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## **Roles of Labour Inspection in a Pandemic like COVID-19**

### **Aim**

1. This paper aims to highlight (i) the impact of the COVID-19 pandemic on workers and labour market, and (ii) the roles of labour inspection in supporting the development and implementation of strategies to manage the pandemic in the workplace setting.

### **Background**

2. On 11 March 2020, the World Health Organization (WHO) declared the coronavirus COVID-19 outbreak as a pandemic. As recognised by the International Labour Organization (ILO), the pandemic has affected the world of work. In addition to the threat to both public and occupational health, the economic and social disruption threatens the long-term livelihoods and wellbeing of millions.

### **Impact of COVID-19 Pandemic on Workers and Workplaces**

3. The full impact of the COVID-19 pandemic will take years to evaluate. Unless and until effective therapeutic treatments and/or vaccines have been developed, the pandemic is likely to remain with us in the near future. It is clear that millions of people across the globe will be infected, leading to hundreds of thousands of deaths. Both figures are still growing.<sup>1</sup>
4. As the global pandemic has deepened, the outbreak has sent shockwaves through the world economy. Disruptions to production, initially in Asia, spread across the globe. Nearly all businesses are facing serious challenges – threat of declines in revenues and profits, insolvencies, and job losses. The impact will vary across sectors. Sustaining business operations will continue to be increasingly difficult – especially small and medium enterprises (SMEs). Many workers have been laid off on a temporary or permanent basis and for others travel restrictions, border closures and quarantine measures have resulted in workers not being able to commute to their places of work or

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<sup>1</sup> <https://www.statista.com/topics/5994/the-coronavirus-disease-covid-19-outbreak/>

perform their jobs. Consequently, these have knock-on effects on incomes, particularly for those informal and casually employed workers.

### Role of Labour Inspection

5. Given the nature and characteristics of a pandemic, the response will normally be led by Government, hopefully informed and advised by evidence and science. Because the pandemic is community-based, the science is normally led by public health professionals. Public health policies to deal with a pandemic like COVID-19 have a profound impact on the workplace. It is important that these policies take account of the impact on occupational health policies. Policies, practices, risk assessments and other management systems in most<sup>2</sup> workplaces and companies often do not consider the need to manage infection risks of the type presented by COVID-19. Infection risks associated with other community acquired respiratory infections such as seasonal influenza have the potential to significantly impact on worker absenteeism. They spread in the same way as COVID-19 and have similar control measures including hand hygiene, respiratory hygiene, cough etiquette, social distance, not attending work if sick and workplace cleaning protocols.
6. Employers are likely to require extra assistance in reviewing their approaches in light of the broader, general public health advice. Labour inspectorates and inspectors can provide support in this respect. It is important that such advice be provided as early as possible. Experience of the current pandemic suggests that these matters have been being addressed in an ad hoc and reactive way. Going forward, it is important that occupational health considerations be incorporated into contingency planning and pandemic responses.
7. All stakeholders must play a crucial role in combating the pandemic, ensuring the safety and health of citizens, and the sustainability of businesses and jobs. Labour inspectorates and inspectors could help to achieve this in three ways – **(a) protecting the health of workers, (b) protecting the employment rights of vulnerable workers, (c) securing employment and incomes.**

#### Protecting the health of workers

8. At the workplace, workers are at risk of occupational exposure to SARS-CoV-2, the virus that causes COVID-19. Close contact with an infected individual is usually one of the means of transmission of COVID-19. During the pandemic, the level of exposure may vary depending on their industry type, need for close contact with infected co-workers or patients. It is the employer's

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<sup>2</sup> With the exception of high-risk workplaces dealing with infectious agents such as high hazard pathogen research labs and healthcare facilities.

responsibility and duty to ensure the health of employees. Workplaces need to be protected by comprehensive occupational health strategies so that infected workers do not transmit diseases into the workplace. Occupational health strategies should also aim to reduce the risk of others introducing infection into the workplace (e. g. members of the public and other visitors) and mitigate against the spread of infection at the workplace should this occur. There is also a risk that it may endanger the health of the workers concerned and their families, and consequently reduce the capacity of the healthcare system. In addition, measure should be taken to assist those diagnosed with COVID-19 to remain connected to the workplace and then assistance/support from the employer to return to work.

