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GOOD PRACTICES IN LABOUR INSPECTION

**The rural sector with special
attention to agriculture**



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PREFACE

At its 100th Session in June 2011, the General Conference of the International Labour Organization approved a resolution and a set of conclusions on labour administration and labour inspection. Among the various conclusions, the International Labour Office was requested to develop a database, accessible through the ILO website, on best practices in labour administration and inspection.

In this regard, LAB/ADMIN has launched a series of publications that collect good practices in different areas and economic sectors. This is the first time that a set of good practices on labour inspection in the rural sector with specific attention to agriculture has been put together. It will give readers an opportunity to familiarize themselves with various systems, procedures and practices.

This collection of good practices ends with some practical guidelines. These represent a useful tool for labour inspectors, workers and employers with a view to better understanding the implications and complexities of a labour inspection system.

I particularly welcome this publication, prepared by Helena Pérez, an ILO consultant, and do hope that it will prove useful for all those concerned with labour inspection in rural areas.

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GENERAL OVERVIEW OF THE RURAL SECTOR

Nearly half of all humanity lives in rural areas, 3 billion of whom live in developing countries.¹ Rural employment is a critical means for reducing poverty and hunger, as labour is often the only asset that people own. However, in many cases jobs in rural areas do not ensure decent levels of income or sustainable livelihoods.

In 2009, there were as many as 1.068 billion workers in agriculture, forestry, fishing and hunting (representing 35 per cent of the global workforce), and many more operated in rural manufacturing and services.² Agriculture is usually the core of rural economies and 86 per cent of rural people rely on it for their livelihood. Agriculture accounts for 63 per cent of rural household income in Africa, 62 per cent in Asia, 50 per cent in Europe and 56 per cent in Latin America. It is also the most important sector for female employment in many countries, especially in Africa and Asia. Non-agricultural jobs in rural areas are increasing rapidly, changing the nature of local economies and the composition of the workforce.

Rural labour markets offer employment both to the self-employed and to wage earners. Rural wage earners do not own or rent either the land on which they work

or the tools or equipment that they use. They work for some kind of “wage” that can include payment in kind. Rural wage earners work, for example, in crop fields, orchards, greenhouses, livestock units, fish farms, forests, mines, or in primary processing facilities to produce the world’s food, fibres and biofuels, as part of the global food chain. Rural wage workers do not form a homogenous group. Their employment relationship can be with an individual, a family undertaking, a company, or labour contractor or subcontractor. The labour relationship can also include different categories, including full-time, temporary or casual, seasonal, and piece-rate workers. They tend to be workers with little formal education or training and with low levels of literacy. Working conditions of rural wage earners vary tremendously, but they tend to be vulnerable and more likely to be exploited.

Self-employed rural workers can include, for example, owner farmers, tenant farmers, smallholders, fishing boat owners, and small-scale and artisanal fishermen. In agriculture, smallholder farming or family farming remain the most common forms of establishments. Many smallholder farmers are, in reality, part self-employed farmer, part wage worker and part employer. They regularly work on another farm or plantation, or in a non-farm job, for part of the year to supplement their meagre incomes.

1 According to Food and Agriculture Organization of the United Nations (FAO) <http://www.fao-ilo.org>.

2 ILO: Global Employment Trends (2010).

INTERNATIONAL LABOUR STANDARDS

The International Labour Organization has two main Conventions on labour inspection applicable to rural areas: Convention No. 81 on Labour Inspection in Industry and Commerce, and Convention No. 129 on Labour Inspection in Agriculture. ILO Convention No. 129 is based on Convention No. 81 and so the bulk of the provisions in both conventions is identical, but Convention No. 129 provides the framework for extending labour inspection to agricultural workers, including workers who are not in an employment relationship or one of dependency or subordination. Convention No. 129 is not applicable to all undertakings in rural areas, but only to agriculture.

Many ILO Conventions apply to all workers, including those in rural areas. These include the ILO core labour standards on freedom of association, the right to collective bargaining, non-discrimination, equal pay for men and women workers, the abolition of forced labour (Convention No. 29 and Convention No. 105), and the elimination of child labour (Convention No. 138 and Convention No. 182). The Convention on Occupational Safety and Health (No. 155) and its Recommendation (No. 164) also apply to all branches of economic activity. The Convention on Workers' Representatives (No. 135), which grants workers' representatives certain rights to allow them to fulfil their functions efficiently, is also an important standard to take into account.

There are other international labour standards applicable to different occupations and sectors in the rural economy, which include the following:

- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) and Recommendation, 1951 (No. 89);
- Holidays with Pay (Agriculture) Convention, 1952 (No. 101);
- Convention on Plantations (No. 110) and its Recommendation (No. 110);
- Tenants and Sharecroppers Recommendation, 1968 (No. 132);
- Rural Workers' Organizations Convention, 1975 (No. 141) and Recommendation (No. 149);
- Convention on Safety and Health in Mines (No. 176) and its Recommendation (No. 183);
- Convention on Safety and Health in Agriculture (No. 184) and its Recommendation (No. 192);
- Convention on Work in the Fishing Sector (No. 188) and its Recommendation (No. 199);

The Convention on Indigenous and Tribal Peoples (No. 169) and the HIV and AIDS Recommendation (No. 200) are also standards that are especially relevant in rural areas.

THE RELEVANCE OF LABOUR INSPECTION

Huge numbers of self-employed and wage rural workers are subject to poor labour conditions. Rural workers tend to be less protected by national legislation than workers in other economic sectors. The outstanding elements of decent work typically include a lack of freedom of association and collective bargaining, underemployment, low wages, poor occupational safety and health standards, gender inequality, long hours of work, poor working time arrangements, lack of social protection, poor housing, and discrimination. The worldwide trend towards work flexibility and the pressure to reduce labour and production costs is changing the nature of agricultural and rural production, often weakening labour protection and increasing vulnerability in the process.

Strong economic and social power imbalances between employers and workers tend to be more prevalent in rural society than in urban areas, and they can undermine the fair and effective functioning

of rural labour markets. Employers often own not only the land, but also the other assets that workers need, such as housing, access to water, access to forest resources, animals, convenience stores, credit, and, in some cases, schools and health-care facilities. There are often complex interlocking relationships in place, which can involve wages, barter and other types of exchanges between employers and workers, and reinforce workers' dependence.

The goal is to ensure that rural workers have equivalent levels of protection as those provided to workers in industry and commerce. Labour inspection is a vital element in the promotion of decent work for all. This fact is recognized by the ILO: "an effective system of labour inspection at the national level, carried out by professionally trained and adequately resourced inspectors, who are suitably qualified and knowledgeable about rural labour market issues and independent of improper external influence, benefits governments, employers and workers".

WORKING CONDITIONS IN THE MOST DANGEROUS OCCUPATIONS

Agriculture. According to ILO estimates, out of a worldwide total of 335,000 fatal workplace accidents each year, some 170,000 involve agricultural workers. Mortality rates have remained consistently high over the past decade. Furthermore, widespread under-reporting of deaths, injuries and occupational diseases means that the true picture of occupational safety and health (OSH) is likely to be worse. Agricultural workers — self-employed or waged — are at risk from a wide variety of machinery, biological, chemical, dust, ergonomic, welfare/hygiene, and psychosocial and physical hazards, as well as from long hours of work, and poor living and housing conditions. Although technological change has brought about a reduction in the physical drudgery of agricultural work in some areas, it has introduced new risks, notably including risks associated with the use of sophisticated machinery and the intensive use of chemicals (especially pesticides) without appropriate safety and health risk control measures, information, or training. Poorly designed tools, difficult terrain, and exposure to the elements combined with fatigue also increase the risk of accidents. In agricultural work there is no clear distinction between working and living conditions, which is unlike the situations of factory or office workers. As a result, not only agricultural workers but also their families are exposed to pesticides and other agrochemicals contaminating water used for drinking, washing or bathing, and for cleaning clothes: pesticide sprays drift, and pesticide-contaminated soil and pesticide residues can be found in the local farm produce they consume. Furthermore, the poverty experienced by wage agricultural workers and small farmers can also contribute to increased risks of work-related ill health due to poor diet and malnutrition.

