



ITC-ILO Course A1-52114

**Trade Union Training on Labour administration and Inspection
for trade unions of the East Africa Community**

(TMLC, Kisumu 4 to 8 April 2011)

**Introduction to Labour Administration
and Labour Inspection**

Objectives of the Session

Try and understand:

- What is the labour administration?
- What is an effective system of labour administration?
- What are the principal functions of labour administration?
- What is the purpose of labour inspection services?
- Primary functions of labour inspection
- Scope of labour inspection
- Principles of labour inspection
- Who are the labour inspectors and what do they do?
- Powers of labour inspectors
- Obligations of labour inspectors

Objectives of the Session

- Conditions of service of labour inspectors
- Criteria for the determination of the number of inspectors
- Material means and practical conditions
- Types of labour inspection visits
- How labour inspection services ensure decent working conditions
- Why are sanctions important to promote compliance?
- Current challenges in labour inspection.

What is the labour administration?

- **Labour Administration** is the institutional framework within which national labour policy is developed, implemented, coordinated, checked and reviewed.
- **National Labour Policy** normally covers:
 - Employment and vocational training
 - Labour protection
 - Industrial relations
 - Research
 - Labour market information

What is an effective system of labour administration?

- An effective system of labour administration implies:
 - A coordinated system of competent bodies
 - An institutional structure integrating the active participation of workers and employers & their respective organisations
 - Separate structures responsible for service delivery and the management of planning, monitoring and evaluation
 - Adequate human, financial and material resources
 - Effective services in the fields covered (inspection, employment, vocational training, labour market information)

What are the principal functions of labour administration?

- Plays an instrumental role in drafting and reviewing national labour standards
- Offers its services to workers, employers and their respective organisations with a view to:
 - Adopting new labour standards through CB
 - Smoothing out difficulties which may arise during negotiations
 - Reducing the risk of labour disputes

What are the principal functions of labour administration?

- Implements and coordinates the preparation and application of standards on:
 - Working conditions
 - Terms of employment
 - Occupational Safety and Health
- Checks the effective application of labour standards through labour inspection.

What is the labour inspection?

- **The labour inspection** is the national competent authority that ensures that labour legislation and policies are applied in practice at the enterprise level.
- **An efficient labour inspectorate** is the surest guarantee that national and international labour standards are complied with not only in law but also in fact.

What is the labour inspection?

- **Labour inspection** is the most important instrument of State presence and intervention to foster a culture of prevention covering all aspects potentially under its purview:
 - Industrial relations
 - Wages and general conditions of work
 - Occupational safety and health
 - Issues related to employment and social security

What is the purpose of labour inspection services?

- The main purposes of labour inspection include the need to ensure that:
 - Labour legislation is respected in workplaces
 - Workers' rights are respected and decent employment and working conditions are met
 - Enterprises adopt adequate control measures to ensure work practices and environment do not put employees into safety and health risks
 - Employers and workers get information and guidance about how to comply with legal requirements

What is the purpose of labour inspection services?

- Harmonious relations between employers and workers and a labour framework of social dialogue contributes to sustainable economic growth.
- Feedback information and lessons learnt from the practice are shared among stakeholders as a means of developing legislation, policy and guidance that contributes to maintaining modern and effective legal provisions covering conditions at work.

Primary Functions of Labour Inspection

- To secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work (...)
- To supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions
- To bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions

Scope of Labour Inspection

- Protection of income e.g. minimum wages (where applicable) including wages/salaries records, overtime payments, etc.
- Hours of work and overtime, holidays and rest periods including sick and maternity leave.
- Fundamental labour rights and discrimination.
- Health and safety conditions and welfare facilities.
- Accident investigation and work injury compensation.

Scope of Labour Inspection

- Employment matters (from illegal employment, work permits to employment promotion, including vocational training programmes).
- Control of payment of social security contributions.
- Employment of children and young persons and other workers with special needs (e.g. physically challenged).
- Social dialogue and industrial relations issues, as monitoring of collective agreements.

Principles of Labour Inspection

- INDEPENDENCE
- PARTNERSHIP
- COOPERATION
- PREVENTION
- UNIVERSALITY

Principles of Labour Inspection

- EFFICIENCY & EFFECTIVENESS
- ACCOUNTABILITY
- TRANSPARENCY
- CONSISTENCY & COHERENCE
- PROPORTIONALITY

Who are the Labour Inspectors & What Do They Do?

- **Labour inspectors** are supervisors, advisors and enforcement agents, with an overall mission of guidance of improving working conditions and productivity in the workplace.
- The system of labour inspection is backed up by a body of specialists to whom the more complex cases are referred by the generalists
- Generalists are inspectors who know something about everything
- Specialists are experts who know everything about something

Powers of Labour Inspectors

- **Supervision:** including its right of free entry to establishments and the right of free inspection
- **Injunction:** ordering the enterprise to adopt necessary measures to remedy defects in accordance to the labour legislation

Powers of Labour Inspectors

Supervision Powers of Labour Inspectors

- To enter freely and without previous notice at any hour of the day or night any workplace liable to inspection
- To enter by day any premises which they may have reasonable cause to believe to be liable to inspection
- To carry out any examination, test or enquiry which they may consider necessary in order to satisfy themselves that the legal provisions are being strictly observed, (...)

