

Labour Inspection Country Profile: Tanzania

Labour Inspection Structure and organization

Name of institution that manages work issues

In Tanzania (mainland) the Ministry of Labour, Youth and Employment Development (MoLEYD) has overall responsibility for labour inspection.

In Zanzibar, general responsibility for labour inspection rests with the Ministry of Labour, Youth, Women and Children Development.

Department(s) responsible for Labour Inspection

In Tanzania (mainland) the MoLEYD unit with specific responsibility over labour inspection is the Labour Administration and Inspection Section. This Section is headed by an Assistant Labour Commissioner and includes six labour officers. Even though its name includes a reference to labour administration, this Section deals only with the labour inspection system, and thus functions as a central labour inspectorate. Its main functions include:

- overall coordination of labour inspections carried out by the area offices;
- preparing, reviewing and recommending guidelines on the labour inspection services and compliance with labour legislation in general;
- providing legal guidance upon request (in this capacity, the inspectorate may consult other governmental legal units including the Attorney General's office);
- ensuring dissemination of information to employers and employees on their rights and obligations; and where such need arises, assisting the area offices in conducting labour inspections.

Responsibility for labour inspection is split between labour officers working in MoLEYD (i.e. monitoring employment contracts, wages, working time etc.) and occupational safety and health inspectors who are part of the semi-autonomous Occupational Safety and Health Agency (OSHA). Other government institutions such as the National Social Security Fund also carry out autonomous inspections but with little coordination with MoLEYD or OSHA. Labour officers in the regions carry out inspections in addition to other labour administration tasks.

In Zanzibar, the Labour Commission, which is part of the Ministry, has direct responsibility over labour inspection matters. Also in Zanzibar, the OSH function is carried out by the Occupational Safety and Health Directorate. The OSH Directorate is formally a part of the Labour Commission, but its offices are located in the Ministry of Education and Vocational Training.

Law that covers organization and functional composition

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- The Occupational Health and Safety Act, 2003
- The Employment and Labour Relations Act, 2004
- The Labour Institutions Act, 2004
- Workmen's Compensation Act, 2008
- Social Security (Regulatory Authority) Act, 2008

These laws have been supplemented by a number of regulations, including the following:

- The Employment and Labour Relations (Code of good practice) Rules, 2007
- The Labour Institutions (Mediation and Arbitration), Rules 2007.
- The Employment and Labour Relations (Forms) Rules, 2007
- The Labour Institutions (Code of Conduct for Mediators and Arbitrators) Rules, 2007
- The Industrial Court Rules ,2007
- The Labour Institutions (Mediation and Arbitration Guidelines), 2007

Labour law reform efforts in Zanzibar have paralleled those on the mainland. This process was likewise supported by the ILO, and resulted in a number of new laws relating to various aspects of employment and labour relations, including the following:

- The Employment Act No. 11 2005.
- The Labour Relations Act No.1 of 2005.
- The Occupational Safety and Health Act No. 8 of 2005.
- The Workers Compensation Act No.5 of 2005.
- The Zanzibar Social Security Fund Act No 2 of 2005

Zanzibar is in the process (2010) of drawing up draft regulations for the first two pieces of legislation, with assistance from the ILO.

Scope of labour inspection

The labour inspection staff in MoLEYD are in charge of coordinating the labour inspection system for all area offices. They are responsible in particular for planning, reporting, general guidance and the preparation of inspection forms.

On the occupational health and safety side, the services of OSHA include:

- work inspections;
- industrial hygiene surveys;
- medical health examinations;
- registration of new workplaces;
- training and awareness raising programmes;
- investigation of accidents; and
- gathering data and monitoring workplaces.

In Zanzibar, the main function of labour inspectors in the regional offices is to carry out inspections. They do however maintain some responsibility for the settlement of labour disputes and may act as representatives for the labour commissioner by request should the need arise in the regions (in their general capacity as labour officers). Another function of the regional labour inspectors is the attestation or approval of employment contracts.

