

Inspection and unions: "convergence and maybe more..."

The fact that labour inspection bodies are independent does not necessarily mean they are neutral, which would in fact be unrealistic in practice. Such inspection has relied from the very start on the unions' daily work within companies in order to ensure its effectiveness. There is now an overriding need for this link to be strengthened.

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The vast majority of small businesses fly under the radar of labour inspection bodies.

Image: © Belga



Valeria¹ inspects health and safety conditions in the leatherwork industry in Tuscany. This region, located on the Arno River near Empoli and Val d'Els, to the west of Florence, has an age-old tradition of leatherwork. Activities range from the tanning of skins through to the production of bags, shoes, jackets and other items. The finished products are of a refined elegance that belies the harsh working conditions. Their price tag puts them out of the reach of those who have made them. The production chains are often controlled by luxury multinationals, for example the Kering Group, owned by the French (billionaire) Pinault family and which holds the Gucci brand name among others.

The ethnic division of labour has become more pronounced in recent years: increasing numbers of people from Senegal in the tanneries, and from China in the cutting and manufacturing sectors. The risks are numerous: chemical products, the carcinogenic effects of leather dust, ergonomic problems, insufficient machine safety, the long working hours and fast pace of work. Some of the workshops are located in dilapidated buildings with no fire protection. On occasions these serve both as a place of work and as makeshift housing.

Valeria talks passionately to me about "her union team". This consists of two kids of 12 or 13, originally from South China and who speak Italian with a strong Tuscan accent. They act as her primary intermediaries, gathering information and passing on messages within the Chinese community, where the adults have less understanding of the local language. They are also reluctant to admit that they may actually have understood everything Valeria says. And who can blame them? Their distrust of the state is the result of bitter experience. How do you distinguish between an inspector supporting health and safety at work and other officials, police officers and bailiffs, for example?

"Union team": it is a good term but the reality is rather different. These resourceful kids do not belong to any organisation, apart perhaps from their local football team supporters club. They have decided to help Valeria because they can see whose side she is on. And therein lies the rub: the work of labour inspection relies on commitment. Sometimes it involves walking a tightrope between a role entrusted by the state, one's

Throughout Europe, the right to worker representatives is insufficient in terms of inspection.

professional independence and a desire to combat exploitation and social inequality as effectively as possible. For Valeria, independence has nothing to do with neutrality, which would be impossible to ensure. It would be impossible for her to do her job in the form of some lone vigilante. She sees her work only in relation to the autonomous mobilisation and organisational capacity of the people intended to benefit from it. This necessary link with the world of work first appeared with the creation of the initial labour inspection systems in Europe.

19th century: worker-elected inspectors

The first professional labour inspection bodies appeared in Europe during the second half of the 19th century. They were the result of a very simple observation: that it was pointless adopting legislation to protect the working environment if you did not monitor what was happening in practice, discreetly, within businesses.

Very soon, it became clear that the system would be incomplete unless the workers' movement was able to play a role in these inspection systems. This was due to the large number of scattered workplaces, issues of a formidable complexity, and the workers' mistrust of these officials, unsure whether they were coming to monitor their conditions or to punish them at a time when unionisation was being severely repressed by the state.

The United Kingdom was a pioneer in this regard. Following revelations in a parliamentary commission that highlighted the appalling working conditions being suffered down the mines, initial legislation was passed in the form of the 1842 Mines Act. It took the deaths of 26 children (11 girls between the age of 8 and 16 and 15 boys between 9 and 12) in the Huskar Colliery in Silkstone (Yorkshire) in 1838 for this law

¹. Name changed at the request of the individual.

to be adopted. The Act remained largely dead letter, however, as Parliament had no desire to create a system of inspectors with the power to conduct visits without the prior consent of the employers. An inspection body was finally established by a further Act of 1860 but this was scarcely any more effective. In 1867, Marx noted that there were just 12 inspectors covering more than 3 200 coal mines. This equated to one coal mine inspection visit every 10 years. The legislation was clearly little more than empty words.

A further law was adopted in 1872. For the first time, legislation established the possibility of passing prison sentences on employers convicted of serious safety offences. The law set out detailed and prescriptive measures, particularly with regard to the lamps to be used (to avoid firedamp explosions). For the first time, the workers' movement won miners the right to appoint their own representatives, tasked particularly with inspecting the mines and identifying failings. This was the first law to have a real effect and enable improvements in mine safety (as regards health, however, they would have to wait for several decades more...).