9. To help employers determine appropriate precautions, labour inspectors play an important role to ensure that the measures undertaken should commensurate with the exposure risks as follows:
  - (a) High risk – healthcare and laboratory workers, medical transport workers, and particularly those working with known or suspected patients; residential aged care, correctional services, workers accommodation camp, workplace where social distancing measures cannot be readily implemented (e.g. meat processing plants, children care, symphonic orchestra, cultural) event like dancing, symphonic orchestra, etc.),
  - (b) Medium risk – workers with high-frequency interaction with the general public or co-workers e.g. those working in school, public transportation system, food and beverage establishments, retail, manufacturing activities, etc; and
  - (c) Low risk – workers with minimal contact with the general public or other co-workers.
  
10. Well-established occupational health practices and approaches should be used to manage COVID-19 risks in workplaces. Labour inspectors should utilise principles of risk assessment and the “hierarchy of controls” which sees risks being reduced to the lowest reasonably practicable level by taking preventative measures, in order of priority. The hierarchy below sets out the order to follow when planning to reduce risks. They should be considered in the order shown – not simply jump to the easiest control measure to implement.
  - (a) Elimination – Redesign the job so that the hazard is removed or eliminated. It is unlikely that elimination can be readily achieved in the case of an infectious pandemic.
  - (b) Substitution – Replace the process with a less hazardous one.

- (c) Engineering controls – This would involve isolating employees from work-related hazards. In workplaces where they are appropriate, these types of controls reduce exposure to hazards without relying on employee behaviour and can be the most cost-effective solution to implement. Engineering controls for SARS-CoV-2 include:
- (i) Installing high-efficiency air filters.
  - (ii) Increasing ventilation rates in the work environment.
  - (iii) Installing physical barriers, such as clear plastic sneeze guards; and
  - (iv) Specialized negative pressure ventilation in some settings, such as for aerosol generating procedures (e.g., airborne infection isolation rooms in healthcare settings).
- (d) Administrative Controls – These require action by the employee or employer. Typically, administrative controls are changes in work policy or procedures to reduce or minimize exposure to a hazard. Examples include:
- (i) Encourage appropriate flexible working arrangements, such as teleworking without adjustments made to remuneration
  - (ii) Temporary redeployment to duties which can be carried out remotely
  - (iii) Reducing need for and duration of physical interactions e.g. minimise the need for physical meetings and considering alternatives such as teleconferencing
  - (iv) Staggered working hours and adjustment of working hours so that workers could travel to work at off-peak times, as well as shift work
  - (v) Implementing or enhancing shift or split team arrangements
  - (vi) Ensuring adequate physical spacing between persons at all times through the following e. g. spacing between workstations, in meeting rooms and rest areas
  - (vii) Encouraging sick workers or those whose family have been infected to stay at home
  - (viii) Separating sick workers

- (ix) Deferring non-critical work activities and any large-scale events
  - (x) Developing emergency communications plans
  - (xi) Monitoring movement of workers within the workplace
  - (xii) Screening for COVID-19 symptoms including temperature, and cough and travel declaration for employees, visitors
  - (xiii) Ensuring good personal hygiene measures ((hand washing or using hand sanitisers) are encouraged at the workplace
  - (xiv) Providing and maintaining hand hygiene facilities for workers:
  - (xv) Implementing workplace cleaning and disinfection protocols for routine cleaning and after cases of COVID-19at a workplace
  - (xvi) Ensuring good workplace ventilation practices; and
  - (xvii) Discontinuing overseas travel or to areas thar are known hotspots for non-essential purposes.
11. To ensure compliance to regulations, physical inspection of workplaces could be conducted to ensure that these engineering controls and administrative measures are well implemented. An inspection could typically include a walkthrough inspection of the workplace, rest areas, canteens, meeting rooms as well as any areas where workers may congregate. This may also extend to the accommodation of workers. Labour inspectors could assess revisions to the risk assessments and business continuity plans to ensure that the procedures are kept up to date.
- (a) Personal protective equipment – Only after all the previous measures have been tried and found ineffective in controlling risks to a reasonably practicable level, must personal protective equipment (PPE) be used. PPE should be selected and fitted by the person who uses it. Workers must be trained in the function and limitation of each item of PPE. Examples of PPE include gloves, goggles, face shields, facemasks, and respiratory protection, when appropriate. During an outbreak of an infectious disease, such as COVID-19, recommendations for PPE specific to occupations or job tasks may change depending on geographic location, updated risk assessments for employees, and information on PPE effectiveness in preventing the spread of COVID-19
  - (b) Vulnerable workers – Special attention should be paid to vulnerable employees (e.g. older employees, pregnant employees and employees

