

# **Kerala Labour Inspection Audit**

**Modernization of Labour Inspection System in Kerala**

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**Kerala, India**

**SafeWork/SAAT**

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## **Section A: Findings**

## **Section B : Conclusions**

## **Section C: Recommendations**

### **“Kerala stands out as the Mount Everest of social development”**

(B.Mc. Kibben, “The End of Nature” as reported in India Today, Jan 20, 2003).

## **I. Introduction**

The declared objective of the Government of Kerala in its New Labour Policy (2001) is to foster an enabling environment through enhanced private and public investment, in order to create 1.5 million jobs in the labour market during the next five years. The New Labour Policy has repeatedly emphasised the need for the creation of an investment-friendly climate. The challenges emanating from this new policy underscore the importance of enhancing productivity, equity and efficiency in both the labour market and its institutions, including in particular the labour inspection system. The Minister for Labour and Rehabilitation, in several meetings with the mission, emphasised the need for labour inspectors to become facilitators and for the inspection system to acquire a service delivery capacity. In order to attain the goals of the New Labour Policy, key variables are the competitiveness of establishments and the employability of the workforce. The experience of other countries has shown that providing good working conditions and decent wages go a long way in enhancing labour productivity and quality, and an important factor towards achieving these goals is the revitalisation, strengthening and modernisation of the Labour Inspection System in Kerala.

## **II. Policy Issues**

### 1. The New Kerala Labour Policy 2001

The New Labour Policy needs effective and efficient implementation machinery, and an institutional vehicle to bring it to the workplace. Labour and Factories Departments are the primary vehicles to promote and implement the NLP, but at present, they are not adequately equipped for the new challenges. A comprehensive, coordinated and integrated policy such as the NLP requires a coordinated and integrated implementation machinery. The basis for

coordinated and integrated action is a Labour Inspection implementation (enforcement) policy, which is complementary to the NLP.

ILO experience in many other countries shows, that such a policy must have five essential prerequisites: it has to be clear, considered, comprehensive, coherent and consistent. The mission recommends that such a policy be developed urgently and as a matter of priority, preferably in a tripartite context. The mission can provide models, developed for other Asian Labour Inspection Systems, as a basis for policy design.

The mission strongly recommends that a Kerala State Tripartite Labour Advisory Council (KSTLAC) be set up comprising all stakeholders, to institutionalise social dialogue on labour policy and inspection matters. At its first meeting it could

- discuss the full set of the recommendations of this ILO mission report; and
- discuss, define and adopt the New Labour Inspection Policy for the State

The mission further recommends that a high-level Ministerial Working Group (MWG) be set up to prepare for the implementation of this and other major recommendations of the report. This MWG would comprise all departments, preferably under the chair of the KILE, and as a first task, should develop a draft Labour Inspection Policy document for consideration and adoption by the KSTLAC.

This new Labour Inspection Policy should, by way of example, cover the following issues:

- Balance between advisory and supervisory responsibilities
- Performance criteria for both, the Labour Department and the Factories and Boilers Department.
- Types of inspection (regular, special, accidents and complaints, follow-up, etc.)
- Involvement of social partners
- Delivery of training to the clients
- Planning, programming, undertaking inspection visits and reporting
- Achievement indicators and targets
- Information exchange between departments and inspectorates
- Effective methodology for developing and setting of priorities
- Optimising the use of personnel and material resources, etc.

All issues are to be laid down in clear and accepted rules.

For the NLP to succeed, the client system or stakeholders, that is the groups whom this policy is supposed to serve, must be encouraged to acquire ownership of both the New Labour Policy and Labour Inspection Policy. The change must be from stakeholders to dutyholders. Ownership leads to a higher level of acceptance and better, sustainable implementation.

## 2. Self-Certification

The mission was repeatedly asked to give its views on the Government's intention to introduce a new "Self-Certification" Policy (also referred to as a Self-inspection regime). The purpose of such a new policy, based on experience in a neighbouring State (Andhra Pradesh), would be to allow establishments to fill out a form by which they themselves certify that they are in compliance with all prevailing labour protection laws and regulations, and then to adopt an entirely "hands-off" approach, regarding inspections, which in effect means no more visits by labour or factory inspectors unless a complaint is lodged, or an accident has been notified, etc. The State would in effect hand over its monitoring or watchdog responsibilities to the trade unions (although we met enterprises where unions "were not allowed"). The scope of this new policy concept, whether covering only wages and conciliation of work, and/or occupational safety and health, was apparently not yet determined. The main reason for introducing such a self-certification policy was "to stop harassment" of employers by inspectors, and thus to contribute towards the creation of an investor-friendly climate in Kerala.