Local divisions

The United Republic of Tanzania is divided into 20 regions, 11 zones and 127 districts. At present there are 32 labour “area offices” covering mainland Tanzania. Twenty of these are regional labour offices (seven of which are so-called “principal offices”) and another 12 are district labour offices. Labour officers in the regions are responsible for a wide range of labour and employment matters including inspection.

The semi-autonomous OSHA has its own regional structure divided into six zonal offices covering all of mainland Tanzania (each zonal office covers several regions, and may have sub-offices). There are approximately 5 OSH inspectors in each zone.

On the main island of Zanzibar (Unguja), apart from the central Labour Commission, there are three regional labour offices covering the North, South and Urban/West areas. There are another two offices on the island of Pemba.

Programming and communication

The Labour Administration and Inspection Section in MoLEYD is supposed to prepare national inspection plans (quarterly and yearly) based on plans submitted by the area offices. MoLEYD does not provide any guidance or guidelines for this inspection planning. Area office inspection reports are supposed to be submitted to the head office on a monthly basis. However, this reporting schedule is not always followed consistently. Also, when reports are delivered, they are not always used in the development of national inspection plans. This planning function (both at the central and area office levels) is further limited by the fact that there is no unified enterprise registry in Tanzania nor a coordinated system to collect such data. In addition, communication between the central authority and the regions on the mainland is infrequent, and there are no joint inspectorate meetings held either in Dar es Salaam or the regional offices.

In Zanzibar the three regions prepare quarterly and yearly inspection plans based on targets and on information contained in basic manual company registries kept at the regional level. These plans are not always communicated to the Labour Commissioner, who only receives progress reports on the activities

carried out in the regions. Much like on the mainland, there is no centralized registry of enterprises or data collection in Zanzibar that would facilitate both the programming and carrying out of inspections.

Current reforms

See above under “Law that covers organization and functional composition”

Human Resources and career development

Permanency of inspectors

On the mainland, labour officers (including inspectors) generally have university level education, though not necessarily relevant to their technical area of competence, and appear to have reasonable prospects as career civil servants.

Most of the technical knowledge gained by labour inspectors about their profession comes through on the job training and there is only limited ongoing professional development. The Ministry does not have a structured training programme for its staff though technical units are supposed to allocate a portion of their budget to training activities. Very few training activities for labour officers in fact take place beyond what is organized and funded through donor projects. When donor-funded trainings are in fact offered, these are not always targeted. For example, when training was held on the subject of labour inspection, all labour officers in all sections attended, even those who do not carry out or oversee labour inspections.

The MoLEYD HR division does not have a training plan to improve the technical and professional skills of existing officials. HR officials note, however, that they are introducing a new performance review system for staff to improve their effectiveness and enhance transparency in human resource decision making.

Labour officers on Zanzibar are poorly paid. Salaries are initially determined by a recruit's level of education after which there are automatic yearly salary increases.

Human resource officials indicate that there is no relation between an officer's grade and earnings and that promotions and greater responsibility are not necessarily accompanied by a higher salary. In addition, there is no formal performance appraisal or promotion system in place.

Apart from orientation sessions given to all new Zanzibar Ministry recruits, there are no regular training activities for labour officers. The Ministry does not have a formal training policy in place nor does it set aside a budget for staff development. The Labour Commission notes that it has some funds for this purpose but that, aside from trainings funded by donors, it does not hold any training courses.

Selection process

The Ministry of Public Service (MPS), must approve all requests from the Ministry of Labour to recruit new labour officers (including labour inspectors). This process begins with a request submitted by individual MoLEYD units based on staffing needs. The terms of reference developed for vacancies set out the general requirements for the position, but do not detail the specific technical competencies. Once the request is approved by the MPS, MoLEYD advertises vacancies in four different newspapers setting out the posts and deadlines for submitting applications. Subsequently, a selection panel composed of different MoLEYD technical directors and HR officials is convened to draw up a short list of candidates. Selected candidates are contacted by phone and the short list is published in local newspapers. Next, the selection panel, now joined by the Labour Commissioner and the director of the recruiting unit, interview short-listed candidates and make the final decision.