Forestry. Forestry employs 13.7 million formal workers, although its workforce is probably much larger due to widespread informality, especially in developing countries. Informal workers have been estimated to represent between 66 and 72 per cent of employment in forestry depending on the definitions involved and data available. Forestry continues to be one of the most hazardous industrial sectors in most countries, with high rates of accidents and a high incidence of occupational disease and early retirement among forestry workers. Logging work has the highest accident rate. The felling of trees, the lifting and extraction of logs, and repair and maintenance work carry high accident risks. Many accidents take place in the transportation of timber and in travel to work sites. Climatic, topographical and biological conditions also have a significant impact on working conditions in forestry. Serious health problems tend to be related to high physical workloads, exposure to climatic extremes, noise, and vibration. Work sites are usually temporary, scattered, and isolated. This geographic isolation can make the enforcement of labour standards difficult. As forestry work tends to be seasonal, annual income may be low even though daily rates are relatively high. The principal wage systems applied in forestry are time-work and piece-work. More and more forest owners or firms rely on contractors hired for a particular job, rather than permanently employing their own workers. Contracted workers in many countries are not covered by labour legislation and enjoy much less protection than employed workers. The contractors themselves and their employees have very unstable employment. Under pressure to cut costs in a very competitive market, contractors often overstretch themselves and their employees with a high pace of work and excessive working hours. In

industrial forestry in developing countries, the workforce is usually young with a high turnover of labour because of heavy physical work and low pay, particularly among workers employed in logging.

Artisanal fishing. Employment in fisheries and aquaculture has recently grown substantially, with an average annual increase of 3.6 per cent since 1980, providing up to 45 million jobs in 2008. Small-scale fisheries contribute over half of the world's marine and inland fish catch, employing over 90 per cent of the world's 35 million capture fishers. They support another 84 million people employed in jobs associated with fish processing, distribution and marketing. According to ILO estimates, fishing and related occupations are among the most dangerous of all work. Fatality rates can be many times higher than the national average (ranging from 150 to 180 per 100,000 workers, in different countries). There is no overall figure for the number of accidents in the sector. In the coastal zones of developing countries most fishermen are in the artisanal small-scale sector, and still belong to the informal sector or work under casual employment arrangements. Many fishermen are engaged only partly in fishing and derive the rest of their income from agricultural or other occupations. Typical risks and dangers include extreme climatic conditions, injuries from fish and other animals, poisoning, injuries by deck equipment and machinery, falling overboard and hypothermia, fires on board, loss of power, unsuitable boats, lack of accessible shelters, and inadequate communication. Economic hardship or transitory financial difficulties often cause fishermen to take extra risks, even when their better judgement might suggest otherwise. Certain management

strategies also motivate fishermen to increase their earnings by taking risks that they would not otherwise take. Such strategies involve, for example, limiting fishing time and area, and transferring and leasing catch quotas.

Small-scale mines. Artisanal small-scale mining (ASM) refers to mining by individuals, groups, families or cooperatives with minimal or no mechanization, often in the informal sector, working without a mining title. A range of between 13 and 20 million people work in artisanal small-scale mines. The ILO estimates that children (under 18 years of age) account for 7.7 per cent of the total of ASM workers, or 1 to 1.5 million evenly split between boys and girls. The reason that small-scale mining is particularly dangerous is because it is largely unregulated, with very little surveillance of workers' health and safety. By the time miners get ill it is often at a very late stage in the development of the illnesses and it is too late to do anything. For self-employed artisanal miners, the use of safety equipment depends almost exclusively on their own consciousness. Artisanal mine workers employed by small-scale mining concession holders usually have to supply their own safety equipment if there is to be any. The major health risks presented by small-scale mining and processing include exposure to dust (silicosis), harmful fumes, mercury and other chemicals, the effects of noise and vibration, poor ventilation (heat, humidity, lack of oxygen), over-exertion, inadequate work space, and inappropriate equipment. People dependent on ASM for their livelihood are highly vulnerable. Life is difficult for the vast majority of people engaged in the ASM sector, where extreme poverty is a common condition.

VULNERABLE GROUPS WORKING IN AGRICULTURE

The rural workforce as a group is one of the poorest, most vulnerable, and most likely to be exploited. There are certain categories of workers that tend to be especially vulnerable in agriculture and rural areas. These groups will tend to be more susceptible than other workers to the violation of fundamental rights, to be exposed to higher risks, to be involved in precarious employment relationships, have lower wages, in many cases lack social protection, have less access to training, and have fewer real opportunities to enjoy decent employment conditions. These groups are also the least well equipped to face the consequences of climate disasters or economic turmoil.

Migrant workers. In some countries the majority of agricultural workers are migrant workers (internal or foreign) and enter into all types of employment relationships. They often experience discriminatory treatment on the job and face strong disadvantages in terms of pay, social protection, housing and medical care. Difficulty in understanding the local language is one of the main causes of their vulnerability and may expose them or others to OSH risks. Forced and bonded labour are also prevalent among migrant agricultural workers. Additionally, when families migrate for agricultural work, it is often only the male head of household who is on the employer's payroll, despite the involvement of the spouse and children in the work. When parents migrate alone, families are broken up and children are left in the care of others.

Indigenous and tribal peoples. These groups form a part of the agricultural workforce in many countries. Indigenous peoples are more likely than non-indigenous peoples to work in agriculture. They are often forced off their lands and end up as agricultural workers, usually under poor employment and working conditions, and face de facto discrimination in terms of conditions of employment. In many countries in Latin America, for example, the living and working conditions of indigenous workers and their families are below the average for workers belonging to what is referred to as the "predominant society", including non-indigenous rural workers. These differences are evident in access to education, social security, levels of trade union membership, salaries and occupational health and safety. It is also commonly reported that forced labour is prevalent amongst indigenous peoples.

Women. A particular feature of rural labour markets, and especially of agriculture, is the high percentage of women working either as farmers or wage workers, or a combination of both. Women are behind men in terms of access to land, credit, a broad range of technologies, information, advisory services, and training. They are frequently shut out of "social capital", such as farmers' organizations, workers' unions and community networks that can enhance productivity and growth. Women also constitute a significant proportion of unpaid family workers and are usually clustered in fewer sectors than men in agriculture – in

Employment Status	Sub-Saharan Africa		South Asia		East Asia and Pacific		North Africa		Europe and Central Asia		Latin America and Caribbean	
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male
Agriculture	54,9	60,6	24,1	54,9	44,1	56,2	3,6	34	12,3	18,6	25,1	59,3
Non-agriculture	9,6	15,5	5,6	27,2	19,7	28,9	6,7	39,7	19,7	38,7	23,2	26,4
Non-active or not reported	32,7	21,7	64,3	14,6	35,5	14,4	53,3	26	46,9	27,5	51,2	13,4
Total	97,2	97,8	94	96,7	99,3	99,5	99,6	99,7	78,9	84,8	99,5	99,1

Source: FAO 2010

subsistence production – so it is harder for them to switch to better jobs when economic opportunities arise. They suffer many instances of discrimination including facing a huge wage gap. Many rural workers remain poor because they receive low earnings and live and work in precarious conditions, they are vulnerable to poor health and other problems, and they have little access to risk-coping mechanisms such as insurance or social assistance.³

Children and young workers. Over 130 million children under the age of 18 work in agriculture, which accounts for 60 per cent of child labourers. Children helping out on family farms, when it does not interfere with their schooling or harm their safety and health, would not count as child labour. “Young workers”, or those above the minimum legal age for employment (14 or 15 years of age or above depending on the country) working under “decent conditions of work with good levels of

health and safety protection provided by the employer” would also not count as child labour. However, if those same young workers were working on an agricultural undertaking with poor OSH levels, and an inspector judged that the employer could not raise OSH standards to a satisfactory level, they would have to be classed as hazardous child labour.

