

Hard times for labour inspection

Worldwide, labour inspection is under increasing pressure. The challenge is not so much to ratify the relevant ILO Conventions as to ensure that they are really implemented in practice.

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On 10 May 1944 in Philadelphia, the International Labour Conference declared that “labour is not a commodity” and that “poverty anywhere constitutes a danger to prosperity everywhere”. Leading on from that, the ILO Labour Inspection Convention, (No. 81) was adopted three years later, followed at the end of the 1960s by the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

More than half a century has gone by since the adoption of Convention No. 81. A new General Survey on this topic is planned for discussion at the International Labour Conference 2006.¹ The WCL welcomes this, in view of the enormous challenges currently facing labour inspection.

Governments rarely forward annual labour inspection reports to the ILO. So this article is not based on such documents. It draws mainly on input gathered by the WCL from affiliated trade union organizations, whether through direct contact or in the course of training seminars, surveys, field missions or campaigns on labour standards. Also included is information derived from various publications.

Inspections at a time of cut-backs

In its study on “labour market reform”, the WCL emphasized that labour ministries are often the Cinderellas of government.² They tend to lack the human, material and

infrastructural resources needed. Budget restrictions, which are significantly more severe in the debtor nations due to the structural adjustment policies imposed on them, have a clear impact on the functioning of these ministries. Cut-backs are more common in ministries dealing with social policy, including employment.

This is confirmed by the most recent report of the ILO’s experts on the application of Conventions and Recommendations (2005).³ Most of its comments highlight these problems. What emerges is that austerity measures have run strongly counter to the need for modern inspection services, equipped with the infrastructure and resources that they require if they are to do a high-quality job. Dilapidated premises, equipped with obsolete technologies – when they are equipped at all, a shortage of vehicles for the inspectors, problems with claiming back expenses after inspections on the ground, poor pay, a lack of systematic, computerized data collection on work accidents and other topics – these are just some of the problems cited in most countries. None of this favours risk prevention.

Some governments even note, in the report or in their contacts with workers’ organizations, that the financial problems are such that fewer than ten vehicles are at the inspectors’ disposal, in order to cover the whole of their national territory. Many workers interviewed in various sectors state that they have never witnessed an in-

spection of their workplace or, if they have, that they have rarely been consulted.⁴

Moreover, due to the lack of resources, the number and the frequency of inspections are on the decrease worldwide, while work accidents – including fatal accidents and those causing permanent incapacity – and other problems of all kinds are continually increasing.⁵ In almost every country of the world, the number of labour inspectors is clearly inadequate and their average age is around 60. Once they reach retirement age, they are not replaced. The new recruitment promised by ministers rarely materializes. These services are wasting away.

Designed to be part of development policy, Poverty Reduction Strategy Papers (PRSPs) ought to recognize the central role of decent work and, consequently, the vital need for labour inspection. And yet, how many PRSPs make any mention of it? Indebted countries, including the Heavily Indebted Poor Countries (HIPC), suffer economic constraints that seriously prejudice the application of the principles and rights enshrined in Conventions No. 81 and No. 129.

Training – inspectors need it too

The ILO-EU conference on labour inspection (Luxembourg, 9-11 March 2005) concluded that “globalization presses for economic and social reforms, but reforms can only be successful with strong, competent and independent labour inspection with adequate resources.”

Globalization does indeed pose many challenges for labour : the race to be competitive, market pressures, intensive work rates, adjusting supply to demand, new technologies and substances, subcontracting and the emergence of new types of working relations. All of these factors spell new realities, but it takes considerable expertise to spot them.

On agriculture, for example, discussions in recent years have strongly emphasized the risks to human health from the use of pesticides. Investigative missions

have found that checks and monitoring of these risks are often nonexistent. When checks do take place, the inspectorates do not have the time to investigate in depth. There are too few inspectors, and they are not adequately equipped and trained to measure these risks and establish a scientific link between the health problems raised by the workers and the hazards posed by the use of these products. And even when a link is demonstrated, inspectors are often put under strong pressure to keep quiet. Workers’ complaints are still largely ignored and the use of the products continues under the same conditions. The result, all too often even now, is death or serious illness.

And when it comes to preventing and combating HIV/AIDS, how many labour inspectors are really trained to monitor safety and health risks in hospitals or other workplaces?

Gender issues are another case in point. Although massive numbers of women have entered the labour market in recent years, inspectorates have rarely been prepared for this phenomenon. Often, they are still all-male and little consideration is given to the risks specifically affecting women.

Training, particularly lifelong training, is held in high regard these days, but it must be promoted in such an important field as labour inspection, and a gender perspective must be included.

The tasks facing labour inspectors are becoming more and more complicated, and so are working conditions. In fact, only multidisciplinary teams of experts, trained to identify these complex realities, would really be capable of meeting this challenge. But that is a long way from the current state of affairs. Most inspection teams have few human resources at their disposal, even in the industrialized countries, where trade unions often point out that there are not enough labour inspectors. So it is all the more difficult to meet the need for strong pluri-disciplinary teams, made up of experts who regularly receive the kind of training that would enable them to gauge the new realities in the world of work.

