Rights at Work
 - Coordination in Public Emergency Services in Kenya
- 18:00** **WORKSHOP ADJOURNED FOR THE DAY**

Day 2 - Friday, 21st January, 2005

- 09:00** Recap from Day One and a brief explanation on the task ahead
- 09:15** Group work (continued from Day One)
- 10:30** **COFFEE/TEA BREAK**
- 10:45** Group work (continued)
- 12:30** **LUNCH**
- 14:00** Presentation of strategies by each group
- 15:00** Consolidation of group strategies into a set of common strategies among the workshop participants.
- 15:45** **COFFEE/TEA BREAK**
- 16:00** Adoption of the Workshop Strategies for Improved Social Dialogue in PESs in Kenya to be forwarded eventually to the Government of Kenya and the social partners.
- 17:00** **EVALUATION AND CLOSING**



International Labour Organization

National Workshop on the ILO Guidelines on Social Dialogue in Public Emergency Services in a Changing Environment (Hilton Hotel, Nairobi, Kenya, 20 – 21 January, 2005)

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