HIV/AIDS victims. In 2007, 33 million people were estimated to be living with HIV worldwide. HIV infection rates in rural areas are hard to measure and are likely to go unreported. While early outbreaks of the disease occurred predominantly in urban areas, the majority of people living with HIV/AIDS are now in rural areas. The risk of contracting HIV/AIDS and responding to those who have contracted the disease should be treated like any other serious risk or disease at work. In addition, HIV/AIDS is affecting fundamental rights at work, particularly with respect to discrimination and stigmatization aimed at workers and people living with and affected by HIV/AIDS.

³ Gender dimensions of agricultural and rural employment: Differentiated pathways out of poverty Status, trends and gaps, FAO, Rome 2010.

Facts and figures

- The rural workforce is one of the poorest, most vulnerable and most likely to be exploited.
- Many millions of rural workers are trapped in low-earning jobs in sectors like agriculture, forestry, fishing, small-scale mining, food processing and services.
- About 60 per cent of child labourers work in agriculture, representing 131 million children under the age of 18.
- Agriculture, forestry, fishing and small-scale mining are among the most dangerous sectors in terms of fatal accidents, injuries, and work-related ill health. At least 170,000 agricultural workers are killed each year.
- For workers in agriculture the risk of dying on the job is twice that of workers in other sectors.
- Trade unions organizing wage rural workers and agricultural producer organizations representing smallholder farmers tend to be weak, fragmented, and poorly resourced.

CHALLENGES IN COMPLIANCE AND ENFORCEMENT

Poor labour regulations

Rural workers, especially in agriculture, often fall outside the scope of the application of national labour laws. In some countries, the agricultural sector is specifically excluded from the scope of general labour legislation – a factories act, for example – which is limited to industrial enterprises and their workforces. Sometimes they are excluded in practice due to their employment status (e.g., self-employed, small-holder farmers, casual and seasonal workers). Where protective legislation covers agricultural workers it is often outdated.

Some countries that exclude agricultural undertakings from the scope of the application of their labour codes include: Bangladesh, Honduras, Japan, Lebanon, Panama, Saudi Arabia, Myanmar, Pakistan, Swaziland, Switzerland, Thailand and United Arab Emirates.

Ignorance of the law

In rural areas in many countries there is a general ignorance of the existence of applicable laws or their content. Added to this is the fact that rural populations usually account for the highest illiteracy rates, and local languages may differ from official languages, making it more difficult for them to understand legal rules, which are usually written only in official languages. In addition, they tend to hold ancestral customs in higher esteem than legislation.

Weak enforcement

Even where specific legislation has been enacted to accommodate the particular characteristics of agricultural work – for

example, with regard to working time arrangements, wage structure, and the provision of housing in remote areas – inspection and enforcement tend to be weak. In some instances poor enforcement practices are due to scarce resources, geographical situation, difficult-to-reach workers, concentration on urban employment, or workforces with a variety of enterprises means of operation. In other cases, it is simply due to the fact that inspectors themselves are under-trained, underpaid and under-equipped.

Difficulties in determining employment relationships and status

Labour inspectorates have great difficulties in determining the employment relationship and employment status of rural workers, especially given the prevalence of family farming, home work and informal work. Agriculture, particularly in temporary and seasonal work, is one of the sectors where undeclared work is common in many cases because the complicated and expensive documentation procedure may be a deterrent to registration (the end result of which, it must be remembered, is the deduction of taxes and social security contributions from wages). Furthermore, workers may not particularly wish to contribute to social security if it cannot provide them with local, accessible health-care services. Within the rural economy, employment relationships can be blurred, ambiguous, obscured by webs of labour contracting or deliberately disguised, making protection under the law immensely difficult. If workers do not have a clear and direct employment relationship with the person or enterprise for which they perform work then they will be uncertain of who it is that employs them, and thus how to claim employment rights. The labour contractor/provider may not be a proper

enterprise, but an intermediary of the supposed user enterprise, intended to conceal the user's identity as the real employer. Determining the employment relationship can be especially difficult when workers are employed by and through labour contractors (gangmasters), who ask workers for commissions, overcharge for transport, housing and food, hold back wages, and impose debt slavery.

Violence against inspectors and corruption

In some countries labour inspectors face obstructions and threats, or actual violence against them. This is sometimes associated with racial prejudice, and often uncontested because of lack of police or government support, which discourages inspectors from making a determined

Recommendation No. 198 concerning the employment relationship

The Recommendation establishes that in order to facilitate the determination of the existence of an employment relationship, countries should:

- allow a broad range of means for determining the existence of an employment relationship;
- provide for a legal presumption that an employment relationship exists where one or more relevant indicators is present; and
- determine that workers with certain characteristics, in general or in a particular sector, must be deemed to be either employed or self-employed.

Indicators to determine such employment relationship can include the fact that the work:

- is carried out according to the instructions and under the control of another party;
- involves the integration of the worker in the organization of the enterprise;
- is performed solely or mainly for the benefit of another person;
- is carried out personally by the worker;
- is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work;
- is of a particular duration and has a certain continuity;
- requires the worker's availability;
- involves the provision of tools, materials and machinery by the party requesting the work;

Further indicators include that there is a periodic payment of remuneration which constitutes the worker's sole or principal source of income; that payments in kind, such as food, lodging or transport are provided; or the absence of financial risk for the worker.

effort to establish a presence in the rural sector. The killing of labour inspectors is certainly rare, but threats, resistance and acts of violence against them are by no means exceptional. In Brazil inspectors often travel around the country accompanied by armed federal police officers, as three labour inspectors were killed in 2004, allegedly after identifying plantations where forced labour was used. Also in 2004, two labour inspectors were killed in France while they were trying to perform an inspection visit.

Weak and fragmented rural organizations

Labour organization both for the self-employed and for wage workers tends to be weak and fragmented in rural areas, where traditional – even feudal – labour relations persist. Labour organization is stronger when farms are large, employment is more permanent, and labour relations are more formalized (in plantations, for example). Rural workers' unions are more often of a territorial than a sub-sectoral nature, and frequently include small producers alongside pure wage workers. Many rural informal economy workers are poorly organized for a variety of reasons, the main one being the lack of an employer–employee relationship. Rural workers, especially in agriculture, face both legal impediments and practical challenges in asserting this right. Violations of freedom of association range from regulatory restrictions and practical impediments to physical assaults and the assassination of trade union leaders and officials in rural areas.

Forced labour

Labour inspectorates often lack a clear mandate on forced labour and human trafficking, because in many countries forced labour and trafficking are criminal offences that are primarily investigated by

the police. It also happens that the scope of labour inspection systems may not cover sectors in which forced labour practices tend to occur, such as agriculture, domestic work, and the sex industry. Providing labour inspectors with a mandate to combat forced labour requires strong political will to strengthen the labour inspections system as a whole by, for example, by increasing the number of inspectors, training them, and providing them with resources.

