



# Towards a gender-responsive labor inspection



September 20th, 2022



Virtual event

## MAIN CONCLUSIONS AND RECOMMENDATIONS

All event information is available at: [http://rialnet.org/GenderResponsive\\_Labor\\_Inspection](http://rialnet.org/GenderResponsive_Labor_Inspection)

### TABLE OF CONTENTS

1. Introduction and background.....	1
2. Main reflections and conclusions.....	2
3. Recommendations.....	6
4. Next steps .....	7
5. Annex: List of participants.....	9

### 1. INTRODUCTION AND BACKGROUND

The Network of Gender Focal Points **RIAL/GENDER** is a specialized community of the OAS Inter-American Network for Labor Administration (RIAL), created in March 2022 at the initiative of the gender units or areas of the Ministries of Labor of the Americas.

The purpose of RIAL/GENDER is to contribute to achieving full gender equality in the world of work, through the strengthening of the gender units or areas of Ministries of Labor. To meet this objective, the Network, made up of the people in charge of said areas or units, has tools such as a portfolio of programs, bilateral cooperation, and hemispheric dialogues or events, among others. The activities of the Network are based on the commitments of the Inter-American Conference of Ministers of Labor (IACML) and have the technical advice of the Inter-American Commission of Women (CIM), both of the OAS.

The 2022-2023 Work Plan of RIAL/GENDER included the holding of the **5th Dialogue on Gender among Ministries of Labor: Towards a gender-responsive labor inspection**, as its first hemispheric initiative after its inception.

The 5th Dialogue was held on September 20, 2022 in virtual format, and brought together directors and officials from the gender units and inspection areas of 28 Ministries of Labor of the Americas, in addition to the Ministry of Labor of Spain as an observer country and specialists from the International Labor Organization (ILO), EuroSocial+ and the Organization of American States (OAS). The **objective of the Dialogue** was: To present significant experiences, provide practical tools and make recommendations to integrate the gender approach to labor inspection, as an important step to achieve full gender mainstreaming in the Ministries of Labor.

The basis for holding this Dialogue can be found in mandates from Ministries of Labor of the Americas, who, in the framework of the IACML, have widely recognized the indispensable role of labor inspection in labor administration and reaffirmed their commitment to strengthen and update it. At the XXI IACML, the Ministers once again recognized labor inspection “as one of the central institutions for (...) guaranteeing compliance with labor legislation” and committed to “provide the appropriate training and resources to inspectors (...) to facilitate and increase the effectiveness of their work”. (Plan of Action of Buenos Aires, 2021, Art. 9, d). Due to this major role as guarantor of labor rights, it is imperative to ensure that skills and competences are available for the labor inspection system so that it incorporates a gender approach in its activities and daily tasks.

## 2. MAIN REFLECTIONS AND CONCLUSIONS

In order to meet the stated objective, the Dialogue was divided into two parts: the first focused on learning about national experiences, led by presentations from the Labor Ministries of Costa Rica and Chile, and followed by a space for exchange. This first part was aimed at answering two questions referring to the relationship that exists between the gender unit and the inspection area in each Ministry and the most useful strategies or elements to integrate the gender approach into labor inspection. The second part consisted of an exercise in sub-groups to define policy recommendations.

Below are the main reflections and conclusions that can be drawn from the Dialogue and, in a later section, the recommendations.

- There is broad consensus that **labor inspection has a very important role in achieving gender equality**. On the one hand, as the axis of labor administration to guarantee compliance with labor legislation, labor inspection must ensure that the law is applied equally to all. In addition, given its responsibilities to provide technical information and advice to employers and workers -in line with ILO Convention 81 on the matter-, labor inspection is a privileged tool for training and awareness-raising.
- Beyond concrete actions related to inspection, it was recognized that **gender mainstreaming in the Ministries of Labor requires having a systemic vision**, within which the gender units will have an advisory and guidance role, but they are not the only responsible party. These units cannot be encapsulated, they must have bridges with all areas of the Ministry under an institutional vision and commitment to gender mainstreaming. In this regard, the existence of gender bodies or committees within the Ministries and the existence of liaisons or gender focal points within the different areas stand out as an excellent practice, as exemplified by the experiences of Chile and Panama.
- Achieving effective gender mainstreaming in inspection and, in general, in all areas of action of the Ministries of Labor, requires a **policy and institutional commitment, as well as inter-institutional alliances**. During the dialogue, the importance of working in alliance and

permanent coordination with the national mechanisms for the advancement of women was highlighted.