Throughout our stay in Kerala, the mission was, time and again, impressed with the level of social equity and social progress, very high not only by comparison with other states in India, but in South Asia and beyond. We are firmly convinced that Kerala need not look to other (neighbouring) states to readjust its labour protection system. On the contrary! The socio-economic balance in Kerala's development is indubitably one of its major strong points in attracting sustainable investment (and also in discouraging "pirate" or "fly-by-night" operations). Just as Kerala is determined to maintain its "Child Labour Free" status, (officially declared in November 2001) it needs to ensure that in this, as in other fields of labour protection, effective monitoring systems not only continue to operate but are strengthened and

modernised. Harassment of employers is undoubtedly an issue (though it is traditionally exaggerated by parts of the employer community in any country – indeed, complaints from employers may also be an indicator that inspectors are in fact doing a good job!). The issue of incompetent or unethical behaviour by inspectors is, of course, a very serious one; but it is not one that is resolved by doing away with severely downsizing the inspection services (Quite apart from the fact that any such move would presumably constitute a violation of ILO Convention No. 81 on Labour Inspection, to which Kerala is bound). Harassment is essentially a management problem that can be addressed by education, good example and close supervision through the line. The mission makes recommendations to this under point V of this section. In any case, several senior officials in the department concerned have given the number of inspectors liable to resort to “harassment” practices at no higher than 20% - still a serious issue, but not one to warrant the de facto disempowerment of the labour/factory inspection system.

The mission strongly recommends to adopt a more cautious and selective approach to the issue of “Self-Certification” (self-regulation or self-inspection). We firmly believe that in the area of minimum wages and general conditions of work (maternity protection, working hours, etc) it cannot work– on the contrary: there is a serious risk that the introduction of such a system throughout the formal sector economy will lay the foundation for serious future industrial unrest, as workers will be deprived of seeking redress through established institutions. It is an open invitation to those employers unwilling in any case to meet Kerala’s basic (minimum!) labour protection standards, to flout the law more or less openly. This caveat may not apply to certain modern sectors such as IT establishments or some export-oriented and “image conscious” employers, but extending such a regime to all sectors would, in our opinion, seriously jeopardise social cohesion and social peace.

### 3. Occupational Safety and Health Management Systems

One area to which a „Self-Certification“ policy can be extended is the whole field of occupational safety and health. There, international experience has shown that good company management of OS&H is invariably also good for a company’s business. Better OS&H management leads to better quality, higher productivity, less losses due to accidents and incidents, better motivation of the labour force, etc. It is therefore increasingly seen as a key to maintaining or enhancing competitiveness, particularly in the wake of mounting pressure under the Central and State Governments’ policies of opening markets and meeting the

challenges of globalisation. The key to competitiveness is quality. But there can be no high quality of products (and services) without high quality production methods. Based on tripartite consultations, ILO has developed a new International Standard as a Technical Guideline, on „Occupational Safety and Health Management Systems“, called ILO-OSH 2001. The mission makes recommendations to its introduction under point VIII of this report.

### **III. Tripartism and Social Dialogue**

Tripartite machinery on Social Dialogue is at present not existent at state level in Kerala (though some examples exist in the plantations sector). Such a comprehensive mechanism including the major stakeholders needs to be institutionalised as a matter of priority (meeting 3 times a year and on special occasions). It could form sub-committees, for instance on OSH or Labour Inspection monitoring; it requires the support and the involvement of the representative social partners.

The Government wishes to create an investor friendly environment for which sound industrial relations must provide the basis. Industrial peace is a precondition for attracting investment. Thus, good management of industrial relations and social dialogue, as well as cooperation at enterprise level is a prerequisite. In terms of social dialogue, Kerala does not have the best reputation, which tends to offset its strengths, such as social equity, educated manpower, literacy, etc.

In addition to the proposed Kerala State Tripartite Labour Advisory Council (KSTLAC) there is a need for tripartite consultation at other levels (regional, district sectoral and enterprise level). A good example of already ongoing tripartite cooperation is the National Safety Council (Kerala Chapter). Such institutions therefore already exist.