In many cases forced labour is easy to identify but difficult to detect when it occurs in isolated rural areas where labour inspection and other forms of inspection are lacking. According to ILO estimates, Asia accounts for by far the biggest share of the world's forced labourers. Many are migrants, either from elsewhere in Asia or within their home country. In Latin America those most at risk are also migrant workers in agriculture and domestic service. Rising concern in Africa about forced labour and human trafficking has led to tougher national laws in recent years as well as action at regional level.⁴

Excessive working time

Working time is one of the main gaps in protecting agricultural workers, with many of them regularly working long hours, often from sunrise to sunset depending on the seasons, weather, or crops. These workers often exceed the prescribed limit for the

⁴ Forced Labour: Facts and Figures, The Cost of Coercion: Regional Perspectives, ILO, Geneva, 2009.

number of hours worked, but national laws often exclude agricultural workers from provisions concerning maximum working time.⁵

Low wages

In some countries minimum wages do not apply to agriculture, or the periodic readjustment of minimum wage rates is not respected. The wage rates of rural workers remain below those of their urban counterparts and there is even evidence that in many transition economies, higher economic growth rates are actually widening urban–rural wage gaps. Wages in agriculture tend to be low, with many workers being paid below the national minimum wage.

Inadequate housing and living conditions

Agricultural workers and their families often have to live on the agricultural production site and in many countries the housing and living conditions (when provided) are often characterized by inadequate and

overcrowded installations, no heating, poor ventilation, deficient sanitary facilities, and a lack of drinking water, all of which facilitate the spread of communicable diseases. Living conditions often remain inhuman, with workers living in tents, makeshift plastic huts/shacks or hostels for long periods. Casual workers are rarely provided with plantation housing. Many are migrants who live in shanties near the estates without even the most basic sanitary facilities. In some countries, labour authorities do not have the legal basis for inspecting those conditions or, if regulation exists, the inspection visits are infrequent.

Unsafe transportation

In many countries, agricultural workers are transported long distances on a daily or seasonal basis from their living quarters to the fields where they work. Large numbers of workers are often packed into open trucks and vehicles never intended for transporting human passengers. Weight limitations are disregarded and safety conditions ignored. Serious road accidents involving such vehicles are frequent. It is often unclear whether such accidents are covered by employment injury insurance.

⁵ Agricultural workers are not covered by the two main ILO Conventions on hours of work (Conventions No. 1 and No. 30) or weekly rest (Conventions No. 14 and No. 106), or by the Night Work Convention, 1990 (No. 171).

EXAMPLES OF GOOD LABOUR INSPECTION PRACTICES

The labour inspectorate is a public function established by national legislation to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. In practice, labour inspection services give a great deal of information and advice to employers and workers through workplace visits. Where necessary, and frequently as a last resort, inspectors may use their injunction powers and take formal enforcement action in order to achieve compliance with the law.

The challenge is to build and extend labour inspection services so that workers in rural areas have similar levels of labour protection to workers in industry, commerce, and services. It is difficult to identify numerous good practices due to the challenges in enforcement mentioned above, but some examples are cited here. The Committee of Experts on Application of Conventions and Recommendations (CEACR) has often expressed regret at the lack of information communicated by governments on the measures taken in law and in practice to give effect to the provisions of Convention No. 129.⁶

Bringing legislation and inspection to the rural economy

In many countries, the Ministry of Labour has jurisdiction over all domestic workplaces, including those within rural areas. Fifty-one countries have ratified Convention No. 129⁷ and their labour inspectorates

are therefore responsible for enforcing legal provisions in the agricultural sector. Regarding the applicability of the law to rural areas in China, the Labour Contract Law adopted in 2007 and in force since 2008 extended the scope of the application of the law to all workers, including rural migrant workers. Considering that all previous laws and regulations were generally applied only to the urban workforce, this is notable progress. Currently, the Labour Inspectorate has set up a system in which cities, towns, and rural areas are divided into grids, and labour inspectors are assigned to each one. In Argentina,⁸ to ensure that agriculture was also part of the inspection visits programme, labour inspectors organized different inspection blitzes during 2010 and 2011. In the region of Mendoza, for example, during the fruit harvest and related packing activities, over one month inspectors visited 19 enterprises, of which 15 had compliance problems, and found that 73 per cent of the workers were not registered (over 280 workers). In December 2010, an inspection blitz during the blueberry and peach harvests was organized in the areas of San Pedro, Baradero, Zárate and Exaltación de la Cruz, where 20 farms and 648 workers were inspected, of whom 24,9% had not been registered. In Croatia⁹ and Hungary¹⁰ the labour inspectorates have prioritized the most risky sectors, such as forestry and agriculture. In Romania¹¹ labour inspectors schedule follow-up visits in the agriculture

6 General Survey on labour inspection, 2006.

7 Albania, Argentina, Azerbaijan, Belgium, Bolivia, Bosnia and Herzegovina, Burkina Faso, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Egypt, El Salvador, Estonia, Fiji, Finland, France, Germany, Guatemala, Guyana, Hungary, Iceland, Italy, Kazakhstan, Kenya, Latvia, Luxembourg, Madagascar, Malawi, Malta, Republic of Moldova, Montenegro, Morocco, Netherlands, Norway, Poland, Portugal, Romania, Saint Vincent and the Grenadines, Serbia, Slovakia, Slovenia, Spain, Sweden, Syrian Arab Republic, The former Yugoslav Republic of Macedonia, United Kingdom, Uruguay, and Zimbabwe.

8 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

9 CEACR: Individual Direct Request concerning Convention No. 129, Croatia, Submitted: 2010.

10 CEACR: Individual Direct Request concerning Convention No. 129, Hungary, Submitted: 2010.

11 CEACR: Individual Direct Request concerning Convention No. 129, Romania, Submitted: 2010.

sector to verify that the measures recommended during inspectors' first visits have been implemented.

Strengthening inspection services

By collecting information and making better use of the data. In Germany¹² the labour inspectorate collects detailed information regarding the number of agricultural undertakings and their average size, the number of persons working in those undertakings as their principal or secondary activity, accidents entailing compulsory notification (including fatal accidents) as well as their causes, reported and recognized cases of occupational disease (as well as their causes), inspections, violations reported, and the enforcement measures taken against those responsible. In China, the information gathered on each workplace's employment practices is entered into a database and cross-referenced with information on social security contributions and any previous labour law violations or any apparent risks, in order to prioritize future inspections. In Norway¹³ a hospital accident register was created to record all accidents treated in national hospitals on an electronic database. The labour inspectorate participated in this process with a view to creating a special system to record industrial accidents. This collaboration improved the notification and prevention of industrial accidents.

By maximising scarce resources. Some countries have put into place integrated inspection systems so that all issues of labour inspection within the responsibility of a labour inspection system under a

country's labour laws can be addressed during one single visit. In El Salvador, for example, there is a specific unit including labour inspectors from the occupational health, labour, and social security departments, who would carry out integrated labour visits.

By upgrading labour inspectors skills. In Uruguay,¹⁴ with support from the ILO, a course on the Safety and Health in Agriculture Convention, 2001 (No. 184), was organized for labour inspectors. Inspectors have also attended general courses on the safety of machinery and ergonomic risks, as well as training on risk prevention in the forestry sector.

