

Adjusting labour inspection to contemporary occupational safety and health system

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Abstract

Numerous changes in economic, political, social, cultural and other fields marked the end of the 20th and the beginning of the 21st century. These changes have also given rise to: modified employment structure, new organizational forms of economic activities, new risks, expansion of flexible working engagement patterns, increase in the underground economy, new types of discrimination and abuse related to work, which inevitably influenced the roles of all participants acting in the labour sphere: employers, employees, their associations, labour inspection and others. Each of these participants, in order to continue their performance, needs to adjust their role to the newly emerged circumstances, making necessary changes and finding more effective instruments for influencing other participants in order to fulfill their role, or leave the role.

Labour inspection, as well as other administrative mechanisms, is often not flexible or sensitive enough to notice developments that decrease its efficiency in a timely manner, but is prone to inertia since it follows the traditional principles of its establishment. However, the changes which have affected the field of labour also have a strong influence over the system of labour inspection, although it might not always be aware of such influence. This is why, in this paper, we will point to some of the most significant social, economic and organizational changes that represent a challenge to labour inspection today, since it has to understand its role and adjust its activities to newly emerged circumstances. We would also suggest some possibilities of developing this system so that it could adapt to the modern concept of occupational safety and health.

Keywords: labour standards, changes in the world of labour, labour inspection, occupational safety and health

Introduction

The world of labour, in the contemporary framework, is acquiring new dimensions. Labour is directed by the processes brought about by the changes in economic trends and organization of social life. The fundamental labour standards, which were established during the 20th century, are being questioned again, whereas the status of employees is being marked by deterioration of working conditions and employees' inability to exercise their rights by work engagement. The new circumstances are testing the traditional methods jeopardizing their efficiency and diminishing their significance. In case the labour inspection, as a traditional administrative mechanism for protection of labour standards, does not adjust its performance to new circumstances in a timely manner, it will show insufficient effectiveness in preserving the existing labour standards and affirmation of the new ones. Thus, our research is focused on exploring the roles of labour inspection in the contemporary circumstances, since we are of the opinion that nowadays it represents unique and considerable potential due to its ability to adjust to the changes in the labour field.

Such potential is necessary for preservation and development of labour standards, particularly in the field of occupational safety and health. The labour inspection can have a wide conceptual framework of performance, but it can also provide a sharp focus on the most sensitive issues of

the implementation of regulations in the field of labour, and being such, it opens up numerous possibilities which those who realize its potential can adapt to meet the needs of a society. For these reasons, it is especially important to understand new international and national trends in the field of labour which redefine a role and status of the labour inspection.

The impact of contemporary social and other changes on the world of labour and the status of workers

Globalization and its impact on the world of labour

The process of globalization has affected all social spheres. Globalization, as a concept, has an undoubtedly positive character because the development of humanity can be boosted by connecting people, services and ideas on a global level, so that it contributes to better lives of people worldwide. However, if the processes of globalization focus primarily on the economic interest of an individual (Drakulic, 2008), then globalization itself is seen as an instrument which widens the gap between the rich and the poor. Thus, in economic terms, globalization is directly connected to the labour process, status of workers, working conditions and occupational safety and health (OSH) measures affecting workers, who mainly participate only in building up a fortune and do not receive a share of it.

Neoliberalism and its impact on restriction on labour legislation

Neoliberalism (as a new liberalism), which emerged in the 20th century, is going back to the original ideas of liberalism giving the central place to the category of freedom that provides every individual with a chance of using their maximum potential. The pillars of this doctrine are competing on the market, competitiveness among individuals, and among nations and regions involved in the process of globalization (Pecujlic, 2002). In such circumstances, the labour standards whose aim are to humanize labour and ensure workers' rights are protected and enforced are considered to be an impediment to progress and an obstacle in the path of realizing greater efficiency by the proponents of Neoliberalism (Stojiljkovic, 2002). According to them, labour legislation and "overprotectiveness" of the currently employed people are the main culprits for unemployment, inefficiency of labour market and the division of economy into formal and informal. Investment in the protection at work and better working conditions, and especially into any form of social protection of workers is presented as a hindrance to free market because it increases the labour costs and decreases competitiveness in a global level. A state is, therefore, expected to reduce the scope of labour standards and its own interventions in the labour market, and to enable the labour and capital market to establish and implement their own rules.