The work of the KSTLAC will enhance competitiveness, productivity and quality. Social dialogue leads to avoiding or reducing losses, whether incurred through strikes, lock-outs, accidents, bad working conditions or other.

ILO experience has shown that social dialogue on Labour Inspection can be focussed on non-political, technical, substantive debate that lead to constructive results.

For this to happen, there is a need to revitalise existing structures through a process of trade union concentration. Result oriented social dialogue requires strong and independent social partners. The existence of over 12.000 Unions appears to be disconducive to enable them to act in the best interests of their members, as well as the State interests.

#### **IV. Systems Development Issues**

##### 1. Coordination and Cooperation

The mission found that many different institutions and inspections operate in the sphere of Labour Protection in Kerala. But they do not co-operate. Therefore, it is difficult to talk of a system as prescribed by ILO Convention No. 81 on Labour Inspection (which India has ratified and which must therefore be applied throughout in all states), because the individual components cannot provide synergy.

We have met Central Government labour inspectors, state factory and boiler inspectors, electrical and environmental inspectors, etc. Even within the Labour Department there are conciliation, enforcement, workmen's compensation, plantation officers. But there is very little, if any exchange of information or consultation within these bodies, although there is a clearly documented need for it. For instance, the Labour officers (Central) have themselves asked for more consultation and information exchange with their counterparts in the State Labour Department (SLD), even though they appear to be, by comparison, better qualified and better equipped for this task, for instance they have regular access to training and information, transport is available, etc.

The mission recommends to organise such consultations between Central and State Labour officers on a regular basis in Ernakulam and Trivandrum.

##### 2. Creating Synergies

Certain aspects of ESI inspection, workmen's compensation and factories inspection overlap or touch on related issues and the usefulness of systematic information exchange appears evident: ESI and workmen's compensation both deal with occupational accidents and their

consequences, and factory inspectors help prevent or investigate them. Furthermore, mechanical engineers (factory inspectors) also conduct wages and conditions of work inspections, and while the mission has reservations against this practice, consultation with a view to adding value to each others activities (synergy) is clearly necessary. We therefore recommend that Labour and Factory Departments hold regular monthly coordination meetings at Headquarters, regional as well as district levels, to be convened and chaired alternately.

Systematic implementation of the NLP also requires a move towards functionally integrated labour inspection. Thus, information collected by Assistant Labour Officers (ALOs) could and should cover a limited range of basic OSH issues as well. This is nothing new for Kerala. Plantation inspectors are already required to collect information data on accidents, hygiene facilities, etc. Such routine information gathering on the occasion of every regular inspection visit should be extended to the existence of excessive noise, evident lack of machine guarding, workers' complaints about unhealthy conditions, accidents, etc. Such information should then be systematically shared with the Factories Inspectorate. Simple forms or one-page checklists could be designed by the Factories and Boilers Department for this purpose and experienced and qualified factories inspectors could give basic training to ALOs.

More synergy could be added if existing inspection forms were thoroughly revised, streamlined and homogenised with the aim of coming up with one standard inspection form, covering all relevant, statutory requirements.

The mission recommends that the proposed Ministerial Working Group formally reviews reporting forms and procedures, to streamline the bureaucratic effort, to facilitate inter departmental information exchange and to enhance the value of inspection visits. This should also cover the collection of basic labour market information on the occasion of regular inspection visits to establishments, such as information on wages, skills shortages, presence of long time trainees and manpower requirements.

A sizeable amount of such information is already routinely collected, but not utilised. The analysis of this information should be computerised, also for labour market information purposes.

### 3. Revitalisation of the System

Information processing should be made information technology (IT)- compatible, as both the Factories and Labour Departments will no doubt start computerisation in the near future.

A review of all State labour protection laws and regulations should further be undertaken with a view of facilitating the implementation of the new labour policy.

These and other reform processes have to be driven by a strong State Labour Institute. KILE needs to be strengthened and expanded. (Similarly, the Industrial Hygiene Laboratory should be strengthened to become a fully fledged OSH institute.) Close cooperation should be initiated between these two institutes with a view to moving towards a single Kerala Labour Protection Centre.

A revitalisation process is indispensable to pull the different existing elements together to create a system, to adopt a systematic approach and to facilitate a process, which accommodates competing interests. Such a revitalised system could serve as a hallmark for a positive investment climate and as a benchmark for other states in India and beyond.

## **V. Organisation and Management**

The mission has identified a number of points regarding organisation and management at all levels, state, regional and district.

