

MINISTRY OF LABOUR AND SMALL ENTERPRISE DEVELOPMENT

Responses to the findings and recommendations contained in the Eighteenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on Treatment of Migrants with specific focus on Rights to Education, Employment and Protection from Sexual Exploitation.

▪ *Recommendation (pg. 70)*

4.14. The Committee acknowledges the MOLSED's adherence to international laws and statutes set out by the ILO and recommends that the following measures be implemented:

- *In order to facilitate the proactive monitoring of service industries such as bars, roadside burger carts, gas stations, domestic homes, guest houses, modeling and spa industries, massage parlours, restaurants, gaming machines and brothels, the Committee recommends that the MOLSED fill the outstanding fourteen (14) vacancies within the Labour Inspectorate.*

▪ **Response:**

The Ministry of Labour is working with the Service Commissions Department to fill the outstanding fourteen (14) vacancies for Labour Inspector 1 within the Labour Inspectorate Unit. The filling of these vacancies would boost the capacity of the Unit to proactively monitor the rights of all workers under its jurisdiction, including the rights of migrant workers.

The appointments/promotions to the offices of Labour Inspector I and Labour Inspector II are currently being processed and should be finalised before the end of September 2020.

▪ *Recommendation (pg. 70)*

4.14. The Committee acknowledges the MOLSED's adherence to international laws and statutes set out by the ILO and recommends that the following measures be implemented:

- *In light of the absence of direct reporting channels for migrant complaints of labour exploitation, the Committee recommends the immediate implementation of the CAAD's toll free hotline to facilitate increased reporting of breaches of labour legislation.*

▪ **Response:**

The Hotline **800- CAAD (2233)** was approved as part of the implementation of the National Workplace Policy on Sexual Harassment in Trinidad and Tobago.

The Hotline **800-CAAD** will provide support to victims of sexual harassment in the workplace as well as employers, employees and migrant workers with work related issues. Spanish speaking

migrants will be able to engage with an Officer of their native tongue. The Division has on board a bilingual Graduate Trainee who will assist with this effort.

This system will also allow persons to lodge complaints that will be investigated and reported in an Annual Performance Report. Monitoring and evaluation of the effectiveness of the Hotline through online surveys will be critical in providing an optimum service to stakeholders.

It is expected that the Hotline will generate more accurate data on call-in clients and provide better structure with client services. These services will be manned on a rotational basis by fully trained Officers who will determine whether advice can be given on-line or by appointments.

Funding for the implementation of the Hotline 800-CAAD is being sought under the Public Sector Investment Programme (PSIP) for 2020-2021. It is expected to cost a one time fee of approximately **six thousand dollars (\$6,000.00)** to install with a monthly **recurring fee** for the Hosted PBX of **one thousand, seven hundred and forty dollars and thirty-seven cents (\$1,740.37)**.

■ ***Recommendation (pg. 76)***

4.28. The Committee recommends that the LIU working in tandem with the CTU, carry out both routine and unscheduled labour inspection visits to work establishments of interest, especially those types of businesses that fall within the categories identified in 3.58.

■ **Response:**

The LIU will continue to work with the CTU in conducting joint inspections to protect the rights of migrant workers. A Work Plan to ensure consistency of joint exercises, particularly in those establishments identified in the report, is to be developed. Additionally, a Memorandum of Understanding (MOU) between the LIU and the CTU has been finalised and a signing ceremony is to be held.

■ ***Recommendation (pg. 76)***

4.29. The Committee acknowledges the efforts of the MOLSED to sensitise all workers and employers of their rights and duties, but notes that additional information needs to be published in order to empower migrants with the knowledge of their rights in relation to their unhindered access to the 8 ILO Conventions on the Fundamental Principles and Rights to Work as well as ILO Convention No. 97 Migration for Employment. The Committee therefore advocates for the implementation of the following measures:

- *Launch of a public awareness campaign advertised on social media in multiple languages (such as English, Spanish, Hindi and Mandarin) which outlines in simplified language the labour rights of migrants and the duties of employers;*

- *Increased collaborative efforts to sensitise the Spanish speaking migrant community using key agencies which are already active within the network such as the LWC, UNHCR and the Trinidad and Tobago Venezuelan Solidarity Network; and*
- *Increased collaborative efforts to engage the non-Spanish speaking migrant population through outreach efforts conducted jointly with the various Embassies and High Commissions as well as through the LWC-UNHCR network.*