who have underlying medical conditions such as diabetes, cardiovascular disease, respiratory disease, cancer, workers who are immunocompromised) to enable them to work from home, including temporarily redeploying these employees to another role within the company that is suitable for working from home, without a loss of salary.

12. Employers have a duty of care to their workers in relation to health and safety and towards other individuals such as contractors and visitors to the premises. Although COVID-19 is a new hazard, employers need to manage the interconnected issues of safety and health in a comprehensive manner. To improve health, safety and wellbeing of employees in an efficient manner and prepare for the pandemic, employers need to review their workplace risk assessment and ensure that their control measures and safety management systems are up to date. The input of trade unions and workers' representative bodies should also be sought before designing and implementing such measures.
13. In some countries, there is an existing requirement in the OSH regulation that requires all employers to assess and review risks and to maintain emergency procedures policy, especially in the event that creates a "serious and imminent danger to persons at work". Employers must communicate this policy to workers and provide appropriate training. Workers should also have a responsibility to take reasonable care not to endanger himself or herself or anyone who may be affected by their actions at work.

#### *Protecting the employment rights of vulnerable workers*

14. Based on previous experience, epidemics and economic crises can have a disproportionate impact on certain segments of the working population, which can trigger worsening inequality. These include:
  - (a) Those with underlying health conditions or compromised immune systems and older people are most at risk of developing serious health issues
  - (b) Young persons, already facing higher rates of unemployment and underemployment, are more vulnerable to falling labour demand
  - (c) Older workers can also suffer from economic vulnerabilities. After the MERS outbreak, older workers were found to be more likely than prime-age individuals to experience higher unemployment and underemployment rates, as well as decreased working hours<sup>3</sup>
  - (d) Women are over-represented in more affected sectors (such as services) or in occupations that are at the front line of dealing with the pandemic

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<sup>3</sup> Lee, A. and J. Cho 2016. The impact of epidemics on labour market: identifying victims of the Middle East Respiratory Syndrome in the Korean labour market. *Int J Equity Health*. 2016; 15: 196.



(e.g. nurses). The ILO estimates that 58.6 per cent of employed women work in the services sector around the world, compared to 45.4 per cent of men. Women also have less access to social protection and will bear a disproportionate burden in the care economy, in the case of closure of schools or care systems<sup>4</sup>

(e) Unprotected workers, including the self-employed, casual and gig workers, are likely to be disproportionately hit by the virus as they do not have access to paid or sick leave mechanisms, and are less protected by conventional social protection mechanisms and other forms of income smoothing

(f) Migrant workers are particularly vulnerable to the impact of the COVID-19 crisis, which will constrain both their ability to access their places of work in destination countries and return to their families.

15. Labour inspectors can help to ensure that vulnerable workers are protected from discrimination and exclusion relating to COVID-19. They could help to ensure that vulnerable workers have access to basic benefits such as access to paid sick leave, sickness benefits, and parental/care leave to ensure income security for those who are sick, quarantined or caring for children, elderly or other family members.