Interdepartmental coordination, as already mentioned, below the level of the Secretary of Labour needs to be strengthened and regularised.

### 1. Planning, Programming, Monitoring, Evaluating

Planning, programming, monitoring and evaluating are crucial elements of any systematic policy implementation. The mission received ambiguous information concerning planning of inspection activities. The Factories and Boilers Department appeared to be doing it on a reasonably systematic plane. Some districts also had a procedure for monthly planning but

others apparently not. Even those districts in which inspectors were held to fill out a day-by-day monthly plan, the procedure appeared inadequate and of little value, essentially because no targets were set. Monitoring of workplan implementation, in particular quantitative and qualitative results, is therefore virtually impossible.

The mission recommends that the proposed Ministerial Working Group reviews the present planning procedures of the Labour Department, possibly benchmarking with procedures in the Factories and Boilers Department and in the Labour Department (Central). An annual workplan for each Department should be established as a result of tripartite social dialogue in the recommended institutional frame (see point II above). Based on this, each region and district should develop a quarterly plan on the basis of which each individual ALO must prepare a comprehensive monthly inspection plan. An adequate performance target to be reflected in the monthly planning should be for each inspector to spend three days out of six on visits to establishments for the purpose of inspection.

To facilitate the planning process, uniform inspection forms should be used in all duty stations. Such planning should be based on a workplace information management system (WIMS) that provides the basic data of all establishments under the purview of the labour inspectorate. The proposed Ministerial Working Group should develop such forms, and the WIMS, based on documentation that the mission will provide to the Secretary of Labour.

Regarding inspection days, a minimum number of establishments to be inspected must be indicated, naming each enterprise and, if possible, the number of workers employed.

District Labour Officers (DLOs) must be admonished to monitor workplans of ALOs and take corrective action as necessary so that the monthly plans are properly implemented. DLOs must approve these plans in advance, and then monitor their full and timely implementation. ALOs must justify in writing any deviation from approved workplan implementation. This system may appear burdensome at the beginning, but once properly applied will provide highly significant value to all operations of the inspection services. Short, to-the-point training or instruction by supervisors is essential in this context.

The mission found that there is ambiguity about the term “inspection”. ALOs use it to indicate each separate law or regulation, which they purport to check on the occasion of an enterprise visit (minimum wages, child labour or head loaders regulations “inspections”, to name but a

few). This is wrong and falsifies statistics. An inspection is the visit of an establishment with the purpose of monitoring and, where necessary, enforcing compliance of all relevant labour protection legislation under the purview of the Department concerned. This definition should henceforth be used for monitoring, reporting and statistical purposes and throughout the system.

## 2. Reporting Procedures

The practice of monthly review meetings at DLO levels is a good one. It should be systematically carried out. Reports of the monthly review meetings should contain not only statistics, but highlight interesting, significant developments and achievements, so as to provide information for corrective and preventive action at regional and state levels in the form of serving also as an “early warning” system for timely preventive action.

On the basis of this considerably more substantive information, a comprehensive annual report of the Labour Inspection system could be drafted for discussion and adoption by the proposed Kerala State Tripartite Labour Advisory Council. Such a document would then serve as a source of reference and publicity to stakeholders in Kerala and beyond, and would considerably enhance the system’s status and its recognition among the real social partners and other stakeholders.

DLOs should submit quarterly implementation and monitoring reports to the Regional Joint Labour Commissioners, who would thus monitor workplan implementation of all districts and take timely corrective action. DLOs should justify in writing to Regional Joint Labour Commissioners any significant deviation from approved monthly inspection plans, in particular if performance targets have not been met. This justification will also indicate serious operational deficits that would have to be addressed at HQ (departmental levels). As a matter of principle, Headquarter should then provide systematic feedback on reports to the 3 regions and the regions to their districts. Sending reports without receiving reactions or comments is demoralising and demotivating and quickly leads to degradation of the information value of the system. It should be considered to appoint an officer at the Ministry (Secretary) for HQ – field liaison purposes, to facilitate better HQ – field communications and coordination.

### 3. Increasing Impact

The mission discovered when studying inspectors' monthly plans, that they are likely to spend 50% of their working time on so called court duties. This time is lost on inspection visits to enterprises. Better management of inspectors' obligations in the judicial process could mobilize significant hidden reserves. The reason for this unproductive waste of time appears to be that magistrates hold labour trial cases at any sitting, thus requiring the presence of the ALOs throughout the day, even if only one or a few cases are actually heard.