The example spread. The workers' movement and unions in many other European countries began to demand the same rights. Delegate/inspector systems began to be established. In France, a law was passed on 8 July 1890, following five years of turgid parliamentary debate. It took the Verpilleux and Saint-Louis pit disaster in the Loire Valley (in which 214 miners died) to smooth its passage. The justification for this legislation was explained by Michel Rondet, leader of the miners' union at that time: "We demand legal recognition for miners' delegates with responsibility for accompanying mine guards to the site of accidents and drawing up joint reports.

2. For more information see: Wiklund H. (2011) Sweden: regional safety representatives, a model that is unique in Europe, *HesaMag* 3, 32-35.

3. 14 inspectors are appointed by the unions and 14 by the employer organisations.

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These reports are very often produced to benefit the companies, either through corruption or a lack of practical knowledge or works implemented after the accident." One parliamentarian who was particularly committed to this law was Jean Jaurès.

Michel Rondet's arguments remain true to this day: a lack of inspection staff, the need for people who understand the reality of the working conditions, and the political significance of the mandate given to their representatives by the workers.

The current situation in Europe is mixed but nowhere are worker representatives' rights sufficient in the area of inspection.

Union delegates with inspection powers

Some positive practices can be seen, however, demonstrating that alternative methods do exist.

In Poland, a social inspectorate complements the state's inspection work in the area of health and safety. It is formed of representatives elected by the workers who are attentive to infringements and who can impose safety measures on a company. They only exist in businesses that have functioning union representation, however. Unfortunately, it seems clear that, over the last 20 years, the number of companies involved in this has fallen and the role of the social inspection teams has declined.

In the Nordic countries (Sweden, Denmark, Norway and Finland), union health

and safety representatives are able to call a work stoppage if they note an imminent danger. Moreover, in Sweden, there is a system of regional safety representatives covering very small enterprises that do not have their own². These regional delegates sometimes participate, alongside the labour inspectorate, in sectoral campaigns monitoring legislative compliance.

A number of interesting initiatives can also be observed outside the European Union, the most surprising of which is in Switzerland. A law was passed in Geneva canton in November 2015 establishing a joint inspection system³. This followed an intensive union campaign launched in 2010. The system's responsibilities relate to the application of labour laws (which set out the main provisions on working hours as well as essential health and safety requirements). Geneva's 240 000 private sector employees will benefit from the work of this new inspectorate. Joël Varone from the main Swiss trade union, Unia, considers it "an important victory that will give unions access to many companies in which union rights do not currently exist."

In Australia, despite what is often considered ultra-liberal labour legislation, the occupational health laws adopted over the last 15 years in most of the states⁴ give union occupational health and safety representatives the right to take necessary measures in response to a breach of legislation. Employers are required to adopt these measures unless they can obtain their repeal through the state inspectorate system or the courts. This system of "Provisional Improvement Notices" (PIN) enables some 30 000 health and safety representatives to act with greater authority within companies. A PIN can even shut a workplace down temporarily if there is an immediate risk. According to a survey conducted by the unions in 2004, 21% of health and safety representatives had invoked this right and 88% felt it was extremely effective in resolving problems.

In some states, external union representatives are able to enter a company if there

is a suspected violation of health and safety regulations. Case law establishes that this places an implicit obligation on the employer to answer questions raised by the union representatives and to provide them with the necessary documentation. In New South Wales, such representatives are even able to initiate prosecutions for detected contraventions. The representation systems established in some states are not restricted to company employees alone: sub-contracted workers and even freelancers working long-term within a company may also be covered.

Internationally, the exceptional experience of the merchant navy is worthy of note. The International Transport Workers Federation has, in fact, managed to establish a system of union inspectors who monitor vessels during port stopovers. There are some 100 inspectors working full-time around the globe. Their organisation has been able to obtain recognition of this right through the signing of collective agreements with different transport companies. This position of power has been achieved by getting sailors and dock workers to threaten to boycott those companies that refuse to be monitored or to abide by the rules. Union inspectors are able to intervene not only on health and safety issues but also in relation to the rules governing pay. Unique in this approach is the absence of any supporting national legislation and the successful networking of unions globally, across different countries and different professions (sailors and dock workers). ●

Further reading

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