Global economic crisis

The fundamental human right – the right to work was the first to have been hit by the economic crisis, which brought about difficulties in finding employment and created uncertainty of keeping the existing jobs. Employers' investment in protection of fundamental workers rights is often

seen as unrealistic in the circumstances of strained relations on the market and evident imbalance between employers and the labour force. Instability of work, rise in unemployment, fear of losing a job and similar factors have made workers agree to work in any conditions in order to keep their jobs regardless of safety and health conditions at the workplace (Somavia, 2008). The economic crisis has also been manifested as the crisis of the value system and the crisis of trust in the system (Drakulic, 2008). The inability to have the fundamental labour rights exercised has cast a shadow on relations between employers and employees, and the current system of protection of these rights (Lubarda, 2009). Slowness and lack of efficiency of the system of protection of labour standards raised the issue of their role and importance in the modern working environment.

Changes in the economic structure and labour force

Affected by economic circumstances, many countries encounter changes in the economic structure today. Traditionally, major industries (such as iron industry or mining industry) are on the decline due to high costs and low capital turnover. Therefore, there is a shift to other industries (such as service industry and commerce) because they provide higher capital turnover. It is increasingly frequent for large private companies to have their business operating at the same time in several different regions, countries, or even continents. Furthermore, they often have their business diversified, dealing with several parallel business activities depending on the market where their organizational units operate and on opportunities for capital growth in a particular market. Such companies become gigantic transnational or multinational corporations that strive towards two things – bigger profits and further expansion. Conversely, some employers follow the trend of focusing only on their core business activity, and by doing so, they downsize those activities, which once used to be an integral part of organizational and human resources structure, because they do not fall into the category of the core ones (e.g. maintenance services, physical security of facilities, maintenance staff etc.)

In line with the changes in economic and commercial trends, the workforce has undergone significant changes as well. Population aging has affected the field of labour too. The specific problems the older workers encounter are more and more often regarded as discrimination. The position of the vulnerable categories of the employed, such as children, young workers, women and people with disabilities, who are generally faced with various kinds of discrimination, at the time of global economic crisis and a fierce struggle for survival becomes even more threatened. Migrant workers as well as persons engaged in “informal economy” usually do not have any choice but to accept to work in inhumane conditions, without social security, underpaid, in severe working conditions, so that they often fall victims to professional injuries or occupationally induced disease.

The rising trend of flexible employment patterns and informal economy

The market fluctuations, changes in economic structure and organizational forms of employers have resulted in the pressure on the liberalization of employment that is realized through the introduction of flexible patterns of employment engagements. These refer to any form of

engagement that is not “standard” or regular like full-time employment on a permanent basis. The globalization of employment demands “resilient” reactions in the field of labour to rapid changes in the market. For such an approach, non-standard i.e. flexible patterns of work prove to be appropriate because they make duration, scope and form of work easier to adapt to changeable demands of the market (Jasarevic, 2002). The types of non-standard i.e. flexible working engagement are numerous and subject to the changes in the labour market. Some of the most pervasive ones are:

- Work on a fixed-term basis
- Part-time work
- Work on a temporary basis
- Work from home
- Work under contract
- Leasing of staff through employment agencies etc.

By rule, the periods of crises bring about the rise of “underground” market especially in developing countries. There are basically two types of “underground” activities which usually occur parallel to each other. One of them is related to illegal organization of economic activities operating without necessary permissions or without employers’ registering with the established institutions. Another one refers to engaging people to work without a contract or on the basis of inappropriate contracts provided by “legal” employers. Persons engaged in such a way are generally deprived of their rights by work and of safety and health provisions, which leads to higher risk levels at the workplace. In addition, the majority of such people are not registered, their work engagement is not recognized by labour legislation, information and advice on protection of their rights are not available to them, they are not aware of occupational safety and health measures, and they are not provided with means for implementation of preventive measures.