Powers of Labour Inspectors

IN PARTICULAR:

- To interrogate the employer or the staff
- To require the production of documents, the keeping of which is prescribed by national laws, and to copy such documents
- To enforce the posting of notices
- To take or remove for purposes of analysis samples of materials and substances used or handled

Powers of Labour Inspectors

Injunction Powers of Labour Inspectors

- Make legal orders and require the adoption of measures needed to correct the law breach (...) within a set timeframe
- Order the immediate adoption of corrective measures or, the immediate stoppage of working activities
- Apply, or propose to the competent authority to start a procedure to impose sanctions and penalties
- Decide in each case to give advice or warning, or start enforcement proceedings

Obligations of Labour Inspectors

- **Independence and impartiality**
- **Integrity**
- **Professional secrecy**
- **Confidentiality regarding the source of complaint**
- **Professionalism and competency**
- **Discretion**

Conditions of Service of Labour Inspectors

- Public officials assured of stability of employment
- Recruited with sole regard to their qualifications (women shall be eligible for appointment to the inspection staff)
- Adequately trained and provided with the necessary instructions and support for the performance of their duties
- Competent to undertake their responsibilities
- Impartial and independent of improper external influences
- Remuneration and career prospects sufficient to attract and retain qualified personnel

Criteria to Determine the Number of Inspectors

- The importance of the duties they have to perform, in particular:
 - The number, nature, size and situation of the workplaces liable to inspection
 - The number and classes of workers employed in such workplaces
 - The number and complexity of the legal provisions to be enforced
- The material means at their disposal
- The practical conditions of the visits

Material Means and Practical Conditions

- Proper credentials to allow free access to the workplaces
- Properly equipped with suitable offices
- Provided with transport facilities and adequately reimbursed for any necessary expenses they incur in carrying out their duties
- Supported by adequate penalties for violations of legal provisions enforceable by them and for obstructing them in the performance of their duties
- Properly empowered with intervention powers

Types of Labour Inspection Visits

- ROUTINE VISITS
- VISITS BY REQUEST
- EMERGENCY VISITS

How Do Labour Inspection Services Ensure Decent Working Conditions?

- The Labour Inspection can achieve decent working conditions through:
 - Enforcement of law, which is traditionally perceived as control or supervision; and
 - Prevention of poor working conditions from existing in the first place.
- Prevention in the context of labour inspection means a determined effort to avoid or eliminate the risk of accidents and diseases, labour disputes, conflicts, unfair treatment of workers, etc. by assuring compliance with existing legislation.

How Do Labour Inspection Services Ensure Decent Working Conditions?

- The preventative role of the labour inspection services implies an increasing emphasis on proactive activities namely:
 - Carrying out planned proactive inspection visits to identify cases of non-compliance and taking corrective action;
 - Assessing plans for new buildings, plant, equipment, processes, etc;
 - Promotion of preventive culture in the enterprises themselves among employers and employees.

How Do Labour Inspection Services Ensure Decent Working Conditions?

- Labour inspection services ensure the effective application of legal provisions through:
 - Securing enforcement of laws by verifying how far they are actually adhered to, by dealing with accidents, incidents and disputes and enforcing penalties and sanctions;
 - Supplying information and advice and providing relevant education and training to employers and workers that are directed towards the future.
 - Inspectors give advice about the measures to be taken to:
 - Ensure safety;

How Do Labour Inspection Services Ensure Decent Working Conditions?

- Devising and implementing policies to prevent poor working conditions from existing and promoting a prevention culture in enterprises.
- Explaining the legal requirement concerning the payment of wages;
- Indicating where and how medical examinations can be carried out;
- Demonstrating the importance of limiting work hours;
- Discussing existing or potential problems with the employer and workers.

Why are Sanctions Important to Promote Compliance

- **Deterrence** is the most important purpose of the sanctions and a key to promote compliance. In addition to deterrence, the other main purposes of sanctions are:
 - **Punishment:** sanctions have value as a means of securing social justice.
 - **Rehabilitation:** sanctions may be used to help educate offenders, albeit through forceful means, as to what the law requires and the need to comply with it.
 - **Restoration:** restorative justice gives victims the chance to understand the real impact of what they have done and to do something to repair the harm (in this case against workers or workers' families).

Current Challenges in Labour Inspection

- Changes in the economic situation and social structure
- Changes in industrial structure
- Changes in the organization of labour and employment
- Changes in social and political expectations.
- Changes in technology and in the nature of work hazards

Current Challenges in Labour Inspection

Changes in Economic situation & Social Structure

- Economic crises
- International migration
- Ageing
- Change in the gender profiles at work

Current Challenges in Labour Inspection

Changes in Industrial Structure

- Switch from manufacturing to services
- Privatisation
- Downsizing
 - concentrating on core activities
 - “contractorization”

Current Challenges in Labour Inspection

Changes in labour organisation

- Small Firms growth
- Trade Union membership decline.
- Changes in the working relationships:
 - People working remotely
 - Increased use of contractors/subcontractors.
 - Increase of self-employed workers
 - Increase of the “informal workers”

Current Challenges in Labour Inspection

Changes in working hazards

- New and emerging health hazards
- Ergonomics
- HIV/AIDS
- Stress

Thank you!



ACTRAV

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