■ **Response:**

The Ministry has engaged in the following to date:

- (a) a letter was sent by the Ministry to the International Organisation for Migration (IOM) on the translation of English brochures into Spanish. A meeting was held on February 21, 2020 to further discuss ways to partner and collaborate on this undertaking. The IOM responded by letter dated August 5, 2020 indicating that it was awaiting quotations for the translation of the brochures. The IOM also recommended that a summary of the policies, including the National Workplace Policy on HIV and AIDS and the National Workplace Policy on Sexual Harassment in Trinidad and Tobago be provided for translation.
- (b) Representatives of the Ministry met with Mr. Ganesh Rampersad, Legal Officer for the Ministry for Migrants and Refugees/ Living Water Ministry/UNHCR and his team on February 19, 2020 and discussions were held on the following:
 - Formulation of ways to partner and collaborate between Living Waters Ministry and the Conciliation, Advisory and Advocacy Division (CAAD) of the MOLSED.
 - Joint Outreach exercises on 'Know Your Rights' with the Spanish Speaking Migrant Community. The first session for this year was carded for March 26, 2020 at 4:30pm in Tunapuna. However, the Covid-19 restrictions affected this scheduled date.
 - Following up with IOM and looking at ways to lend support in translation and sharing of official brochures from CAAD office on Labour Rights and Responsibilities which would benefit asylum seekers and refugees.

The Ministry is also seeking to develop and implement a comprehensive campaign to raise awareness of the rights of migrant workers and the obligation of employers using all channels of communication. The campaign will include:

- Messages in various languages to migrant workers via social media;
- Message to the employers of migrant workers;
- Visits to areas with a high concentration of migrant workers to raise awareness;
- Advertisements in the print and electronic media;
- Printing and distribution of information brochures in various languages to empower migrant workers of their rights;
- Collaboration with key agencies already actively involved with the migrant population to sensitize them of their rights and access to services that protect those rights;

- Collaboration with the various Embassies and High Commissions as well as through the LWC-UNHCR network to reach Spanish speaking and non-Spanish speaking migrant workers; and
- Training of Labour Inspectors in Spanish and other languages.

Stakeholder recommendations (pg. 118):

Sexual/Labour Exploitation

Capacity Building and Resources:

- *Conduct a sensitization campaign for the private sector on labour rights and employer obligations.*

Response:

In addition to the outreach listed above, the MOLSED has continuously and consistently undertaken to educate the public on rights and responsibilities of both employers and employees in the workplace. These activities over the past five years have included but are not limited to the following:

✓ *The Chronicles of Labourville*

In the present labour landscape, with rising levels in job loss and reduced advertising spend, it has become even more critical for the Ministry to increase its public engagement efforts and be more innovative in finding creative ways to reach its various publics with its relevant messages.

In 2016, for its Labour Month activities, the “Chronicles of Labourville,” a series of scenarios created in the fictitious Village of Labourville where most, if not everyone, works for one company, Mammoth Enterprises was launched. This campaign was conceptualised for the Ministry’s then Conciliation Unit, which interfaces with both Employers and Workers and have to manage first-hand the issues that arise in the workplace. On the advice of the Conciliation Unit, the most prevalent workplace issues were sought to be addressed in this campaign. These issues were:

- the Disciplinary Process and Natural Justice;
- Retrenchment;
- Wrongful Dismissal;
- Sexual harassment;
- The Probationary Period; and
- The role of the Conciliation Unit.

✓ *Domestic Workers Campaign*

In August 2016, a media campaign which focused on a message to Domestic Workers, their Employers and the public about the valuable role these workers play in our lives was developed. The objective of the campaign was to lift the negative perception about domestic work. In September 2016, the Domestic Workers Campaign was launched. This campaign, designed to highlight the value of Domestic Workers and their contribution to society, was conceptualized to mitigate against the shame that is commonly associated with “a Domestic” and encourage Domestic Workers to sign up to the LIU’s Domestic Workers’ Register.

✓ ***National Workplace Policy on Sexual Harassment***

Subsequent to the adoption of the National Workplace Policy on Sexual Harassment in March 2019, the Ministry embarked on a media blitz to increase awareness and educate the public on the National Workplace Policy. The Ministry participated in television interviews and radio segments in November 2019 and February 2020.