The mission strongly recommends that consultations be initiated at Secretary or Cabinet Minister level with a view to persuading the judiciary to bundle labour trial cases in special sessions at magistrates' courts once or twice a month. All cases heard could then be handled by one designated prosecuting officer per session.

In this context, serious consideration should also be given to increasing the level of fines. At present, the 1000 Rupees maximum fine for labour offences is derisory. It has no effect on the violator and is inadequately, indeed hugely resource and time consuming. In any well performing inspection system effective sanctions must be available and must be seen to be used. They must, however, be used sparingly. Strategic use of sanctions must therefore be included in the discussion of a new enforcement policy; they should be limited to relatively few, very serious offenders with a notorious record of repeated violations.

In this context, the proposal to conduct joint inspections (labour/factory) is also worth considering, as factory inspectors can prosecute for fines up to 100.000 Rupees and the combined effort of the two Departments in cases of particularly serious violations of labour protection legislation could well have the desired, corrective and generally preventative effect.

## **VI. Resources**

### 1. Human Resource Development (HRD)

Successful implementation of the NLP and the proposed Labour Inspection Policy will require a determined HRD effort throughout the system. Over and beyond the regular training

on recruitment needs of the inspection services, the mission was repeatedly informed that hardly any training takes place at all: be it induction, refresher, on-the-job (in service) or specialist training. This applies to both Labour and Factories Inspection.

It thus came as no surprise to the mission that a sample amongst ALOs during one of the training seminars (held simultaneously with the audit) revealed that only 10% of the officers so far had any knowledge of the (meanwhile one year old) National Labour Policy. We recommend that within given annual budget allocations, a maximum effort be made to provide KILE or its proposed successor (State Labour Protection Institute) with the resources needed to organise regular training in all categories at HQ and in the regions. Such training must also address the issue of “harassment”, i.e. incompetent or unethical behaviour and attitudes of labour/factory inspectors

The mission heard conflicting evidence about the value of the different recruitment processes prevailing, in consequence of the considerably varying quality of inspectors. Whatever recruitment system is practised, clear competency standards have to be set and met. Furthermore, if inspectors are recruited from clerical positions, they have to be given systematic, adequate training to qualify them for their new responsibilities.

Rising from the ranks can be a strong incentive, but it also carries the risk of abuse. Training, in this case, should not only deal with technical issues, but also with social skills development, in particular the proper conduct of inspections and inspectors with conflict management, communication skills, etc.

In addition, the mission strongly recommends giving necessary, regular training to prosecuting officers.

## 2. Performance Appraisal System

The mission was informed about the prevailing performance appraisal system. It appears that ALOs are unhappy with it. If it falls within the jurisdiction of the Ministry of Labour, the performance appraisal system should be revised to make it more transparent and to provide career guidance motivation. At present, inspectors do not know how they are being rated.

Another source of motivation presently untapped is career planning and development. The mission understands that the scope of career planning and promotions is very limited. Nevertheless, performance review discussions between inspectors and their should be systematically used for this purpose also.

### 3. Material Resources

Material allocations are unacceptably low. Unlike labour officers (Central) transport is almost always unavailable (even to factory inspectors at State level) expenditure for public transport is reimbursed only after an unacceptable long time. Communications are made impossible by lack of funds on allocations for postage or telephones or by phone lines being cut off. The mission was unable to say whether this is an allocations or a management problem, or both, but it requires urgent attention.

We recommend that minimum operational allocations be determined, which should be fixed significantly above present allocation levels for each inspector and District Labour Office, and that their use be closely supervised by the hierarchy.

### 4. Information Management

The mission was informed that funds are available to purchase a sufficient number of computers before the end of the financial year 2002/2003. The need to introduce information technology down to DLO levels is clearly evident, and if the information management system is properly designed, it could greatly improve efficiency, effectiveness and productivity. It is however necessary to have a very clear understanding of the information needs of the system and its users and to determine clear specifications.

The mission recommends to the proposed Working Group to add this issue to its terms of reference and to look into it as a matter of priority. Meanwhile, if the allocations risk being lost, PC's could be purchased for limited use (text processing) until the system specifications have been agreed.