Cooperation between authorities

In coordination with the Ministry of Fishing (MF), the Labour Inspectorate of Brazil¹⁵ the general list of all the boats qualified for fishing and the list of the programme of subsidies for the purchase of the diesel engine to identify boats to be inspected. This collaboration benefits both the MF and the Labour Inspectorate because it participates in the control of clandestine boats, which are responsible for the predatory fishing that causes damage in the conservation of fishing grounds. The Labour Inspectorate also coordinates with the Ministry of Environment (ME) to monitor in real time of the location of large industrial and commercial fishing vessels. In Portugal, with the objective of improving working conditions and raising safety and health standards in agriculture and forestry the Labour Inspectorate, together with the Ministry of Agriculture, Ministry

12 CEACR: Individual Direct Request concerning Convention No. 129, Germany, Submitted: 2010.

13 CEACR: Individual Observation concerning Convention No. 129, Norway, Published: 2011.

14 CEACR: Individual Direct Request concerning Convention No. 129, Uruguay Submitted: 2008.

15 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

of Education, and farmers' associations representing employers and trade unions of agricultural workers, launched a specific campaign to raise awareness of the importance of prevention and its impact on improving the quality of life and the competitiveness of agricultural enterprises. The campaign combined preventive and promotional activities. An important component of the project was the involvement of social and institutional partners so as to ensure additional possibilities to disseminate and distribute the campaign's message and informational materials to raise the level of awareness and knowledge. Cooperation between ministries also takes place in Uruguay.¹⁶ For example, frequent contact is made between the inspection services and the Ministry of Stock-raising, Agriculture and Fishing, and the Labour Inspectorate produced a report for the Ministry's specialized services on risk identification and preventive measures in stock-raising.

Collaboration with other entities

In Colombia,¹⁷ occupational risk insurance companies help to supervise the application of the relevant legislation by making it compulsory for undertakings to comply, and to stop practices that are unlawful or endanger the health or life of workers affiliated to the general system for employment injury. In Spain, the labour inspectorate and the National Institute of Occupational Safety collaborate closely to investigate occupational accidents and to prepare preventative occupational health campaigns.

16 CEACR: Individual Direct Request concerning Convention No.129, Uruguay, Submitted: 2008.

17 CEACR: Individual Observation concerning Convention No. 129, Colombia, Published: 2008.

Collaboration between social partners

The labour inspectorate in Azerbaijan,¹⁸ jointly with the social partners, periodically holds seminars and meetings on labour inspection in the agricultural sector. The Japanese Industrial Safety and Health Association, a semi-governmental body, oversees accident prevention associations in forestry, mining, construction and transportation. The prevention associations, which include workers' representatives, provide information, support research, conduct surveys, and carry out educational programs. In the Republic of Moldova,¹⁹ the labour inspectorate collaborates with employers and workers and their organizations through consultations on the observance of labour legislation, exchanges of information, the joint examination of workers' complaints by an inspector and a trade union leader, joint investigations of occupational accidents, and also joint inspections. In Romania,²⁰ the labour inspectorate organizes events with employers, workers and representatives of occupational organizations of employers and workers with a view to raising awareness and promoting good practices in agriculture. In Uruguay,²¹ labour inspectors have bipartite meetings with workers in the agricultural sector in anticipation of an inspection campaign in the north of the country to identify wage-related issues and seek permanent solutions, particularly for cane sugar workers.

18 CEACR: Individual Direct Request concerning Convention No.129, Azerbaijan, Submitted: 2011.

19 CEACR: Individual Direct Request concerning Convention No.129, Republic of Moldova, Submitted: 2009.

20 CEACR: Individual Direct Request concerning Convention No.129, Romania, Submitted: 2010.

21 CEACR: Individual Direct Request concerning Convention No.129, Uruguay, Submitted: 2008.

Promoting decent working conditions through tripartite dialogue

In a number of countries, a national consultative body of tripartite composition and with a general mandate for labour issues is appointed as a basic framework for collaboration between workers' and employers' organizations and the labour inspectorate in the area of OSH. Agriculture sector-specific tripartite bodies are established in some countries, namely Spain, Finland, Hungary, Romania, Portugal, Slovenia and the United Kingdom.²² The main concerns of the active tripartite boards are occupational accidents and diseases, training, wages, and working time. In Brazil,²³ the principal objectives of the National Standing Committee on Agriculture, set up in 2001, are a greater formalization of employment and the introduction of social protection coverage. The committee's activities focus on efforts to find appropriate solutions in order to improve conditions of work in agriculture, coordinate planning, implement and evaluate accident prevention campaigns in agriculture, and develop occupational safety and health regulations.

Providing advice and promoting a culture of compliance

In Poland,²⁴ the Labour Inspectorate organizes an annual preventive and promotional campaign to improve safety and health conditions at work in individual farms, as well as conferences, meetings, training and seminars for agricultural and forestry entrepreneurs, workers, and occupational health and safety staff on relevant legal

Tripartite structures in the United Kingdom

The Agricultural Wages Board (AWB)²⁵ is an independent body with a statutory obligation to fix minimum wages for workers employed in agriculture in England and Wales. The Board also has discretionary powers to decide other terms and conditions of employment, e.g. holidays and sick pay.

The Agriculture Industry Advisory Committee (AIAC)²⁶ was the first advisory committee to be established by the Health and Safety Executive (then Commission). It meets two to three times a year and is a source of independent advice and expertise. AIAC acts as a sounding board for agriculture, reflecting its views and identifying barriers to improvements. It predicts future structural changes in the sector, anticipates their likely impacts on health and safety performance, and assists in the development of appropriate strategies.

provisions, the hazards inherent to asbestos, transport activities, child labour in agricultural undertakings, and on musculoskeletal disorders and occupational diseases. Among other preventive activities it organize are: field shows and training courses in safe cutting methods in the event of specific threats (trees felled by storms or snowfalls) in some forest district offices; education in rural areas targeting children (including talks to over 32,000

²² ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

²³ Ibid.

²⁴ CEACR: Individual Observation concerning Convention No.129, Poland, Published: 2010.

²⁵ Agricultural Wages Board for England and Wales, <http://www.defra.gov.uk/foodfarm/farmanage/working/agwages/awb/index.htm>

²⁶ Agriculture Industry Advisory Committee: <http://www.hse.gov.uk/aboutus/meetings/iacs/aiac/further-information.htm>

children, with the help of schoolteachers) and adults on the most frequent work-related hazards, accompanied by around 500 competitions and other interactive activities (Olympics, knowledge and artistic contests) for almost 53,000 rural children and young people, as well as activities at summer and winter camps for children; the organization of inspection stands and consultation points on technical safety at work during mass rural events, such as machine shows and exhibitions; the publication and distribution of brochures, guidebooks and leaflets; and the provision of information to the public through newspapers, radio and television. The labour inspectorate in Slovenia²⁷ has implemented a number of measures that have contributed towards improving the level of protection for workers in agriculture and forestry. These measures include the expansion of information and advisory activities by inspectors, the adoption of instructions relating to the formulation of occupational safety policies, the definition of procedures for the assessment of occupational risks, and training activities organized by agricultural advisers from the Chamber of Agriculture and Forestry. The labour inspectorate also carries out campaigns in the agricultural sector to reduce the risk of accidents (among these was one on the use of agricultural machinery and equipment and the protection of young workers); and on monitoring the application of legal provisions relating to occupational safety and health in agricultural undertakings. The Swedish²⁸ Work Environment Authority (WEA) has been very active raising awareness with the social partners to prevent work injuries and accidents in the agricultural sector.

27 CEACR: Individual Observation concerning Convention No. 129, Slovenia Published: 2009.

28 CEACR: Individual Observation concerning Convention No.129, Sweden Published: 2010.

Information has been distributed through brochures, a specific page on agriculture on the WEA's website, as well as through media activities and the participation of the WEA in trade union meetings. The WEA also provides individual advice on matters such as simple systems of risk assessment that can easily be applied by individual farmers, for example in enterprises with few or no employees, as well as supplying social partners' contact information to the respective enterprises. In addition, the government refers to the launching of a joint supervisory initiative in 2009 aimed at changing farmers' attitudes to hazards in their work environment. The initiative will continue for three years and will focus on systematic work environment management, machinery, the hazards of firewood production, personal protective equipment, and work with animals. It will include undertakings both with and without employees, as most fatal accidents occur in undertakings that do not have employees. In Uruguay,²⁹ labour inspectors provide training on risk prevention to workers in the agro-industrial sector and to social partners on occupational hazards in sugar cane plantations. Inspectors have also distributed educational booklets concerning the health and safety of agricultural workers and on the specific hazards linked to the use of pesticides.