✓ ***Minimum Wage***

Coinciding with the increase in the national minimum wage to \$17.50 per hour with effect from December 1, 2019, the Ministry, through its Labour Inspectors responsible for enforcing the Minimum Wages Act, undertook to educate workers and employers on their rights and responsibilities in an extensive and intensive series of television and radio interviews and question and answer segments between December 2019 and the end of January 2020.

✓ ***Plain Talk, Work Matters***

The Ministry aired an eleven (11) week radio segment called “Plain Talk, Work Matters,” which involved interviews on two (2) radio stations from February to May 2019. These segments allowed persons to call in with their labour related questions and highlighted the services of the Divisions and Units of the Ministry, including the Labour Inspectorate Unit, the On the Job Training Programme, the National Employment Service, the Co-operative Development Division, the Conciliation Advisory and Advocacy Division and the HIV Workplace Advocacy Unit.

✓ ***Occupational Safety and Health – Safety and Health and COVID-19 Virtual Seminar Series***

The Occupational Safety and Health (OSH) Authority and Agency conducted a virtual seminar series, targeted at all employers, to discuss:

- managing the new work environment;
- assessing the risks; and
- the duty of the employer under the OSH Act.

The virtual seminars ran from June 25, 2020 to July 9, 2020 and focused on different sectors in each seminar. Some of the sectors addressed included but were not limited to, education, health care services, transport and storage accommodation, supermarkets, food services, pharmacies, construction, and energy.

✓ ***“We Empower You Thrive” Collaborative Webinar Series***

Commencing July 15, 2020, MOLSED collaborated with the Supermarket Association of Trinidad and Tobago (SATT), The National Insurance Board of Trinidad and Tobago (NIB) and the OSH Authority and Agency (OSHA) to host its flagship webinar series: "We Empower, You Thrive". These interactive sessions were designed to equip owners and employees of supermarkets, retail stores and pharmacies with empowering information to enhance their business operations and productivity and become familiar with the labour laws of Trinidad and Tobago.

▪ ***Stakeholder recommendations (pg. 118):***

Sexual/Labour Exploitation

Legislation/Policy:

- ***Expedite finalisation of labour migration policy and involve civil society in its review and completion.***

▪ ***Response:***

The *Inter-Ministerial Committee for the Development of a Labour Migration Policy for Trinidad and Tobago* was appointed in July 2018, for a two year term. During the period July 10, 2018 to July 9, 2020, the Committee developed a draft Labour Migration Policy, which includes an Implementation Plan and a Monitoring and Evaluation Framework.

It is to be noted that the Committee, in keeping with best practices, adopted a participatory and consultative approach to the development of the Policy. This approach recognises and incorporates the input of key government agencies, workers' and employers' organisations, civil society and academia that have crucial roles in conducting research, building capacity, and coordinating country-level support for policy development and implementation. The approach also underscores the importance of leveraging existing resources and networks towards expeditiously and effectively achieving the mandate of the Committee. In this regard, the Committee engaged various stakeholders, inclusive of civil society, as follows:

✓ ***Stakeholder Consultation on the Draft Labour Migration Policy***

A Stakeholder Consultation on the Draft Labour Migration Policy was held on September 13, 2019. The objective of this consultation was to obtain inputs from stakeholders to inform the development of a Draft National Labour Migration Policy. Approximately one hundred (100) stakeholders attended, including representatives from various civil society groups such as private sector organisations, trade unions, academic institutions and Non-Governmental Organisations

(NGOs). Feedback from stakeholders from the Consultation was compiled into a Report and incorporated into the draft Policy.

✓ Focus Groups

Focus group discussions were held in collaboration with the IOM on December 10 to 11, 2019 for stakeholders to consider the Draft Policy. Approximately twenty-five (25) key stakeholders attended. Participants included representatives of Government, United Nations agencies, Non-Governmental Organisations, Trade Unions as well as Private Sector/Employers' organisations. The feedback received from stakeholders was considered by the Committee in a Working Session which was held on December 12 to 13, 2019, for incorporation into the Policy.