The emergence of new risks

Due to the above-mentioned changes and their effects on working processes, people at work incur specific risks and hazards. These risks and hazards are not usually recognized during risk assessment, or they do not receive enough attention, which results in employees’ injuries at work or their damaged health because of risks which have not been reduced or kept under control, although this could have been done in a timely manner. In order to point to this issue, in 2009 the European Risk Observatory published the study on new and emerging risks in occupational safety and health that affect employees in the European Union. Some of the recognized risks are the following ones:

- new technologies – such as nanotechnologies which is today used in many fields (medicine, energy, chemical industry, electrical industry, agriculture, military industry, civil engineering etc.);

- new hazards related to musculoskeletal disorders – such as chronic disorders caused by the use of computer keyboard, manual work, prolonged sitting, extensive repetition of the same movements etc.;
- new biological risks – such as newly emerged infectious diseases (SARS, H1N1 flu etc.), infectious diseases that have become resistant to drugs (tuberculosis, malaria etc.), as well as epidemics of HIV/AIDS in some regions. Health workers, farmers and livestock breeders, as well as employees who deal with a large number of people or animals on an everyday basis are highly exposed to biological risks;
- new chemical risks – the use of lead, mercury and other heavy metals, as well as pesticides, is not controlled enough in many countries, particularly in developing countries. Sometimes, the danger of chemical substances is not transparent enough, so that the adequate protection measures are not often implemented.
- new types of employment (working on fixed-term contracts, leasing of workers through employment agencies, various types of temporary contracts, etc.) pose risk to workers because they cannot exercise their rights by the work and usually are not informed about all risks and hazards they are exposed to. Such types of employment generally represent the so-called “insecure job” (related to low salaries, adverse working conditions and no promotion prospects);
- workforce migration is usually connected to the attempts of semi-qualified workforce from developing countries to secure decent living conditions for their families and themselves in developed countries. For such reasons, migrant workers tend to undertake high risk jobs or to work on the underground economy. A lot of them work overtime in extremely bad conditions in order to earn adequate salaries. They usually do not have appropriate means of personal protection provided, they do not have on-the-job training, and they are not informed about their rights and obligations in the labour field. It is estimated that there are about 5 million migrant workers in the territory of the European Union working in the informal economy. What makes their status especially difficult is the fact that their jobs are insecure and working conditions are extremely poor.
- Risks related to workers’ age and gender – in recent years, increased vulnerability of older workers to some risks has been more clearly perceived when compared to younger workers. Such risks are the risks of infectious diseases or risks of musculoskeletal disorders. On the other hand, the risks that younger workers face are connected with their lack of experience. However, the risks can be related to a lack of physical or psychological maturity, or to insufficient levels of training or skills development. The risks connected to women are mainly related to the exposure to biological agents which are hazardous for their reproductive system. In addition, women are more exposed to stress than men because they can be subjected to sexual harassment, discrimination and they have to respond to double demands (demands arising from work which they are paid for, and demands arising from domestic chores which they are not paid for);

- psychosocial factors and work-related stress are increasingly and frequently recognized as causes of numerous diseases. Increased job insecurity, flexibility of working engagement, rising demands for more intensive work and various types of discrimination and harassment at work are only some of the factors that result in the rising number of workers suffering from work-related stress. Today, stress is considered to be one of the main reasons for absenteeism and for a number of diseases. In the long term, stress can lead to musculoskeletal disorders and other health problems such as: hypertension, ulcer, cardiovascular disease etc.

Contemporary concept of occupational safety and health

Occupational safety and health has become one of the dominant topics in the field of labour in recent years. Emergence of new risks and drastic changes in all areas of social life, which have strongly affected the field of labour as well, have given rise to inevitable changes in the concept of occupational safety and health systems. Apart from national legislation and institutions, many international and regional organizations deal with the issues of OSH today, trying to secure better economic and business status by providing improved working conditions in terms of health and safety. They also try to keep the pace with the emerging changes that pose a threat to the established rights of the working population, to working conditions and the legal status of workers.