Fighting undeclared work

Approaches to addressing undeclared work were originally – and still remain – directed towards its deterrence. However, there has been a shift in a number of countries towards transforming undeclared work into formal employment and towards preventing people from taking up undeclared work.

29 CEACR: Individual Direct Request concerning Convention No.129, Uruguay, Submitted: 2010.

Through collaboration. In France,³⁰ under the National Action Plan to combat undeclared work, a national bipartite partnership agreement was concluded between the Ministry of Agriculture, the Ministry of Migration, Integration and National Development, the Ministry of Labour, Social Affairs and Solidarity, and representative trade unions in the agricultural sector. The agreement provides for information sharing on measures taken in the sector to fight undeclared work as well as information on the prevalence of undeclared work. It further allows trade unions the possibility of reporting cases of undeclared work for follow-up by the inspection service, in addition to information campaigns. Moreover, the partnership agreement lays the groundwork for the creation of a bipartite committee, including representatives of the parties to the agreement, which would follow up on the situation of undeclared work in the agricultural sector.

Through cross-checking information. Some countries develop indicators comparing and cross-checking information gathered from several databases, but also from other information sources. Spain,³¹ for example, uses a creative technique to disclose temporary undeclared work during harvest seasons on orange plantations and vineyards. Labour inspectors compare the size of plantations with the number of working hours spent during harvest of the previous year and the number of workers registered in the database of the social security institution per month. This is done by consulting land registries, along with information on the suggested number of days for the harvest, the size of the harvest from the previous year, and

the number of workers registered in the social security database. Initially, if there is a discrepancy between the data sets, employers might be requested to submit further documents including employment contracts. If this still does not resolve the discrepancy, an inspection visit might then be carried out or the employer might be called in for a meeting at the labour inspectorate. Information on property lines is double-checked using Google maps, as plantations might be difficult to access or scattered over great distances. As a result of this approach, the registration of workers in social security databases increased by some 217 per cent in 2009 compared with 2007, and the number of work permit applications rose by 50 per cent.

By reducing the administrative burden. In Uruguay,³² a one-stop system for the registration of agricultural undertakings was created. This allowed for registration that was simultaneous with taxation, social security and labour inspection services.

By providing advice and looking for win-win outcomes. In Brazil,³³ the intervention of labour inspectors has not only helped firms to bring their practices into compliance with the law, but it has also promoted innovative legal and/or technical solutions that, in some cases, have enhanced firms' competitiveness and productivity. Labour inspectors started to issue hundreds of fines and threats of seizures of farmers' estates (grain and seed production) for purposes of land reform, which was due to the widespread violations of national legislation (informality, poor working conditions, high rate of occupational accidents, etc.). In parallel, labour inspectors

32 CEACR: Individual Observation concerning Convention No.129, Uruguay, Published: 2007

33 Roberto Pires: "Promoting sustainable compliance: Styles of labour inspection and compliance outcomes in Brazil", in *International Labour Review*, Vol. 147 (2008).

30 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

31 Ibid.

provided technical and legal assistance that was decisive in promoting compliance. Alternative hiring arrangements for temporary harvest workers were developed, which were less costly to the farmers and led to the formalization of 65,000 workers in 2001.

By creating focused campaigns. In Italy, the labour inspectorate launched a specific campaign to fight illegal employment in agriculture and verify compliance with safety and health provisions in agricultural enterprises. Decisive factors in the selection of priority areas were high rates of accidents (including fatal and serious ones), the expectations of social partners, the guidelines of national authorities, the recommendations of international institutions, and a large number of complaints. In the course of the campaign, 7,816 farms were inspected, where permanent workers and 7,102 temporary workers performed work. Forty-nine per cent of temporary workers were engaged illegally.

Defining employment relationships and status

Following serious abuses by some labour contractors, the United Kingdom³⁴ adopted the Gangmasters (Licensing) Act, 2004, establishing a Gangmaster Licensing Authority (GLA), which created a register of gangmasters, a code of practice that gangmasters must follow when hiring labour, and also makes provision for the appointment of enforcement and compliance officers. In January 2009, the Bulgarian Chief Labour Inspector and the GLA signed an agreement stating that the two state institutions will work closely together when inspecting and regulating labour companies that provide Bulgarian seasonal workers for the United Kingdom.

34 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

This agreement followed incidents investigated by the Authority in 2008 when Bulgarian seasonal workers in the UK agricultural sector reported that they were being exploited. The incidents also involved violations of legislation by Bulgarian intermediary companies and by Bulgarian and British employers. In most EU countries, enterprises are required to maintain a register of workers entering their service, which may be the only formal record of the contract (especially in the case of temporary contracts). It shows the entry of the worker, and also the termination of services. Registers must be standardized and are published and issued by ministries of labour. This type of register is an important element of legal security and serves as evidence of the employment relationship and the economic conditions of employment, and it must be available to labour inspectors.³⁵ In some countries, a "work and social security card" is compulsory to work in any activity. In Argentina,³⁶ it is compulsory to register all rural workers. The registration document shows the period of employment and wages, as well as other details, thus providing the worker with evidence of the contract. In Belgium,³⁷ horticultural employers are required to submit an immediate notification of employment for casual workers, who make up a major category of the workforce in this sector. The objective of the immediate notification requirement (DIMONA) is for an electronic link to be developed by the authorities, which should lighten the administrative workload, identify workers accurately and quickly, and establish

35 Informal economy, undeclared work and labour administration. ILO Geneva, 2005. <https://www.ilo.org/public/english/dialogue/ifpdial/downloads/informal.pdf>

36 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

37 CEACR: Individual Direct Request Convention No. 129, Belgium, Submitted: 2008.

a clear link between the worker and the employer. This offers the labour inspectorate a means of effective supervision of compliance with the legal provisions on the daily hours of work of each casual worker engaged and the corresponding social security contributions.

Combating forced labour

In 2004, in order to combat forced labour (especially in agriculture and cattle ranching) Brazil recruited 150 new inspectors and created a Special Mobile Inspection Unit made up of labour inspectors and federal police officers. All were volunteers, none of whom operated in their federal state of residence for reasons of personal safety and independence from local pressures. Their task is to investigate allegations of forced labour on *fazendas* (rural farm estates or ranches). Sometimes

labour judges are also part of the unit so that prosecutions can be made swiftly and on the spot. Regular evaluations of the operations of this Unit have pointed to two main criteria for effectiveness: centralized organization and absolute secrecy in planning. The investigative work of the mobile inspection teams has been replicated at the local and state level. The Brazilian Federal Government has rescued more than 36,000 workers since the creation of the Special Mobile Inspection Group in 1995. The Brazilian labour inspection secretariat also publishes names of employers who were convicted by courts as offenders regarding forced labour. The “Black List” has enabled public institutions to restrict access to credit, subsidies and social benefits. Such a “black list” has to be handled with care to avoid misuse and corruption. The Government of Brazil has

In Brazil, the Government’s commitment to eradicating practices of labour exploitation (especially in the agricultural sector) has been reflected in the adoption of numerous measures, including the adequate legislative provisions and a plan of action, the establishment of the Special Mobile Inspection Groups, and the annual publication of a list of individuals and entities found guilty of using slave labour and therefore barred from any financial assistance, grants, public credits, etc.³⁸ In 2006, the Ministry of Labour and Employment released 3,266 individuals from employment conditions tantamount to forced labour, through more than 100 operations conducted by the Special Mobile Inspection Groups, typically on remote rural properties in the north of the country. Employers found to have been responsible for forced labour are liable both to criminal prosecution and to compensate employees for unpaid work. For 2007 the Ministry announced a new record of just under 6,000 persons released within the year. By mid-2008 there were seven mobile inspection teams at the national level, comprising labour inspectors and labour prosecutors, together with federal police officers to ensure the safety of the team. In the first six months of 2008 they inspected 96 separate rural properties, usually in remote areas, releasing 2,269 victims of “slave labour” in 14 different states.³⁹

38 Promotion of rural employment for poverty reduction, ILC, Report IV, 97th Session, 2008.

39 Report to the Director General: the cost of coercion, ILO, Geneva, 2009.

also enabled federal law enforcement and judicial authorities to work closely together and to issue penalties against employers on the spot in order to end impunity. Furthermore, an agreement was signed between major Brazilian steel companies and their workers' unions under which the companies commit themselves not to buy charcoal from any enterprise that has subjected its workers to slave labour conditions. Peru⁴⁰ created a Special Labour Inspection Group against Forced Labour in August 2008, and its first investigation confirmed the existence of forced labour in logging camps in the Amazon region of Loreto. Bolivia passed legislation in 2008 that calls for rural properties found to be using forced labour and debt bondage to be transferred to the state.