- The **relationship that exists between the gender units and the inspection areas varies greatly** among the different Ministries of the Americas. The relationship seems much closer in the Ministries where there is a liaison or gender focal point in the inspection that maintains a link with the gender unit, where the gender units are stronger, and where there is a clear institutional commitment and high-level support to gender mainstreaming.
- In response to the guiding question: **What kind of work has been developed in the relationship between the gender unit and the labor inspection area—for example, awareness raising, training, advising services, exchange of information—and what results has it had?**, the following actions from gender units were identified:
  - o **Guidance and advice** on the definition and preparation of inspection plans, methodologies, and instruments with a gender focus. The preparation of the Catalog of gender infractions and the Inspection Guide with a gender focus in Costa Rica stand out.
  - o **Sensitization and training** for inspectors on central issues for gender equality. Gender-based violence and harassment were especially mentioned, as well as general training on gender equity and gender mainstreaming.
  - o **Support and accompaniment in the work with enterprises/employers:** The gender units can advise labor inspection in specific cases after inspection visits; in addition, they have directly provided training to enterprises hand-in-hand with inspectors (Panama experience).
- **Training inspectors is fundamental from the beginning of the gender mainstreaming process.** It was highlighted that the training must be applied, rather than theoretical, grounded in the local context and include the analysis of fictitious and real cases. In Costa Rica they speak of a training-construction process where the different tools (Guide, catalog of infractions, Didactic Manual for the application of the Guide, etc.) and the training efforts are constantly reviewed and adjusted according to the findings in the field.
- The **contents or aspects of the world of work that a gender-responsive inspection** must include:
  - o **employment / job placement**, in regard to selection, recruitment and hiring processes;
  - o **labor relations**, which covers the wage gap, working conditions, and reconciliation of work and family responsibilities, respect for freedom of association and collective bargaining, among others;

- **occupational health and safety**, including physical facilities (lactation rooms, toilets);
  - **sexual harassment and workplace harassment**, both the existence of policies and knowledge and their application must be verified;
  - **recognition of specific situations by sector and occupation**. Inspectors must observe specific and different situations depending on whether they are masculinized or feminized economic sectors.
- In the debate it was mentioned that **labor inspection should and can act as a relevant and active agent of social change**. Particularly noteworthy is the experience of the Chilean Ministry of Labor, where the goal is to achieve a labor inspection with a feminist perspective that goes beyond mainstreaming the gender approach and verifying reality, and actively seeks to transform that reality.
  - The need to **strengthen a preventive approach to labor inspection**, whose approach has traditionally been reactive when activated by complaint, was reiterated. It was recognized that the preventive approach is essential to achieve changes in workplaces that benefit gender equality.
  - It is important to develop **sub-national strategies or plans to mainstream gender in inspection**, in order to respond to the different contexts, economic sectors, occupations and employment levels, among many others, that exist at the sub-national level (provinces, territories, etc.) and that require differentiated strategies.
  - The delegations highly valued the instruments developed and presented by Costa Rica at the Dialogue: the **Labor Inspection Guide with a Gender Approach, the Catalog of gender infractions, and the Didactic Manual** for the use of the Guide. The following stands out:
    - The Catalog of New Gender Infractions was developed in parallel with the Inspection Guide with a Gender Approach; the inspection visits provide permanent feedback to these instruments. The infractions were added to the general catalog of infractions and consequently to the inspection case system (SILAC), and include: discriminatory practices in promotions, salary differences, physical insecurity in access to toilets, among others.
    - The 5 instruments used when making inspections with a gender focus are: 1) Application of the employer interview, 2) request for documents, 3) interview with the worker, 4) visual inspection of the facilities, and 5) employer summons.
    - All the tools presented [are available on the Dialogue website](#).
  - As a lesson learned from the experience of Costa Rica, the **efforts to incorporate the gender approach into labor inspection can begin with a pilot project** where inspection visits are carried out specifically with that approach and a group of people is trained on the subject who later

serve as multipliers. In the medium and long term, the objective is to mainstream this approach in most or all inspection visits.

- Specifically, regarding **direct work with enterprises or workplaces**, the following was mentioned:
  - o As this is still an incipient field in most countries, it is recognized that carrying out inspection visits with a gender perspective requires **sensitization, awareness and information** for employers and workers. In this type of visit, a lot of information is required from the employer, so their openness and willingness to collaborate is essential.
  - o In the work with companies, **the granting of awards or 'stamps'** that recognize good practices in compliance with regulations, including a gender approach, was highlighted as a success. Mention was made of the "I do comply" seal of Panama and the registry of innovative good labor practices of companies in Chile.
  - o Work with companies should seek not only to sanction, but also to **prevent behaviors and practices against equality**. The experience of Uruguay stands out, where companies that have had cases of harassment must take training courses on the matter, with a view to non-repetition.
- From the presentations and interventions, the **following key elements can be identified that have made it possible to achieve progress in mainstreaming gender in labor inspection**:
  - o Existence of a gender unit and a gender liaison or focal point within the inspection area.
  - o Ensure that gender mainstreaming is incorporated into national and institutional plans, that it is not an isolated effort.
  - o Have the support of the Minister, commitment of the directives and budget assigned.
  - o Starting from the technical experience of inspectors and legal advisers to start the gender mainstreaming process.
  - o Having a catalog or list of gender infractions provides legal certainty and gives certainty to the parties involved. This is very important for the inspectors, by granting sustenance and support to their decisions.
- Some of the **challenges to the process of incorporating the gender approach in inspection** that were mentioned are:
  - o Continuously identify gender infractions and, consequently, continuously update the catalogs of infractions.