Ethics under pressure

Being an inspector is no easy task, particularly amidst the present clamour for supple, flexible, non-mandatory instruments and practices. Taking their cue from “soft law”, some people would like to see non-constraining inspections that do not imply any concrete commitments from those concerned, focusing on negotiation or a simple notification of problems rather than checks and enforcement.

These trends run counter to labour inspectors’ professional ethics, which emphasize impartiality as well as the duty both to inspect and to apply sanctions when required. Certainly, those are the criteria that workers’ organizations want labour inspections to meet.

In practice, we all too often receive complaints that competence and impartiality are not the main criteria for selecting inspectorate staff.

While carrying out their duties, inspectors also encounter major obstacles. They do not always find it easy to get into export processing zones. Paradoxically, experts monitoring the application of codes of conduct often seem to face fewer hurdles.

Strict respect for professional ethics can also lead to problems. The inspectors who show the most zeal in this regard are more likely to experience harassment, up to and including threatened or actual arbitrary dismissal. All of which demonstrates the importance of organizing inspectors in trade unions.

Another problem is the sanctions provided for by law when a workplace fails to come up to standard. These are often so derisory that they undermine the work of the inspectors. Often, they are not inflation-proofed, and they are in no way dissuasive. So unscrupulous employers can get away with ignoring workers’ rights. And in places where impunity reigns, these employers can easily avoid paying even the mildest of fines.

At the same time, it should be mentioned that inspectors may also face pressures in the opposite direction. Some countries have brought in a “zero toler-

ance” approach to corruption, so as to protect professional ethics within the inspectorates.

But as the labour inspector’s profession is vital to any State built on the rule of law, inspectors are clearly entitled to a degree of protection. In Brazil, for example, in 1992, following representations from the Latin American Workers’ Centre (CLAT), labour inspection services were strengthened by the setting up of the National Commission for the Eradication of Forced Labour (CONATRAE). These initiatives were warmly welcomed, and they did lead to progress in the struggle against forced labour. But there is still a long way to go. In January 2004, three inspectors and a labour ministry driver were assassinated in Brazil, while they were checking an agricultural workplace. This shows the importance of combating impunity and protecting inspectors when they are on duty.

The missing link – Unwaged labour

All over the world, unwaged labour makes up a growing proportion of the working population. The great challenge for labour inspection is to probe and reveal the places where decent work does not prevail, in whichever social twilight zones they may be – whether in some forms of waged labour or in more atypical working relationships.

This means going out on a limb. The informal economy involves complex working relations which often sit uneasily with ILO Conventions. That is why inspectorates and, therefore, policy-makers must now take steps to ensure coverage of what has often been a missing link. That probably also goes for small and medium-scale enterprises and subcontractors.⁶ This is all the more difficult because the working conditions, including work schedules (nights, public holidays, weekends), complicate the task of running checks.

It is also becoming more and more difficult to keep tabs on working relations

within subcontracting, which is moving into the informal sector. So employers who have recourse to subcontracting are able to skirt around regulations and sanctions.

Labour inspection is essential to the achievement of the Decent Work Agenda, both in monitoring occupational health and safety and in following up on working conditions as a whole, whether in the formal sector or in the informal economy, particularly in workplaces that lack structured consultation.

Privatized inspections making inroads

The 1990s saw a strong upsurge in various types of private checks on labour inspection. In April 2004, the WCL highlighted the vital questions underlying these new procedures:⁷

- “Does monitoring result in an improvement in the working conditions in the enterprise? Does it help in strengthening the internal position of independent trade unions? Does it contribute to social dialogue? To collective bargaining agreements? Is it renewed frequently enough to ensure constant vigilance? Do the auditors enter into contact with the labour inspectors of the country concerned? Are their strategic actions sustainable? So many questions often remain unanswered.
- “Meanwhile, who has the legitimacy to monitor, determine the procedures of control and to issue certificates to companies?

“Currently, there is no rule in the area of auditing of multinational companies having adopted or not codes of conduct at the social level. Nothing was codified on this subject. Each enterprise institute or NGO does so according to the reference criterion that they have established. The value of this varies greatly.” Only a few initiatives involving multiple stakeholders have enabled the development of a reference framework embodying various indicators.

“There are other questions on various aspects relating to the content of these controls:

- The lack of reference to labour standards in the codes of conduct and in the basic indicators used by audit companies casts serious doubts on the credibility of their evaluation. Besides there is no uniformity in criteria enabling all ILO fundamental Conventions as basic principles to be at least considered. Neither is transparency often present.
- Is the methodology used reliable? Is it transparent? Does it truly respond to the interests of workers? Has the voice of the latter as well as their trade union organizations been duly heard and translated in the approach and in the results?