As a semi-autonomous agency, OSHA controls its own recruiting. There are also some 15 special positions reserved for what are known as “private” OSH inspectors. In fact, these are technical specialists recruited under fixed term employment contracts with OSHA, to act as monitors in their field of expertise but without possessing any sanctioning or prosecutorial powers.

Like on mainland Tanzania, the recruitment process for Zanzibar labour officers (including labour inspectors) is not the direct responsibility of the Labour Ministry. Officers are recruited through the Civil Service Department (CSD), which is under the responsibility of the Chief Secretary in the Ministry of State (President's Office) for Constitutional Affairs and Good Governance.

Background required

On the mainland, the MoLEYD recruitment process is such that selected applicants, especially new recruits, commonly do not have relevant training or experience in their areas of work. In reality, the Ministry faces difficulties in finding candidates for technical posts, even though new labour officers are not generally required to demonstrate competency (education or experience) in labour matters.

In Zanzibar, the Labour Commissioner has indicated that several staff positions in the Commission remain unfilled, but that this situation is not the result of a slow recruitment process but instead due to the lack of

available and qualified candidates. As of 2009, none of the labour officers in Zanzibar had been specifically trained as inspectors.

Visits and functions

Types of visits

On the mainland, the responsibility for inspections is divided between the labour inspection officers in the Labour Department, and the OSHA inspectors. While the Labour Department is responsible for general labour inspection, OSHA works independently.

OSHA inspectors are spread across the country and, in the regions, commonly share the same premises as labour inspectors. This close contact in the regions between OSHA and labour inspectors allows for an integrated approach to the different components of inspection. The Arusha office appears to be a particularly good example of this integrated approach (conducting joint inspections and sharing information such as company registry data) even though it is largely done on an ad hoc basis. Such integration of activities, however, does not occur at the central level in Dar es Salaam partly due to the fact that OSHA and the central labour inspectors do not share the same premises.

Mainland labour inspectors use nine report forms in their work (mainly related to compliance orders and appeals). One of these forms is used to inform enterprises that a routine inspection will be conducted. The reason indicated for sending such advance notice is to make sure that the employer is present at the enterprise on the day of inspection. By contrast, inspections based on worker complaints are typically conducted unannounced.

OSHA inspectors are fully empowered to visit workplaces and to impose sanctions or other actions. Most inspections are routine or planned visits with only around 10 per cent based on worker complaints. When visiting a workplace, OSH inspectors must show their accreditation and inform a worker representative of their presence. If inspectors are denied entry, they can prepare an obstruction notice to send to the court and the police may be called to secure entry or at least to act as a future witness before the Court. OSHA inspectors carried out approximately 3,500 inspections in 2008.

In Zanzibar the Labour Commission does not have any written procedures or internal rules governing inspections and there are no check lists, procedures or forms for inspectors to use in the course of their work. As on the mainland there is not a fully integrated system of labour inspection. OSH and labour inspectors are said however to conduct joint visits 30 per cent of the time, and labour inspectors will share relevant information with OSH counterparts when an occupational safety or health infraction is detected.

Role of preventive measures

Although the overriding approach of the MoLEYD Labour Administration and Inspection Section is based on prevention rather than compliance, preventative measures (such as education activities or awareness raising campaigns on labour law or OSH) are by and large not carried. Inspectors may however, in the course of their visits, disseminate information to employers and employees on their rights and obligations.

Registries and reporting of accidents/diseases at work

There is no unified enterprise registry in Tanzania (either on the mainland or in Zanzibar) nor a coordinated system to collect such data that would assist with the planning and carrying out of labour inspections. Labour inspectors at MoLEYD in Dar es Salaam said they have been trying to develop an agreement for formal collaboration between the inspection services, for example to benefit from information in the enterprise registry kept by OSHA.

