Safe, Healthy and Decent Work: the Role of Labour Inspection

« Challenges facing Labour Inspection in the 21st Century »
The Role of Labour Inspection Services in Eliminating Forced Labour

Outline of a presentation by

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- Introduction
- Typology of forced labour
- Issues on enforcement
- New approaches to enforcement
- Labour Inspection and Core Conventions
- Law enforcement: the role of labour inspectors
- The situation of labour inspection
- Labour inspection action
- Prerequisites
- Conclusions
Facts about Forced Labour

- F.L. is most frequently extracted by private agents rather than the State
- Indebtedness is a key instrument of coercion
- Migrants are particularly vulnerable to coercion and exploitation
- Legal gaps often make it difficult to move against hidden forms of coercion
- Forced Labour is almost universally punishable as a crime
- Yet very few prosecutions of F.L. anywhere in the world
Figure 1
Forced labour by form

- Economic exploitation: 64%
- State or military imposed: 20%
- Commercial sexual exploitation: 11%
- Mixed: 5%

Main characteristics of forced labour today

- Physical or sexual violence
- Restriction of movement of the worker
- Debt bondage/bonded labour
- Withholding wages or refusing to pay workers at all
- Retention of passports and identity documents
- Threat of denunciation to authorities
- Usually a combination of several
New (2005) ILO Report

- Forced Labour a labour market issue
- Labour institutions have a key role to play in action against it
- F.L. a tremendous challenge
- Nonetheless: a manageable one
- To achieve fair globalization and Decent Work
- It is imperative to eradicate it.
Labour Inspection not always the primary actor

- It can make a decisive contribution
- It is the principal State representative in the world of work
- L.I. stands between law and life
- L.I. has the formal right of legal access to workplaces
- Freedom of entry at any time (ILO C. 81)
- Usually mandated to deal all with labour protection matters
- Powers to enforce national labour standards, and sanction violations
- Usually more effective than CSR or other voluntary compliance schemes
Example: a case from Brazil

- Penal Code amended to include « slavery » as a punishable crime
- A Special Mobile Inspection Group
- 150 new L. Inspectors recruited
- 2003: approx. 4,900 workers freed
- 633 prosecutions initiated
- Convictions successfully brought under new legislation
Figure 4
Inspections and workers freed in Brazil, 1995-2003

Workers freed (10,726)
Estates inspected (1,011)
Minimum L.I. staff resources

- IMECs: 1 Inspector: 10,000 workpeople
- Threshold industri.(tigers) 1: 15,000
- Transition economies 1: 20,000
- LDCs: 1 Inspector: 40,000 workers
- Examples: Thailand approx. 650 insp. for 34 million econ. active population
- Viet Nam: approx. 300/app. 39 million
- Nepal: 11 inspectors/approx. 5 million
- Mongolia: approx. 70 insp./880,000 w.
Salient features of ILO C. 81

- L.I. organized as a system, Art. 1
- Should cover basic set of functions, A.2
- Enforce all labour protection laws, A.3,1
- Give advice and information to employers and workers, Art. 3,1,b
- Notify authorities of defects and abuses not covered by regulations, Art. 3,1,c
- Supervision and control by a Central Authority, Art. 4
- Effective cooperation with soc. Partners and other government agencies, Art. 5
- Adequate staff numbers must be ensured
- Adequate penalties for violations, and for obstruction of labour inspectors, Art. 18
Key steps for broad-based action

- Immediate, effective promotion measures for Decent Work/Forced Labour
- Revitalize the inspection services
- Determine what Forced Labour is in practice of each country
- Identify/monitor F.L. workplaces in both formal AND informal sectors
- Establish F.L. unit in the Inspectorate
- Establish action programme with clear responsibilities/resources/indicators
- Judiciously enforce ALL regulations to effectively combat forced labour
Ensuring fuller compliance

- Ratify ILO Cs. 81, 129 + Protocol to C. 81
- Ensure universal coverage of Labour Inspection
- Encourage use of Art. 3, para 1, c of ILO C. 81
- Cooperate in development of National Action Plans
- Negotiate application of Working Conditions / Minimum Wages for prisoners (France)
- Apply Labour Law to all workplaces, ensure adequate OS&H conditions for prisoners (NL)
- Prosecute criminal charges in Labour Courts (B)
- Negotiate social agreements/memoranda (AUS)
- Use sanctions more targeted, strategically (USA)
- Use intermediaries, NGOs more effectively (UK)
- Cooperate with other actors, e.g. Human Rights Commission (Mongolia)
Thank you for your attention

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