“It is of public notoriety that the auditing practised by the large firms generally tends to favour the administration and gives a distorted image of the company. It lays aside the serious and important problems concerning health and safety, freedom of association, collective bargaining, and discrimination. Very often, it does not even see – or does not want to see – that companies violate the regulations on wages, that the time clock cards have been falsified, etc. The auditors collect information from the company managers and rarely from the workers. And if they interview the latter, it is very often under bad conditions: they do so in the presence of their hierarchical superiors and at the workplace, which influences the responses given. For fear of losing their job, the workers say what the managers want to hear or else, fearing reprisals, they even refuse to talk. At times they have even been asked to keep silent about their working conditions.”

Reports of that kind rarely reflect what is really going on, day by day, in a workplace. So they can have serious consequences for the workers.

Local inspectors facing globalized labour relations

Trade union organizations, and a growing number of NGOs, are calling these practices into question. This is first and foremost because, paradoxically, we are witnessing the advance of these forms of private inspection just when the public services are being weakened. Private forms of inspection end up by substituting for the public services. Moreover, the balance sheets drawn up by private audits are not convincing. Today, there are more and more insistent calls for independent monitoring bodies to check the effective implementation of codes of conduct or, even better, for the monitoring of labour conditions to become, truly and as a matter of priority, the responsibility of the national labour inspection systems.

However, this wish must be viewed against the background of the factors that promoted the rise of private monitoring practices. One such element is the absence of any globalization of labour inspection in an age when production systems have been internationalized. Today, particularly in Europe, consideration is being given to integrating inspection services at the regional level. But progress on this is also needed within, and between, the other regions of the world.

Inspectors boost ILO Conventions

Convention No. 81 has been declared a priority because of its vital role in securing respect for other ILO Conventions, particularly the core labour standards.

Even if this Convention has garnered a large number of ratifications (134), we have found that, in practice, its application remains problematic. And yet the link between this Convention and the implementation of the others is plain to see.

In particular, there is a clear link with the core Conventions, including the fight against forced labour, child labour, discrimination, abuses of trade union rights and impediments to collective bargaining.

In fact, ILO experts have emphasized this on a number of occasions in their comments on the core Conventions. And the results achieved by strengthening inspections in certain fields and certain countries are encouraging and speak for themselves.

In conclusion

In short, global problems require global responses, although these must be anchored in the realities of local life and work. But that alone will not be enough. Must we wait for more disasters to happen before we act?

The subject of labour inspection requires deep consideration now, and the discussion to be held within the framework of the general survey of the Committee on the Application of Standards (June 2006) should give further impetus to the debate. But more is needed.

Although it is a pillar of decent work, labour inspection is now being demoted, marginalized and played down in the majority of countries. Essential though it is to achieving the Millennium Goals by 2015, labour inspection has been sidelined. Reducing malnutrition by 2015 implies the existence of efficient health services operated by staff working in decent conditions. Ensuring that children get an education means that teachers should be working in those selfsame decent conditions. The same arguments can be applied to all the Millennium Goals, one by one. And the debate goes beyond a basic needs approach. Conventions No. 81 and No. 129 are essential to securing more and more decent living and working conditions and ensuring that progress improves our daily existence, wherever we live and work.

Whether the workers' choices and priorities are applied is a question of political willpower. And progress in this field will depend on consultations with workers' organizations. The facts are there, and so are the Conventions. On labour inspection issues, the main task is not to achieve formal ratification, although that is certainly

necessary. Nor, with a few exceptions, is there a real problem of discordance between legislation and the Conventions on labour inspection. The vast gap between the workers' needs and the means available shows that the big challenge is to achieve concrete implementation in practice.

Notes

¹ ILO: *Labour Inspection*, General Survey of the ILO Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1B), International Labour Conference, 95th Session, Geneva, June 2006.

² World Confederation of Labour. *Labour Market Reform*. Brussels, Nov. 2003.

³ ILO. Report of the Committee of Experts on the Application of Conventions and Recommendations. International Labour Conference, 93th Session, 2005. Geneva. 2005.

⁴ "Staffing of the technical and medical inspectorates is decreasing year by year ... Moreover, a quarter of this reduced staff is over 60 years of age." In: (Belgian) Confederation of Christian Trade Unions (CSC), *Inspection: la Belgique, pays en développement !* 2004. *L'info*. No. 18, 7 May 2004, and No. 45, 12 Nov. 2004.

⁵ Worldwide, one death every 15 seconds is attributed to work accidents. The lack of checks inevitably leads to employer negligence.

⁶ Hilbert, Gilbert. *Meeting des experts en forresterie*. Carrefour Agri. *Bulletin de la Fédération de l'agriculture CFTC*, 2^e trimestre 2005. No. 140, p. 14-15.

⁷ World Confederation of Labour. *Corporate social responsibility and codes of conduct – New stakes or old debate?* Brussels, April 2004.