Recently, it has become evident that accidents at work and occupational diseases, apart from creating difficulties to a worker and an employer, do create difficulties to the society as a whole and at the same time significantly affect business productivity. It has been concluded that the costs incurred due to accidents at work and occupational diseases are much higher than it was estimated earlier because of direct and indirect costs of medical treatment, recovery, replacement, rehabilitation, compensation to families, lost profits, non-material damage incurred etc. For an employer this means a higher insurance premium, brand damage, loss of managerial time, which is spent on investigating accidents before the authorities, difficulties in selecting another worker and time necessary for training of a new employee etc. For the society as a whole, this means a lower rate of economic growth, more difficulties for labour inspection etc. International Labour Organization (ILO) estimates that the total cost of work-induced accidents and professional diseases account for 4% of the world GDP (ILO, 2006). On a daily basis, about 5,000 people die because of work-related diseases or work-induced injuries, which is the same as one person dying every 15 seconds. Almost 270 million work-induced accidents are registered every year, whereas 350,000 of them have a fatal outcome (Siffermann, Weber, 2008).

The contemporary OSH system is being refocused on the causes of increased risks to workers' safety and health instead of focusing on consequences of such risks (work-induced injuries and damaged health). Nevertheless, such concept requires a shift in awareness of all participants in the labour field, involving not only the main ones (employers and workers) but also all other participants who have, or might have, the influence over the main ones (professional institutions, labour inspection, associations of employers or workers, the media etc.). In such terms, all participants have to be aware of the necessity to have their performance directed towards the development of OSH system and of the benefits which such a system brings to individual

interests and to the society as a whole as well. However, this process is neither easy nor fast because it requires much more activity and information, continual education and mutual coordination of the activities of all participants. Recognition of new risks, risk analyses and establishing of measures for keeping the risks under control, all require continuity and coordination of all parties concerned. Labour inspection has a different role in such a system and much greater significance, which is discussed hereinafter.

The need for reforming the labour inspection and its adapting to the changes in the labour world

All of the above-mentioned changes have a strong impact on the existing protection mechanisms making them not efficient enough. The strength of the market, expansion of the neoliberal economic concept, the influence of the world economic crisis and its effects on the economy and development of society, all put pressure, leading to deregulation of the legislation in the field of protection and making the role of the state in the field of labour become minor (International Labour Office [ILO], 2004). Unreformed labour inspection in its traditional administrative role, whose organization and mechanisms were set up at the time when it was established, and affected by such significant changes is often not able to adequately respond to new challenges to the labour standards, so that it remains inert, or still functions but in such a way and using such instruments that it does not produce desirable effects. The insufficient effectiveness of many national labour inspection systems is the consequence of the fact that these systems did not respond to the requirements of the changed world of labour in a timely manner, i.e. they did not transform in order to produce an adequate response to the newly emerged circumstances.

The significance of the labour inspection in today's world and its unfulfilled potential can be seen in the interest the international and regional organizations express regarding its existing role and its prospects of modernization and performance streamlining. The main international organizations in the labour field (UN organizations, ILO, EU etc.) undertake numerous activities additionally pointing out the importance and the role of labour inspection in the newly emerged circumstances and the need for its most efficient performance directed towards protection of the widely recognized labour standards. The recognition of labour inspection as one of the principal instruments of the labour field have led to a reexamination of its role in the past decade, and consequently the demands for creating incentives regarding enhancement of its efficiency have been put forward. In 2006, the International Labour Conference produced the General report on conventions regarding labour inspection (ILO, 2006). The Report highlights the support to the new global strategy for modernization and "revival" of the labour inspection. As a result, a number of new initiatives were introduced on the national, regional and international levels in order to establish more efficient inspection controls in the field of labour. On the international tripartite level, the consensus on the key role of labour inspection was reached. This role refers not only to the field of safety and health of employees, but also to the health of the economy. For these reasons, the special emphasis was put on the fact that an efficient labour inspection should promote a stable business environment and stimulate competitiveness, economic growth, create new jobs and reduce poverty (Committee on Employment and Social Policy, 2006). However, the challenges of the contemporary world of labour require substantial changes in all segments of

the labour inspection activities. Such requirements impose the obligation on every country to review the existing system of labour inspection, determine its “blind spots” and undertake active measures in order to modernize the system and make it efficient enough to meet the demands presented to it. There are few countries in the world today that can provide enhancement of the labour inspection by engaging a larger number of inspectors. For the majority of countries, the trend is quite opposite – there are requirements towards reduction of administration while its efficiency has to be improved at the same time. This means that efficiency measures have to be provided by some other means – by better organization of work using the existing human resources and providing for modernization of the labour inspection system. The ILO strategy for modernization and reorganization of the labour inspection system has the same aims (Committee on Employment and Social Policy, 2006 p. 13-14).