## **VII. Industrial Relations and Dispute Settlement**

To promote bilateral negotiations and to create more and better collaborative labour/management relations, priority must be given to the promotion of collaborative labour relations at the enterprise level and two-way communications. In the initial phase, there is a need to organise at least three train-the-trainer programmes on promotion of social dialogue skills at the enterprise level. The training modules should include social dialogue mechanisms and processes, information sharing, problem solving skills and negotiation skills. The State Labour Department should use the National Productivity Organisation and the South Asia and Vietnam Project on Tripartism (SAVPOT) to encourage workers and employers to set up social dialogue mechanisms at the enterprise level in line with ILO Recommendations Nos. 94 and 129 on cooperation and communication at enterprise level.

To considerably increase the success rate of the conciliation process, it is recommended that a systematic training programme be conducted for conciliation officials by ILO on conciliation and preventive mediation skills and strengthening grievance redressal committees at enterprise level.

To ease the backlog of cases pending before the Labour Courts, it is proposed that technologies such as “pre-trial hearing” and the “lok adalat” mechanism be used as an alternative forum for speedy disposal of cases.

## **VIII. Occupational Safety and Health**

### 1. Quantitative Aspects

Kerala possesses a small, well-trained Factory and Boilers inspection force, in all less than 30 officers with engineering (mechanical/chemical) backgrounds. In addition there are some 20 plus so called Additional Inspectors of Factories (AIFs), essentially promotions from clerical ranks without technical background, but usually long years of service. Details can be found in Section A of this report.

ILO SafeWork has consistently advocated that the number of occupational safety and health inspectors in regard to the overall labour force (economically active population) in industrialising countries or States such as Kerala should be not less than one inspector for every 20,000 workpeople. Kerala has a population of about 30 million, of which somewhat

less than 50% constitute the economically active segment of the population. Taking the above standards as a yardstick, this would mean a labour inspectorate comprising some 750 inspectors. Even if one were to include all labour officers, assistant labour officers, factories and boilers inspectors and additional factories inspectors, the total number comes to roughly to 150 inspection officers; or only 20% of the above standard for threshold developing countries. This is unacceptably low, the mission therefore recommends to mobilise all political energy in the system to find ways and means to, first of all, increase the quantitative strength of the inspection services.

## 2. Hidden Reserves

In every inspection system there are considerable hidden productivity reserves. The mission has already indicated that by bundling labour trial cases in magistrates' courts, up to 50% productivity reserves can be mobilised for inspection purposes in the Labour Department. Regarding the Factories and Boilers Department, there is a similar productivity reserve: The Additional Inspectors of Factories (AIFs). Based on a recommendation by the Kerala Legislative Assemblies' PAC, the Government last year decided to rescind their powers as factory inspectors of small and medium enterprises (SMEs) under Section 85 of the Factories Act (1948), of which there are some 12.000 registered in the State. The Government's decision is based on the allegation that these AIFs are "non-technical", and that only technical inspectors with at least a degree in mechanical engineering are qualified to do this work. (Note: The factories and boilers inspectors who are engineers only do OSH inspections in the larger, usually well-organised establishments under section 2(m) of the same Act.

This decision is fundamentally flawed and the mission strongly recommends that the Government revokes its decision and reinstates the AIFs as (auxiliary) factory inspectors. It is alleged that they are not technically competent – indeed how can they be when they have never received any, not even basic technical training by their more experienced colleagues, the engineers. The mission completely fails to understand why this was not done systematically immediately upon appointment of these AIFs. The mission further fails to understand why the de facto reduction of the number of factory inspectors by almost 50% as a result of the Government's decision was clearly not unwelcome to the F and B Departments management, and evidently not contested. This decision furthermore runs contrary to very recent strong trends in high-performance OSH inspection systems in very advanced industrial market economy countries, where OSH inspection managers are increasingly looking for