- Have a budget to maintain continuous training processes within the Ministry for inspectors, legal advisors and other people involved.
- Incorporate in the inspection work the identification of aspects and social determinants that affect the mental health of workers.
- Maintain commitment and political support from higher levels.

### 3. RECOMMENDATIONS

**GENERAL RECOMMENDATIONS** to mainstream gender in Ministries of Labor, as a necessary condition and conducive to incorporating gender in labor inspection:

- **Achieve and maintain commitment at the highest political and programmatic level.** This implies incorporating the objective of gender equality in national and institutional plans.
- Deepen and maintain **collaboration with the national mechanisms for the advancement of women.**
- Improve **research, diagnoses and disaggregated statistical analyzes** to continue studying, documenting, and making gender gaps visible. This allows building baselines to measure progress, as well as continuously supporting the need to incorporate the equality agenda in labor and employment policies at the national level, and in the institutional plans of the Ministries of Labor.
- **Strengthen gender units or areas** and have a systemic vision to mainstream gender in the Ministries of Labor that involves all areas of institutional intervention.
- Develop and adjust labor legislation to incorporate the gender perspective and ensure that it is **linked to international instruments.**
- Increase **work and awareness campaigns and information** on gender inequalities and the different realities of men and women in the world of work (pay gap, responsibility for care, violence, among others). There is still a lot of ignorance on the subject. The awareness actions must be different according to the sectors and services to which they are directed; for example, considering whether they are masculinized or feminized.

\*\*Beyond the actions within the Ministries of Labor, the Dialogue mentioned the need to influence different decision-making spaces that affect the world of work. It was recommended, for example, to participate in national sectoral roundtables (industry, mining, etc.) and in the definition of public policies and legislative debates.

**SPECIFIC RECOMMENDATIONS** to mainstream gender in labor inspection:

- **Continuous training** for inspectors and for the different instances within the Ministry that can influence the inspection work (such as legal advisory areas), involving the supervisors. Some contents of the training were highlighted:
  - o situation of men and women in the world of work (analysis of existing gaps),
  - o tools to incorporate the gender approach,
  - o inspection guides with a gender perspective,
  - o gender-based violence at work,
  - o relevant international instruments and national regulations,
  - o among others.
- Prepare **guides and protocols** for labor inspection with a gender approach. Other recommendations were raised in this effort:
  - o build them with the assistance of inspectors,
  - o ensure they have a practical and realistic perspective,
  - o complement them with manuals and practical tools for their application,
  - o review and update them constantly.
- Ensure that there is **gender parity in the inspection** and advocate for the hiring of more female inspectors, especially those involved in decision-making processes.
- Achieve **greater links between gender units and labor inspection areas**. To this end, it is recommended to have a gender liaison or focal point within the inspection that can coordinate the processes within the area and is in permanent communication with the gender unit.
- Strengthen **the preventive approach of labor inspection**, which involves awareness raising and training for employers and workers.
- **Increase the budget assigned** to inspection and its efforts to incorporate the gender perspective.

#### 4. NEXT STEPS

- The delegations expressed interest in continuing the exchange on Inspection Guides and Manuals with a Gender Approach, highlighting the experience of Costa Rica. This may be a new activity of the RIAL/GENDER that the Secretariat is analyzing with the collaboration of the ILO and the CIM.
- With the support of the CIM, continue strengthening collaboration and coordination with the National Mechanisms for the Advancement of Women to strengthen gender

mainstreaming in Ministries of Labor as a whole, which will support gender mainstreaming in labor inspection.

- The RIAL/GENDER will continue to fulfill its 2022-2023 Work Plan, which includes the following activities:
  - o Incorporation of more programs in the RIAL Program Portfolio. To this end, each RIAL/GENDER focal point has received their username and password.
  - o Opening of the RIAL/GENDER WhatsApp group and documentation center during the last quarter of 2022 and early 2023.
  - o 6th Virtual Hemispheric Dialogue on Paid Domestic Work – March, 2023
  - o 7th Virtual Hemispheric Dialogue on Insertion into the Labor Market and Closing Occupational Gaps – July, 2023
  - o Continue promoting bilateral cooperation – the call for proposals for bilateral cooperation will open in January 2023.

## **5. ANNEX: LIST OF PARTICIPANTS**

### **OAS MEMBER STATES**

#### **ANTIGUA AND BARBUDA** – Ministry of Public Safety and Labour

- Eltonia Anthony Rojas, Labour Commissioner

#### **ARGENTINA** – Ministerio de Trabajo, Empleo y Seguridad Social

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#### **BAHAMAS** – Department of Labour

- Yolantha Yallop, Assistant Director of Labour
- Ingeria Miller, Labour Officer
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#### **BARBADOS** - Ministry of Labour, Social Security and Third Sector

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- Daniela Poblete Ibañez, Encargada de género en la Dirección del Trabajo
- Daniela López Leiva, Encargada de derechos fundamentales y transversalización de género, Gabinete del Subsecretario

**COLOMBIA** – Ministerio del Trabajo

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- Natalia Ruiz Campuzano, Grupo Coordinador de Asistencia para Víctimas
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- César Mateus, Director de Asuntos Internacionales
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Misión Permanente ante la OEA

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