#### Securing employment and incomes

16. Given that the COVID-19 pandemic has brought about significant impact on the economy, enterprises and workers negatively affected by the indirect effects such as factory closures, disruption to supply chains, travel bans, cancellation of public events. Prospects for the economy and the quantity and quality of employment are deteriorating rapidly.<sup>5</sup>

17. A recent report highlighted that only a fifth of countries surveyed by the International Trade Union Congress provide sick pay for workers.<sup>6</sup> In this context, it is necessary to ensure that workers have legal protection against unfair dismissal from work, during an outbreak, if they are following officially authorized public health recommendations, such as quarantine, or are taking sick leave for viral illnesses similar to COVID-19. Measures to protect those facing income losses because of infection or reduced economic activity are critical to stimulating the economy. Income protection also mitigates the disincentives against disclosing potential infections, especially amongst low-income workers and vulnerable groups of workers.

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<sup>4</sup> ILO (2018) Care work and care jobs for the future of decent work. ILO, Geneva.

<sup>5</sup> <https://unctad.org/en/pages/PressRelease.aspx?OriginalVersionID=548>

<sup>6</sup> <https://www.weforum.org/agenda/2020/03/coronavirus-challenges-work-economy-sharan-burrow-ituc/>

18. Labour inspectors have a role to play in the following areas to help workers secure their employment and incomes:
- (a) protection of income levels including checking wages/salaries records, overtime payments
  - (b) checking records of working hours and overtime, holidays and rest periods including sick and maternity leave
  - (c) promoting fundamental labour rights and anti-discrimination measures
  - (d) social security contributions.

### **Role of Government and Social Partners**

19. The current COVID-19 pandemic necessitates a rethinking of the activity and functions of the labour inspectorate, especially the powers and purposes of labour inspection. To ensure that the labour inspectorate continue to function effectively to protect the health and safety of everyone at the workplace, this would require a concerted response from governments, social partners, companies, and individuals.

#### Government

- (a) The Government should consider the following:
  - (i) Adopt measures that are necessary to make the function of monitoring compliance with social laws effective, considering the current constraints – due to the COVID-19 crisis on the normal functioning of the labour inspectorate
  - (ii) Provide protection means and suitable procedures to avoid affecting the health of the inspection officials and ensure that performance of their duties are not disrupted. This includes training and provision of appropriate personal protective equipment to enable safe conduct of inspections
  - (iii) Put in place appropriate measures to coordinate the activities of different government departments so as to reduce additional bureaucracy
  - (iv) Determine the role of the labour inspectorate functions of supervision and control of in executing health legislation especially those which affects the general population



- (v) Publicise the necessary recommendations and legally approved measures for compliance by companies to mitigate the impact of the pandemic
- (vi) Adapt existing legislation or adopt specific legislation to give labour inspectorates, if necessary, additional means of action that take account of the health emergency in times of pandemic.

*Social partners (employer and trade unions and business associations)*

- (b) Social partners (unions and business associations) should consider the following:
  - (i) Recognize the importance of the role of the labour inspectorate
  - (ii) Help to resolve minor industrial conflicts so that labour inspectorate could focus on the objective of protecting the health of workers during the pandemic
  - (iii) Collaborate among unions and business associations to protect employment rights of workers and avoid any situation of fraud
  - (iv) Look into offering additional services beyond their current scope e.g. helping workers recover and return to work.

*Companies and individual workers*

- (c) Companies and individual workers should consider the following:
  - (i) Provide assistance to the labour inspectorate especially for the services of evaluation, planning and execution of OSH measures in companies
  - (ii) Ensure collaboration between committees, delegates or company and worker representatives with the labour inspectorates so that recommended actions and measures could be effectively implemented at the workplaces
  - (iii) Comply with recommended norms and measures introduced by the authorities to overcome the current health crisis.

## Conclusion

20. Labour inspectors have a crucial role to play in these challenging circumstances to (a) protect the health of workers, (b) protect the employment rights of vulnerable workers, (c) secure employment and incomes. Swift and coordinated policy responses are needed at national and global level to limit the direct health effects of COVID-19 on workers and their families, while mitigating the indirect economic fallout across the global economy.
21. Protecting workers and their families from the risk of infection remains to be a top priority of the labour inspectorate. Both public health and occupational health professionals work towards the common goal of health protection and health improvement. Given the challenges during the pandemic, stakeholders should work together to achieve greater synergy between the efforts in areas of public health and occupational health.

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