innovative strategies to reach out more effectively to the SME community. It also runs contrary to the Minister of Labour's publicly declared political intention that labour and factory inspectorates should in the future make every effort to reach out to the (urban informal sector). And this concerns exactly the large majority of Section 85 (Factories Act) establishments. The mission has visited such establishments and seen at first hand that no doubt most of them are in dire need of basic, non-complex OSH advice and information services to help them improve quality, productivity and competitiveness of their businesses through improving housekeeping or addressing other basic OSH issues. Giving sound practical advice to these establishments in most cases does not call for high-level engineering expertise. In any case, the mission was told by the mechanical engineers in the field stations (though not at headquarters!) that they would be more than willing to give the required basic technical training to their AIFs colleagues, and that they had every confidence in these AIFs then providing useful, recognised basic OSH services to the SME sector. At headquarters, we heard a different story, based mainly on the argument, that Kerala was the only State in India, which had been using "non-technical" factory inspectors, when in fact factory inspection was a highly complicated, highly technical exercise. The mission strongly refutes this kind of argument. For the management of the F and B Department it boils down to a status problem, when in fact it is a problem of the quantity and quality of services provided. We have already stated that Kerala has every reason to be proud of its – often unique – achievements in social infrastructure development. Kerala should not downgrade its social protection system to match the lower levels of neighbouring States; rather it should improve and strengthen them to serve as a benchmark for other State of the Union. The mission therefore reiterates its strongly felt recommendation to reinstall the AIFs with their inspection powers, to give them adequate training through the mechanical and chemical engineers in the F and B Department, with the emphasis on advice, information and prevention and then to focus their activities on SMEs and the urban informal sector.

To facilitate this process the mission proposes to familiarise the Kerala F and B Department with the ILO WISE (Work Improvements in Small Enterprises), and to envisage training all officers in the Department in this tried and proven methodology for application to SME employers. (Other new strategies to reach out more effectively to the SME community can be found in the new ILO publication: Labour Inspection, a Guide to the Profession).

### 3. The informal sector

On the day of its arrival, the mission read and saw photos in the local papers concerning a fatal work accident: An elephant driver (mahout) had been killed by his elephant while on the way to a temple festival. The elephant had subsequently cause considerable damage to property in the streets. Curiosity prompted the mission to enquire further about this unfortunate accident, with the following results. There are several thousand such mahouds. They are employees of the elephant owners, and are covered by a statutory minimum wage. With other words, although belonging to the informal sector, they are covered to some extent by the Kerala State Labour Protection regulations. But, as they belong to the informal sector, they are not covered by OSH regulations or any activities of the F and B Department. Yet the mission was told that every year, half a dozen or more such fatal accidents occur in elephant handling – and many more serious accidents, often leading to permanent disability. This is totally unacceptable! In the formal, organised world covered by the F and B Department, according to its own statistics there are some 15 to 18 fatal accidents per year, and yet this is where all its focus and resources are concentrated. In a miniscule part of the informal sector, there are half a dozen work-related fatalities, and the overall number is presumably in the many hundreds or thousands of fatal occupational accidents and virtually nothing is done about them. This is so evidently wrong. The reason for these fatalities in elephant handling, we were told, is that the owners of the animals wish to exploit them to the maximum, and therefore oblige the mahouds to work them even when the elephants are in musth (heat) and then become notoriously dangerous. Yet not a single employer appears ever to have been prosecuted in such cases. Modern occupational safety and health systems in industrialised countries however do deal with these issues. In the UK or Ireland, very good basic illustrated brochures are available on safety in handling domestic farm animals. Finland even has produced an OSH brochure in the language of its nomadic Sanen minority on safety in handling semi-domestic rendears. The mission recommends that the national safety counsel, Kerala chapter develop an illustrated simple brochure on safety in handling elephants that its content be brought to the attention of both, elephant owner and elephant driver community, and that every effort should be made to set an example by prosecuting the next employer responsible for such a fatal work accident, either under prevailing OSH regulations or by criminal charges.

#### 4. A New State OSH Institute

Kerala at present only posses an industrial hygiene laboratory. For an industrialising State of 30 million people intend on achieving “ first world status” this is quite inadequate. Kerala

needs an enlarged OSH centre or institute, to develop OSH policy, state-wide guidelines, technical standards, backed up by a modern OSH laboratory and analysis capacity, serving as a State OSH information and documentation centre, providing training (induction, refresher, specialist) to all labour and factory inspectors in the system as well as to employers, safety engineers, workers, safety representatives, members of works committees, etc. Many of these activities could be revenue generating. Initiatives are already under way in this direction and the mission strongly supports them.

#### 5. Privatisation/ Third Party Inspections

The mission was informed that boiler inspections are in some cases already carried out by certified, qualified private engineering or consulting bureaus. In other cases, there are still done by the F and B Department's boiler inspectors. The mission recommends to "privatise" not only all boiler inspections, but all technical inspections of hazardous plant and machinery such as lifts, hoists, cranes, pressure vessels, etc. This is entirely in line with the trend in almost all industrialised and an increasing number of threshold developing countries.