When it comes to the performance of labour inspection, now it is expected to change its approach by focusing on the causes instead of the consequences of deteriorating conditions in the field of labour, as well as to use new techniques and methods in its work. The contemporary OSH system is designed in such a way that its strategies of development are created both on regional and national levels. Employers play the key role in the implementation of the strategies having to provide risk assessment and risk control. The main role of labour inspectors is to assess employers’ capability to control risks and to help employers build and develop efficient internal systems and mechanisms of control. Such an approach is directed towards the enhancement of OSH instead of being focused only on the control of implementation of regulations. Thus, the system should work as a circular process which is based on the concept of permanent enhancement.

Conclusion

Although the fundamental functions of the labour inspection have not changed, the changes in the world of work have imposed the need for devising other ways to fulfill these functions and their different correlation. For a long period of time, the policy of the labour inspection was (and in many countries it is still the case) framed within strict control of breach of regulations, and traditionally it was perceived as controlling mechanism of the exclusively repressive character. Contemporary systems of labour inspection, however, base their work on the principle of prevention that aims to direct the work of labour inspectors towards elimination of the hazards that might lead to the breach of regulations. The international community has recognized the new role of labor inspection and provided support to the countries in order to start the reformation of the labour inspection system emphasizing the importance of its role and its modernization necessary for effective protection of labour legislation and further contribution to the development of the value system: decent work, safe and healthy workplaces, culture of prevention, and socially responsible business environment.

Labour inspectors in the system adapted to the requirements of the contemporary concept of OSH are expected to have: high ethical standards, certain “soft” communication skills, authority in terms of knowledge, capability to spot and determine necessary facts which the inspection control is based on, effectiveness and efficiency in their work regarding the choice of measures and their implementation. A labour inspector has to be able to assess the level of compliance

with the regulations and employers' capability to fulfill their obligations upon the inspection control too, and therefore a labour inspector has to provide necessary support and help. The capability of a labour inspector to influence other factors in the OSH system through his/her work represents the inspector's strength as well as the country's strength in the labour field. However, this depends on four key elements and their proper correlation, and it is the obligation of every country to provide the fulfillment of the following conditions if it wants to have an effective system in the field of labour:

1. The status of labour inspectors and their authorities: the status of labour inspectors in the state administrative system has to be defined in such a way to secure protection of their personalities and professional performance, whereas their authorities have to provide maximum efficiency and possibility to choose measures, techniques and methods of work;
2. Technical and professional resources: providing labour inspectors with the necessary means of work and adequate working conditions, supporting them in professional development, evaluating results of their work and motivating them to acquire new skills and knowledge;
3. Precise strategies and plans of work: these have to prove that there is a well-established relation between the capacity of the inspection and work priorities;
4. The personal impact of labour inspectors: personal ethical characteristics of a labour inspector and the way in which they use their status, authorities, as well as technical and professional resources they have at their disposal. This means that during the selection of labour inspectors, it is not enough to pay attention only to the professional capacity of candidates, but certain personality characteristics have to be a precondition for their engagement in terms of their future successful performance.

All of the above-mentioned four elements are equally important, and failure to meet any of them might lead to ineffective realization of the other ones. Thus, it is necessary to have all these elements developed at the same time because, in this way, we secure effective administrative mechanism in the field of labour, which will substantially contribute to the development of OSH.

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Biography

Ljiljana Stojšić has a PhD in Law. Her professional and scientific interests include issues of inspection in the field of labor and the implementation of labor standards. He has been a labor inspector and head of the department of labor inspection in the South Baku District, in Serbia. Her work contributes to a better understanding of the essence of labor standards and mechanisms for their protection.