OSHA has a specific registry of workplaces that is the result of information gathered from inspections it performs covering roughly 10 per cent of formal enterprises. The law in fact requires enterprises to communicate to OSHA any newly established workplace, but this is not done consistently. On mainland Tanzania, there are around 4,000 workplaces registered out of an estimated total of 50,000. The OSH Directorate in Zanzibar by contrast does not maintain an official registry of workplaces.

Work accidents and diseases are not in practice communicated to inspectors who might be responsible for investigating such cases. In fact the obligation to communicate accidents is two-fold: first to the Labour Commissioner at the Ministry and to OSHA. Nevertheless, employers mainly notify the Labour Commissioner of any accidents and diseases (generally in relation to workers' compensation claims) and this information does not usually get passed along to OSHA inspectors.

The Zanzibar Social Security Fund gathers its own data on existing companies. Despite a reasonably large manual registry of firms, this information is not shared with the Labour Commission or Ministry of Labour.

Sanction and administrative processes

On the mainland, there is no administrative sanction or fine available to labour inspectors. As a result, labour inspectors are hindered in their ability to ensure labour law compliance because sanctioning an employer through the courts is cumbersome and appears to depend on the seldom-used delegation of prosecutorial authority from the Director of Public Prosecutions.

Labour officers on the mainland are vested with powers under the Labour Institutions Act, 2004 to inspect and prosecute enterprises. Section 45 grants accredited labour officers the right to freely enter premises at any reasonable time to examine documents, take samples, perform tests or question workers etc. Where labour officers find instances of non-compliance, Section 46 grants them the power to issue a compliance order, compelling the employer to rectify the problems reported. Section 45 also authorizes labour officers to institute proceedings in the Resident's or District Court in respect of any violation of any labour law, and to appear and prosecute in the name of the Labour Commissioner.

In order for a labour officer to bring such a case to court, the National Prosecutions Service Act (No. 27 of 2008) first requires that the labour officer be appointed as a public prosecutor by the Director of Public Prosecutions. No such appointment appears to have ever been made.

In case of an OSH deficiency or violation, inspectors can issue improvement notices with a deadline to remedy the problem. In the case of imminent danger, the inspector can issue a stop work order or prohibit the use of certain hazardous equipment. If such an order is not respected and the employer takes no action to remedy the problem, a case may be put before the courts. For this last procedure, the OSHA legal adviser is in charge of preparing the legal claim. Instead of taking the case to court, OSHA also has the option of levying an administrative fine (a "compound") but OSHA staff noted that such a fine needs the signature of the employer admitting to the infraction, and so such fines are almost never used in practice. Consequently, going to court is the only option for dealing with an uncooperative employer.

In Zanzibar, there is also no administrative sanction or fine that can be applied directly by labour inspectors. Instead, if an employer does not address a workplace violation within the time allotted after receiving an inspection report, the inspector may bring the case to court. To do this however, the inspector similarly requires special authorization from the Directorate of Public Prosecutions, which, practically speaking, is never sought.

Social dialogue and labour inspection

Although tripartite bodies for social dialogue exist both on the mainland (Labour Economic and Social Council) and in Zanzibar (Labour Advisory Board), there is no specific tripartite body dealing with inspection matters.

ILO Conventions ratified

Tanzania ratified the Labour Inspection Convention, 1947 (No. 81) in 1962. However, owing to an arrangement between mainland Tanzania and Zanzibar at the time of unification in 1964, Convention 81 only applies to the mainland territory and not in Zanzibar.

Tanzania also ratified the Protocol of 1995 to the Labour Inspection Convention in 1999. It has not however ratified the Labour Inspection (Agriculture) Convention, 1969 (No. 129), nor has it ratified the Labour Administration Convention, 1978 (No. 150) or the Occupational Health and Safety Convention, 1981 (No. 155).