#### 6. A State OSH-Management Standard

As one of its first activities, the proposed State OSH institute should review the ILO Technical Guidelines on Occupational Safety and Health Management Systems (ILO OSH-MS 2001) and develop a Kerala State OSH-MS standard preferably in cooperation with the NSC Kerala Chapter. Both, the Chapter and the F and B directorate could subsequently promote the introduction of this standard to industrial and commercial establishments, also in the SME community. ILO will provide the necessary documentation and advice as necessary.

#### 7. National OSH Week

Safety awareness is still very low among employers and workers alike. In recent years, a national safety day has been organised. We recommend to expand this useful activity into a

high-profile national OSH week involving both NSC and F and BD as well as the maximum number of other stakeholders. If possible, this new activity should coincide the international safety and health day, celebrated worldwide on 28 April of each year. This would establish linkages to similar activities in other countries and possibly attract a measure of external funding.

#### 8. A State OSH Agency

In the longer term consideration should be given to transforming the present F and B Department into a future semi-autonomous or parastatal State OSH agency. Such a change might make it easier for factory inspection to access and manage its own resources, establish better linkages with partners outside the State and outside India and concentrate more effectively on the task of promoting the prevention of occupational accidents and diseases. The existing system is particularly weak in dealing with these latter. Thus, while a list of some 23 recognised occupational diseases exists in the State (the mission did not see it and therefore cannot comment on either the exact number or the validity of this list), we were informed that not a single occupational disease was recognised (reported) in the last three years. This is of course totally incredible and reflects the serious structural weakness of the occupational hygiene and health side of the present system. In industrialised and industrialising countries, however, the focus is increasingly on the prevention of occupational diseases, including so called “new hazards”, and the severe macro-and microeconomic losses they incur. There is therefore an urgent need for Kerala to address this issue.

#### 9. IALI

For Kerala to have better access to exchange of state of the art information exchange and expertise we recommend the F and B Department to become a member of the International Association of Labour Inspection (IALI). In other federally constituted countries, it is quite common for OSH inspection services operated by territorial members of the union, federation, commonwealth, to be full-fledged members of IALI, for instance in Australia, Canada, Germany and elsewhere. Kerala would benefit considerably from such membership, and the small annual membership fees would be well worth the costs.

## 10. A State SafeWork Programme

In view of the very considerable needs of Kerala's F and B Department to develop into a competent OSH service, providing basic coverage to establishments in all sectors, in particular information and advisory services, the mission recommends that the newly appointed ILO Senior OSH Specialist at SAAT, who will shortly take up her post plan a visit to Kerala as one of her first priorities with a view to helping the ILO constituents in the State to set up a State SafeWork programme. The implications of such a move are widespread and cannot be discussed here in detail. In sum, such a Kerala State SafeWork programme would consolidate and concentrate the different plans and activities (such as SAHARA, etc., see Section A of this report) a present floating around in seemingly quite uncoordinated manner. It would also be in a stronger position to mobilise resources and to help establish a prevention culture in Kerala enterprises.

## **IX. Mobilizing Support: The Way Forward**

(This part will be considerably expanded in the final version of the report)

### 1. Reviewing the Recommendations

The mission has already recommended that immediately on receipt of the Technical Memorandum a high-level ministerial Working Group be established to start the process of reviewing the TM's main recommendations and to developing, or at least reflecting upon an implementation plan of action. The mission has further recommended that steps should be taken towards setting up of a State Tripartite Labour Advisory Council where the TM could be formally discussed and catalyse a sustained social dialogue process on a broad range of labour protection issues.

### 2. Tripartite Follow-up Meeting

The Minister of Labour as well as his Secretary have requested the mission to help organise a high-level tripartite meeting on the future of labour inspection in the State some six to nine month after receiving the TM and having thoroughly reviewed it and distributed it to the representative social partner organisations. The mission supports this request. If such a meeting is to be organised, we also recommend to consider inviting selected directors of Labour Departments (Labour Commissioners) and of Factories Inspectorates from other

States in India. The process started through the invitation to the ILO to field this mission could well have a signal or benchmark effect for the development of labour inspections systems in other States of India.

### 3. Mobilising funds

The mission has already indicated that quite a number of international TC projects operate in India and the sub-region which could be more effectively tapped or at least enticed to direct more of their activities to Kerala. The mission will provide a comprehensive list of such activities to the Secretary, Labour, and make further proposals to this end in its final report.