✓ Requests for Data Meetings

During the interventions with the IOM in December 2019, on the development of the Draft National Labour Migration Policy, it was highlighted that additional data was required to inform the Draft Policy. In an effort to address these gaps, bilateral meetings with eight (8) key stakeholder organisations were held from February 13 to 20, 2020 to discuss data needs in relation to labour migration. Meetings were held with bodies that have crucial roles in conducting research, building capacity and coordinating country-level support for policy development and implementation *vis à vis* labour migration. This included the Living Water Community.

✓ Meeting with NTAC

Representatives of the Inter-Ministerial Committee presented the Draft Policy to the National Tripartite Advisory Council (NTAC) on March 10, 2020. Through this meeting, high-level tripartite representatives were engaged, specifically representatives from the following business and labour groups:

- Private Sector: Employers Consultative Association; Trinidad and Tobago Manufacturers Association; Trinidad and Tobago Energy Chamber; and the American Chamber of Trinidad and Tobago;
- Labour: National Trade Union Centre; Joint Trade Union Movement; and the Federation of Independent Trade Unions and NGOs.

With respect to the finalisation of the Draft Policy, it should be noted that the Draft Policy will be circulated shortly to Government Ministries and Agencies, as well as the International Labour Organisation (ILO) and IOM for their review and comments. This will allow the Committee to consolidate a Government position on the Policy and also to receive comprehensive recommendations from agencies specialised in the field of labour migration.

Following receipt of these additional comments, the Policy will then be further revised and submitted for the approval of the Green Paper by Cabinet. Subsequently, it is anticipated that Public Consultations will be held for further input from tripartite and multipartite stakeholders.

It is currently projected that the aforementioned activities will take place during the period August to December 2020.

▪ **Stakeholder recommendations (pg. 118):**

Sexual/Labour Exploitation

Legislation/Policy:

It is recommended that there be a robust Migration Advisory Committee (the Committee), set up as a corollary to the Ministry of Labour, Small and Micro Enterprise Development, which can play an extensive role in the development of a points-based system for employment of migrants. This committee would be an independent, non-time limited, non-statutory committee established by the government to determine an objective assessment criterion for providing transparent, independent and evidence based advice to the government on migration issues. This committee, inter alia, will report on issues including the impacts of immigration, the limits on immigration under the points-based system and skills shortages within occupations.

▪ **Response:**

The Labour Migration Policy will focus mainly on issues related to labour migration. It is this Ministry's understanding that efforts will be undertaken by the Ministry of Planning and Development to develop a National Migration Policy. Therefore, if the Committee proposed in the Report of the Joint Select Committee is established under the MOLSED, it would be appropriate for the functions of this Committee to be related directly to labour migration (e.g. development of a points-based system for the employment of migrants and the skills shortages within occupations). Other proposed functions which relate to the issue of immigration more generally, such as reporting on the issues of immigration in a broad sense, may not be best placed under the MOLSED but under the agency which is mandated to address the issue of immigration.

With respect to the development of a points system for the employment of migrants, a related proposal is included in the Draft Policy. One of the objectives included in the Draft Policy is to direct labour migration flows towards sectors where there are persistent labour market shortages. In order to achieve this, it is proposed that a formalised system for the effective management of labour migration flows be developed, which would facilitate *inter alia* the channeling of labour migration flows to sectors where labour market shortages exist.

In terms of governance of labour migration, the Committee has recommended the development of a robust institutional framework to coordinate the management of labour migration, as outlined within the Draft Policy. It further proposed the development of a comprehensive institutional framework to effectively manage the governance of the labour migration process and also to facilitate inter-agency cooperation. These mechanisms proposed in the Draft Policy in this respect

could possibly be utilized to execute the functions of the committee recommended in the report of the Joint Select Committee.

▪ ***Stakeholder recommendations (pg. 118):***

Sexual/Labour Exploitation

Legislation/Policy:

- ***Ensure Penalisation for instances of violations of labour laws***

▪ **Response:**

The MOLSED notes that penalties for the breach of labour laws for sexual/labour exploitation are limited to penalties for the breach of terms and conditions of work. Where such breaches are identified under labour law they are subject to fines whilst under criminal law the breaches are subject to fines and imprisonment according to the relevant legal provision. The Legal Unit of the MOLSED continues to work with the LIU to enhance the skill of Labour Inspectors and support the said Inspectors in prosecution breaches of the relevant Labour Laws before the Industrial Court as provided for under the Minimum Wages Act, Chapter 88:04.