Targeting child labour

Through the promotion of youth employment. To help end child labour, the Brazilian⁴¹ Labour Inspectorate is promoting youth employment under decent conditions of work. In 2004, the Inspectorate promoted the hiring of 25,215 apprentices aged between 14 and 18 years. In the first half of 2007 labour inspectors identified 28,510 young workers (from 14 to 24 years of age) contracted as apprentices due to interventions by labour inspectors, and 1,664 adolescent workers (from 16 to 18 years old) were registered as workers/non-apprentices as a result of inspections.

Through public-private partnerships. The Ghanaian⁴² Employers' Association (GEA) and five commercial oil palm and rubber plantations in western Ghana have devel-

oped a code of conduct on the elimination of child labour. To apply the code, the GEA and the companies have developed voluntary "inspection" teams made up of representatives from the Ministry of Labour's Child Labour Unit and Factory Inspectorate, the GEA, the companies, the General Agricultural Workers Union, smallholder associations, contractor associations, and the ILO.

With new labour inspectors. In cooperation with the ILO, the Turkish⁴³ Labour Inspectorate hired 100 new labour inspectors to tackle child labour. As a result, between 2004 and 2006 more than 4,000 children in three Turkish provinces were withdrawn from, or prevented from entering, the worst forms of child labour.

Improving communication with migrants and indigenous individuals

In order to improve communication between labour inspectors and indigenous peoples in Guatemala⁴⁴ an agreement was reached with the authorities of the Kaqchikel linguistic community for the provision of communication training and the teaching of other important aspects of Mayan culture. Some regional offices now have staff that speak the language of their area of activity. Three-year postgraduate study programmes were also launched in 2006 for officials of the Ministry of Labour. Moreover, the Ministry of Labour added to the job descriptions of various labour inspection posts the requirement of sufficient linguistic competence to be able to communicate with the populations of the areas in which they are required to perform their duties (the languages of the Maya, Garifuna and Xinca). These skills are also taken into

40 Forced Labour: Facts and Figures, The Cost of Coercion: Regional Perspectives, ILO, Geneva, 2009.

41 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

42 Ibid.

43 Ibid.

44 CEACR: Individual Observation concerning Convention No.129, Guatemala, Published: 2008.

account for transfers and promotions. Due to the arrival of many migrant workers and seasonal labour in recent years, particularly in agriculture, the Labour Inspectorate of Norway⁴⁵ has launched a campaign to secure decent wages and conditions of work for migrant workers. In the course of this campaign, information on the rights and duties of workers has been produced and translated into several languages.

Improving living conditions and accommodation

Countries including Cambodia, Guatemala, Honduras, Kenya, Mauritius, Nigeria and Uruguay⁴⁶ have vested labour inspectors with extensive powers to inspect the living and household conditions of agricultural workers and their families. In Guatemala, labour inspectors are responsible for enforcing regulations concerning accommodation and the facilities provided to agricultural workers and their families (water, electricity, number of rooms, etc.). In Cambodia, labour inspectors enforce legal provisions relating to the living conditions of workers and their families on plantations, which require employers to provide benefits in the form of housing, schooling, care, food and water supplies, as well as coverage of funeral expenses.

Reducing occupational risks and accidents

By managing risk assessment checklists. The Danish⁴⁷ Working Environment Authority has published risk assessment checklists for 60 different sectors or workplaces. These checklists are designed to help small enterprises carry out manda-

tory risk assessment, and they can help to identify the major hazards in workplaces. However, it is still the employer's responsibility to ensure that the risk assessment carried out is appropriate, comprehensive, prepared in co-operation with the employees, and monitored regularly so that it can be revised if necessary. The checklists contain a series of questions to which the company should answer yes or no. All questions to which the company answers yes constitute a working environment problem that must form part of an action plan that the company must draw up with reference to the checklist. In the European Union, as well as other jurisdictions like Australia or Mauritius, there are regulatory requirements for employers to undertake risk assessments (and to consult with workers as part of this), including in situations where a change in work processes that could have implications for OSH is being contemplated.

Through awareness and prevention. Safety and Health Awareness Days were started in the United Kingdom in the agricultural sector, and were later extended to other sectors such as construction. Through partnerships with the labour inspectorate, the Health and Safety Executive (HSE), the national employers' and workers' organizations, and the national training institutes, awareness-raising events were held at training centres that were primarily aimed at SMEs and the self-employed. Lasting half a day, the events focused on safety and health priorities set by the labour inspectorate that were known to cause the most serious safety and health risks. The events were very practical and trainers gave demonstrations of how to improve working conditions and prevent the risks. Attendance is voluntary and free of charge, with lunch and refreshments provided. Free information and guidance is available during the day. The

45 CEACR: Individual Observation concerning Convention No.129, Norway Published: 2008.

46 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

47 Ibid.

incentive to come to the events was an undertaking by the inspectorate not to select the enterprises for preventive inspection in the following two years. Such an incentive proved very successful, and many SMEs and self-employed people attended. Subsequent evaluations showed that many of them had put the advice into practice as a result. The HSE has run over 140 of these events in the past ten years, which have been attended by over 43,000 people. The audience is usually made up of family farmers, the self-employed and those employing up to four workers. After delivering awareness campaigns in the agricultural sector in Malawi,⁴⁸ occupational accidents in agriculture fell significantly.

Through collaborations. In Kenya,⁴⁹ alarmed by large numbers of fatal accidents, injuries, and complaints in the sawmill enterprises, labour inspectors decided to focus their efforts on this sector. The sawmills were isolated and located in and around forests, and the roads leading to their locations were normally impassable. Workers and employers would disappear as soon as the inspector's vehicle appeared on the horizon so a different strategy had to be employed by the labour inspectorate. As an entry point, the labour and OSH inspectorates looked for cooperation with the District Forester, employed by the Department of Forestry, who keeps a register of the sawmills and issues them tree-cutting permits. Initially, 15 sawmills were targeted, and a series of meetings held on

improving OSH standards. While it was straightforward to get the larger employers to commit to improve OSH standards, the smaller-scale employers were not easily convinced. They saw the labour inspector as an increase in operating costs, and bringing unions to organize their casual employees. After different meetings and consultations with the both small-scale and larger employers, the inspectorates were able to make headway. The labour and OSH inspectorates combined enforcement with education, awareness raising, advocacy, training, ownership and emphasis on the economic pay offs – improved productivity and added product value – to promote good OSH practices. In consultation with the both the provincial and local labour and OSH officers, some larger employers – particularly those who were fully compliant – and the district forester gave permits for logging to the smaller-scale employers in return for guarantees of compliance, and good labour and OSH practices. Some countries have legal requirements for cooperation between OSH representatives and labour inspectors, including Angola, Australia, Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Greece, Ireland, Italy, Lithuania, Luxembourg, Malta, New Zealand, South Africa, Spain, Sweden, United Republic of Tanzania, Uganda, and the United Kingdom. The establishment of OSH committees is legally required in countries such as Estonia, France, Norway, Romania, South Africa, and Tanzania. Countries where there are legal requirements for cooperation between works council representatives and labour inspectors include, for example, Germany and the Netherlands.

