



ACTRAV/ITC-ILO Course (A155169)

**Trade Union Actions for Achieving Decent Work for Migrants
(Kisumu, Kenya, 21 – 25 May 2012)**

**Labour Inspection and Migrant Workers:
Special Challenges of a New Age of
Globalization**

Structure of the Presentation

The presentation is structured as follows:

- ✓ Mandate of the ILO
- ✓ Why Labour Inspection?
- ✓ Changing World of Work
- ✓ Addressing Sub-Standards Conditions
- ✓ Labour Migration and Undeclared Work
- ✓ Challenges for Labour Inspection
- ✓ Innovative Approaches
- ✓ Specialized Policy and Training Needs



Mandate of the ILO

- To promote opportunities for men and women to obtain decent and productive work, in conditions of freedom, equality, security and human dignity, which is summed up by the expression “Decent Work as a global goal.”
- The Treaty of Versailles which founded the ILO in 1919 and the Declaration of Philadelphia of 1944 contain clear indications of the relevance of **Labour Inspection** in the world of work, in both industrialized and developing countries.

Mandate of the ILO

- ✓ Beyond enactment of International Labour Standards in national law, **Labour Inspection** is the key and main guarantor of respect for, and enforcement of, occupational safety and health protections.
- ✓ International Labour Standards are generally considered applicable to all workers, regardless of immigration status (therefore including migrant workers in irregular situations).

Mandate of the ILO

- ✓ The 2008 SJD states that for the ILO to achieve its objectives, the Office would need to strengthen its capacity to assist its Members' efforts inter alia through making labour law and institutions effective, including in respect of the recognition of:
 - Employment relationship;
 - Promotion of good industrial relations; and
 - Building of effective labour inspection systems.

- ✓ By adopting the GJP in 2009, the ILO pointed to the need to strengthen the capacities of labour administration and labour inspection as an important element in inclusive action on:
 - Worker protection;
 - Social security;
 - Labour market policies; and
 - Social dialogue.

Why Labour Inspection?

- ✓ Crucial for addressing the negative consequences of globalization and ensuring an equal distribution of its benefits.
- ✓ Means of ensuring compliance with legal provisions relating to general conditions and occupational safety and health.
- ✓ Strong labour inspection system is an essential pillar of good governance.
- ✓ An efficient and effective labour inspection system ensures both workers' welfare and improved financial results through higher productivity

Changing World of Work

- ✓ The sheer diversity of the global workforce has changed under whims of globalisation and as such, labour administration and inspection need to adapt to this reality by extending coverage to all shades of working people including:
 - Informal economy workers;
 - Workers in rural and agricultural employment;
 - Home-based workers;
 - Workers in subcontracted, outsourced, disguised and triangular employment relations;
 - Public sector workers;
 - Workers in extended global supply chains, including EPZs.
 - Migrant workers and those posted across borders; and

- ✓ Also, labour administration and inspection must be at the heart of combating child, forced labour and human trafficking.

Addressing Sub-Standard Conditions

- ✓ Addressing migrant workers has become a prominent issue on agendas of national labour inspection agencies in a number of countries (including Argentina, Belgium, Canada, France, UK, USA...)
- ✓ At the international level, attention is also given to the application of labour inspection to migrant workers:
 - IALI (International Association of Labour Inspectors) Conference in Geneva in 2005
 - World Congress on Occupational Safety and Health in Seoul in 2007

Labour Migration and Undeclared Work

- ✓ In an opinion survey undertaken in the EU, people were found to associate migrant workers very closely with the phenomenon of undeclared work.
- ✓ The legal and economic vulnerability of foreign workers makes them susceptible to serving as vectors to undermine respect for and enforcement of **decent work** conditions and standards in national labour markets.
- ✓ In the EU, migrants in irregular situations represent between 11 % and 23 % of the 29 million total foreign born in EU member countries.
- ✓ However, in numerous situations, the presence of migrants in irregular situations appears to have been tolerated by authorities ...

Challenges for Labour Inspection

- ✓ Sub-standard conditions of employment of migrant workers
- ✓ Migrant workers often have lesser knowledge of legal standards, host countries' languages, and may have little formal training/education
- ✓ Informal employment agreements leave many migrant workers with little or no basis for upholding claims to wages/payment
- ✓ Difficulty to ensure compliance along sub-contracting chains (as in construction, cleaning...)

Challenges for Labour Inspection

- ✓ Non-payment of wages: labour inspectors should facilitate to migrants the access to assistance and criminal justice authorities, to adequately enforce sanctions.
- ✓ Widespread imposition of measures that compel labour inspectors to conduct immigration enforcement activity as part of their workplace inspection agenda: this can intimidate precarious migrant workers from exposing their abusive conditions.

Innovative Approaches Emerging

- ✓ Labour inspection agencies in a number of countries have been developing specialized approaches:
 - ✓ Incorporation of review of equality of treatment in inspection activities (Belgium)
 - ✓ Inclusion of discrimination issues in training of labour inspectors
 - ✓ “Special Expatriate Squad” to oversee all aspects of employment of foreign workers; specialized labour inspectors with ILO training, interpreters and legal officers in direct contact with migrant workers (Mauritius)
 - ✓ Coordination between various relevant Ministries

Specialized Policy and Training Needs

- ✓ Two main needs of labour inspection covering migrant workers:
 - ✓ Articulation of a set of clear policy guidelines to effectively uphold labour standards for migrant workers.
 - ✓ Training materials to provide inspectors with the specialized knowledge required to conduct labour inspection in workplaces where migrant workers are found.