▪ **Stakeholder recommendations (pg. 118):**

Sexual/Labour Exploitation

Legislation/Policy:

- *Review labour laws to ensure emphasis on protection of migrant workers.*

▪ **Response:**

The labour laws of Trinidad and Tobago do not identify migrant status as a criterion in determining whether an individual is an employee/worker or an employer and therefore all existing rights and responsibilities at the workplace are applicable to migrants.

It is noted that an explicit statement to this effect within labour laws may be helpful and the matter would have to be determined on by the Government.

▪ **Stakeholder Recommendation (pg. 118):**

Sexual/Labour Exploitation

Data:

- *Conduct labour market assessment to determine sectors with most need that can be filled with migrant labour.*

▪ **Response:**

A labour market assessment usually involves an analysis of the components of labour supply (employed and unemployed) and labour demand (employment and vacancies) using established indicators. Up to this point, such analyses have been impacted by a lack of data needed to assess employers' need for labour, that is, vacancies.

To address this challenge, the Ministry is working assiduously to implement two projects namely, the Job Vacancy Survey on the Private Sector and State Enterprises, and the Public Sector Job Vacancy Census.

The objective of these surveys is to determine employers' unfulfilled demand for labour as measured by the level of vacancies. The aim is also to estimate a range of other indicators that are closely related to the level of vacancies such as the rate of new hires, separations and labour turnover. The data derived from these surveys will then be compared with data available on the supply of labour to identify areas of skill mismatch and help determine the sectors with most need that can be filled with migrant labour.

The Job Vacancy Survey on the Private Sector and State Enterprises is expected to commence in September 2020 and conclude in July 2021. Similarly, the Public Sector Job Vacancy Census is expected to commence in September 2020 and conclude in February 2021.

■ **Stakeholder Recommendation (pg. 121):**

Labour

Data:

- *Conduct a labour market needs assessment and develop a fast track system to speed up the labour market integration of refugees and migrants with work experience in occupations with shortages of employees and to map the employer's needs with talents and skills of migrants and refugees.*

■ **Response:**

As stated before, the Ministry is working to implement two projects namely, the Job Vacancy Survey on the Private Sector and State Enterprises, and the Public Sector Job Vacancy Census that would provide the data needed to complete such an assessment.

The Ministry also intends to request data on the skills and qualifications of refugees and migrants from the Ministry of National Security to inform the creation of labour migration policies by the Labour Migration Policy Committee.

Notwithstanding the absence of critical data needed to assess the needs of the domestic labour market, the Ministry stands ready to assist with the development of a fast track system to speed up the labour market integration of refugees and migrants.

■ **Stakeholder recommendations (pg. 121):**

Labour

Legislation/Policy:

- *Incorporate the Refugee Convention in local legislation to guarantee that refugees have the right to work; and*
- *Ensure that the Immigration Act and Immigration Regulations do not conflict with the Refugee Convention and Refugee Policy by extending to refugees the right to work.*

■ **Response:**

This comment speaks to provisions in the Immigration Regulations, made under the Immigration Act, Chapter 18:01, specifically Regulation 10, which makes it illegal for a migrant to work in Trinidad and Tobago unless the individual is in possession of a Work Permit. This Regulation is viewed by stakeholders as denying the Right to Work in Trinidad and Tobago.

The MOLSED does not have oversight over the amendment of the Immigration Act and as such is unable to provide any recommendations in this regard. It is noted that the Venezuelan nationals who have Minister's Permits can work in Trinidad and Tobago.

▪ ***Stakeholder recommendations (pg. 121):***

Labour

Legislation/Policy:

- ***Adoption of the Labour Migration Policy by the MOLSED.***

▪ **Response:**

Currently, the MOLSED has remit over the development of a national Labour Migration Policy via the Inter-Ministerial Committee for the Development of Labour Migration Policy for Trinidad and Tobago. The Committee's term came to an end on July 9, 2020 with the possible extension of a six (6) month period pending Cabinet's approval. In the interim, the Ministry continues to seek feedback from Government stakeholders to finalise the Government position on the Policy. This will be followed by additional revisions in the lead up to Public Consultations on the approved Green Paper.