48 CEACR: Individual Direct Request concerning Labour Inspection (Agriculture) Convention, 1969 (No. 129) Malawi (ratification: 1971) Submitted: 2008.

49 ITC-ILO Curriculum on "Building modern and effective labour inspection systems", 2010.

GUIDELINES FOR LABOUR INSPECTORS

Specific working conditions challenges

To **ensure application labour rights and standards in rural areas**: include occupations in rural areas within the scope of the application of labour legislation, and expand labour inspectorate services to rural areas.

To help **determine the employment relationship and working status**: create registers to include workers. Labour inspectors should have access to these registers, and inspectors should also verify work permits and contracts, and interview workers.

To ensure the **legitimate operation of contractors**: adopt registers or licensing schemes for contractors.

To fight **undeclared work**: require employers to maintain a register of workers available to inspectors, develop collaboration with other authorities and social partners. Create less burdensome procedures and promote formality with incentives.

To help **migrant workers**: ensure inspectors can speak their language or dialect and understand their culture. Help migrant workers understand their rights by developing and disseminating information materials on the main contents of the labour regulations in their own language.

To **fight forced labour**: collaborate with local enforcement and statutory organizations, employers' federations, trade unions, etc. Conduct separate interviews with workers (including self-employed contractors), with workers' representatives, and with representatives of management.

To **fight against child labour**: coordinate with employment and social services, local and district employers, their associations, and with local/district trade union branches, worker representatives, NGOs, etc.

To **address discrimination**: review the policies and procedures if they exist, if not identify their common practices, discuss equality with workers with no management representative present, check the payroll, interview the employer, union representatives, female workers, and any other minorities.

To **ensure respect for freedom of association and collective bargaining**: conduct interviews with employers, workers' representative(s), and with individual workers. Look for any recent disputes, check the records of meetings and negotiations between employers and workers' organizations, and the results that were reached.

To **address HIV/AIDS**: assist with workplace-based training on general awareness raising on the topic, keeping workers with HIV/AIDS at work, and how to communicate prevention messages in the workplace and in the community;

To **ensure healthy living conditions and safe transportation**: provide guidance and instructions, establish contact with other authorities that could have the mandate and powers for inspecting living conditions, develop policies to ensure safe transport.

To **guarantee social security protection**: ensure that inspectors have access to appropriate databases. Check that all workers are registered in insurance and social security regimes where they exist, and that the statutory payments are made, where appropriate, on their behalf by the employer.

To **reduce excessive working time**: monitor compliance with minimum wage legislation and collective agreements, interview workers and their representatives, and educate employers of the severe negative effects of excessive overtime.

To deal with **wages**: monitor compliance with minimum wage legislation and collective agreements, conduct interviews with workers' representatives and with workers; check the payroll of the enterprise; check a sample of workers' contracts; check that payroll records are maintained including all payments and deductions. Ensure that even if workers are paid according to piecework, that they earn a wage that is not below the established minimum wage without needing to work extra hours.

To **reduce occupational hazards and ensure compliance with OSH regulations**: produce and distribute concise guidance on hazards, risks and preventive measures, including advice to children on prevention of injury and ill health, and, where appropriate, also in local languages or dialects. Promote training on these subjects.

Effective coordination in the labour inspectorate

To **identify the undertakings to be inspected**: create and maintain a registry of undertakings with minimum data. Maintain accurate databases and registers with updated information from other government services and statutory bodies (mainly property registers, municipalities, agricultural officers, tax authorities) as well as from inspectors' visits. Agricultural officers' information is key to understanding what is produced in different areas, and where seasonal working activities occur.

To **help identify priorities, objectives and resources allocation**: obtain information from complaints, previous inspections visits, conversations with stakeholders and other government services, etc.; develop an easy system to receive and process complaints, and make this facility as widely available as possible, especially among workers and rural trade unions. Use data to perform planning based on risk-based

inspections, and to identify patterns of violations and target campaigns. Use the data to work on preventive mechanisms, to analyse the problems and make proposals to improve working conditions. Determine systematic criteria and guidelines to record data to maximize statistical use, policy review, etc.

To **ensure optimal and efficient use of inspectorial and educational resources**: establish communication and coordination mechanisms among different inspection groups that have different responsibilities over different issues, depending on the nature of the issue that is the subject of inspection. Maintain effective and constructive relations with other government services (including ministries with a responsibility for labour administration, urban and rural labour inspection, OSH in agriculture, health and education) and statutory bodies including social security authorities, police, tax authorities, judicial authorities, and labour authorities of neighbouring countries.

To **ensure effectiveness of inspectors' interventions**: the labour inspectorate needs an adequate number of staff, with appropriate conditions for hiring, training and service in order to carry out its tasks effectively. These staff must also be given the necessary resources to perform their tasks. Specialize inspectors in specific sectors of activity or at the very least make them aware of the more common risks that pose threats to workers. Increase visibility, security and presence of labour inspectors.

To **ensure consistency and standardization in enforcement**: develop manuals and checklists for both field inspectors and inspectorates to help them plan inspections, prepare visits, conduct inspections, deal with employers and workers, write reports, issue notices, follow procedures, etc.

Combine inspection, enforcement, and educational activities

To **decide on the inspection methods and strategies:** determine criteria and balance proportionally “proactive” and “reactive” inspections. Allow time to investigate incidents and complaints, but reactive inspections should be managed so they do not detract from the time available for preventive and pro-active inspections. Schedule unannounced visits, especially on issues such as forced labour, child labour and undeclared work.

To **ensure sustainability:** reinforce information and advising strategies, as one of the main reasons for breaching labour laws is the lack of information among both workers and employers. However, serious breaches of fundamental labour rights should always have strong enforcement replies.

To **consolidate a culture of compliance:** develop strategic alliances with the media. Organize campaigns, work with local partners and other governmental and non-governmental organizations. Promote a culture of risk prevention through disseminating information, sharing best practices, and through educational activities. Organize courses, seminars, conferences, radio broadcasts, exhibitions and the distribution of posters, pamphlets, and other publications and films. Ensure that they are available in languages that are understood by workers.

To **promote extended impact on the stakeholder’s community:** make the results of inspectors’ work publicly available.

To **ensure that violations have been remedied:** schedule subsequent reporting follow-up visits.

Approaches that include the social partners

To **achieve decent working conditions** labour inspectorates must collaborate with employers and workers in their programmes and activities. Labour inspectorates need to be seen as providing services to employers (i.e. labour inspectors provide training for employers’ representatives or staff, for example, safety engineers or occupational nurses). Labour inspectorates need to support the work of joint OSH committees. Encourage employers’ organizations to link strategically with farmers’ unions (agricultural producer organizations), cooperatives and other member-based organizations in rural areas.

Alliances and partnership

To **ensure the sustainability of decent working conditions,** labour inspectorates must build new alliances with a broader group of organizations, such as groups working on minorities and human rights, women’s rights, children’s rights, social activists, farmer schools, agricultural producer organizations and cooperatives, and religious groups working especially with smallholder farmers and their communities.

RESOURCES

ITC-ILO Curriculum on “Building modern and effective labour inspection systems”. Module 14: Managing labour inspection in rural areas and Module 15: Field Labour Inspection in rural areas. Turin, 2010.

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