

# **ILO CONVENTION 81**

## **Report to the ILO Committee of Experts on the Bangladesh Government's Compliance with the Labour Inspection Convention**

**Bangladesh Occupational Safety Health  
and Environment Foundation**

**and**

**Centre for Corporate Accountability**  
**(August 2006)**

## 1. INTRODUCTION

- 1.1 This report considers the extent to which the Bangladesh state is in compliance with its legal obligations under ILO Convention 81, '*Concerning Labour Inspection in Industry and Commerce*'. Whilst most ILO conventions require ratifying states to establish laws setting particular standards of labour protection, this convention requires them to put in place an inspectorate capable of enforcing a country's existing labour laws. The Convention recognises that legislation is ineffective without adequate state mechanisms to ensure that laws are upheld.
- 1.2 This assessment focuses solely on the role of the Factory Inspectorate (Inspectorate) in the enforcement of health and safety law - and not on other labour laws that the Inspectorate is also required, by the terms of the Convention, to enforce. It is based around research undertaken between May and August 2006 by the Bangladesh Occupational Safety Health and Environment Foundation (OSHE)<sup>1</sup>, a Bangladesh-based non-governmental organisation specialising in worker safety issues, and the Centre for Corporate Accountability (CCA)<sup>2</sup>, a UK-based NGO. The research consisted of interviews with a total of eight inspectors from all levels of the Inspectorate (from the chief inspector down to assistant inspectors)<sup>3</sup>, a workshop at which representatives of seven trade unions and three NGOs attended,<sup>4</sup> individual interviews with representatives of two trade unions<sup>5</sup> and two employer associations<sup>6</sup> and a review of the available literature. We are grateful for the co-operation provided by the Factory Inspectorate.
- 1.3 It is our view that the Bangladesh government remains in violation of Convention 81 and we consider there to be no justification for this continued breach. We hope that the Committee makes this clear in its assessment. However we also consider it important that the Committee uses this year's examination of the Inspectorate to consider what support the ILO and other international organisations can offer to ensure that the

---

<sup>1</sup> House 7, Road 13, Dhanmondi, Dhaka, Bangladesh. <http://www.oshebd.org/main.html>

<sup>2</sup> 4<sup>th</sup> Floor, 197/199 City Road, London EC1V 1JN. [www.corporateaccountability.org](http://www.corporateaccountability.org)

<sup>3</sup> We interviewed 6 out of the total 20 inspectors involved in health and safety inspection.

<sup>4</sup> This took place on 18 July 2006 in Dhaka and the following trade unions and NGOs attended: Bangladesh Free Trade Union Congress (BFTUC); Jatio Sramik League (JSL - National Workers League); Bangladesh Trade Union Kendra (TUC - Bangladesh Trade Union Centre); Jatiya Sramik Federation Bangladesh (JSFB - National Workers Federation Bangladesh); Jatio Sramik Jote (JSJ - National Workers union); Bangladesh Labour Federation (BLF); Bangladesh Jatiya Sramik Federation (BJSF - Bangladesh National Workers Federation); Bangladesh National Women Lawyers Association (BNWLA); Manusher Jonno Foundation (For People Foundation); Bangladesh Mohila Sangha (BMS - Bangladesh Woman Association)

<sup>5</sup> Bangladesh Independent Garment Workers Union Federation and Jatiya Sramik League.

<sup>6</sup> These were the Bangladesh Garment Manufacturers Exporters Association and the Jute Mill Spinners Association.

Bangladesh government initiates a proper process of reform within the Inspectorate to ensure future compliance

## **2. SUMMARY OF FINDINGS**

- 2.1 A surprising outcome of the research is that factory inspectors, employer organisations and trade unions all accept that the Inspectorate is failing in its responsibilities. The failure is centred on the low level of inspections – which in turn is the result of the low numbers of inspectors (see paras 4.25-4.37), the paucity of transport facilities (see paras 4.37-4.42) and the excessive administrative and court work that inspectors are required to undertake (see paras 4.57-4.59). Inspectors also felt that they did not receive sufficient training or equipment to carry out their job (see paras 4.37-4.42).
- 2.2 However our research indicated further problems. It appears to be general practice for some inspectors to take money from employers. This is not just a perception of trade union officials, but was accepted both by employer groups and some inspectors (see paras. 3.22-3.23).
- 2.3 We also identified a failure on the part of inspectors to provide sufficient advice and guidance to employers on how to comply with the Factories Act and Rules – a weakness particularly felt by employer organisations (see paras. 4.5-4.7). The research also indicated that the law is in need of reform; perhaps the most serious weakness being the maximum level of sentence that can be imposed upon those convicted of offences (see para. 4.60).
- 2.4 The general failure of the Inspectorate is reflected in a statement made to us by a senior official of the Bangladesh Garment Manufacturers Employers Association. He said that any improvements that there may have been in health and safety in the garments sector cannot be put down to the Inspectorate but rather to pressure from international buyers.
- 2.5 At the same time, it is notable that we did find a lot of commitment within the Inspectorate – with some inspectors keen to make reforms within the institution. OSHE and the CCA hope that one of the main outcomes of this report will be to catalyse some serious thinking within the Bangladesh government – and those international organisations and other states able to assist in terms of resources and capacity building - about possible improvements to the Inspectorate and the means for achieving these.

### 3. GENERAL BACKGROUND

#### Safety Legislation in Bangladesh

3.1 Occupational safety legislation in Bangladesh is confined to the protection of workers in factories, docks and mines. The Factories Act 1965 and the Factories Rules 1979 impose duties upon the ‘occupier’<sup>7</sup> and ‘the manager’<sup>8</sup> of a factory in relation to the health and safety of workers within it. A ‘factory’ is defined as:

“any premises including the precincts thereof whereon *ten or more workers* are working or were working on any day of the preceding twelve months and in any part of which *a manufacturing process* is being carried on with or without the aid of power, but does not include a mine subject to the operation of the Mines Act, 1923 (IV of 1923).”<sup>9</sup> (emphasis added)

A ‘manufacturing process’ is defined as a process:

- (i) for making, altering, repairing, ornamenting, painting and washing, finishing, or packing, or otherwise treating any articles or substance with a view to its use, sale, transport, delivery, display or disposal, or
- (ii) for pumping oil, gas, water, sewage or other fluids or slurries, or
- (iii) for generating, transforming or transmitting power or gas, or
- (iv) *for constructing, reconstructing, repairing, refitting, finishing or breaking up of ships or vessels, or*
- (v) for printing by letter press, lithography, photogravure or other similar work or book-binding which is carried on by way of trade or for purposes of gain or incidental to another business so carried on;<sup>10</sup>  
(emphasis added)

3.2 This definition applies to over 30 different kinds of businesses in Bangladesh from pharmaceuticals, power plants, garment factories, jute mills and biscuit factories (see annex 1). The legislation also applies to ‘ship-breaking’ yards but does **not** apply to:

- construction sites;
- mines; or
- any factories in which less than 10 people were working on the premises on any day of the previous year.

3.3 The Dock Labourers Act 1934 and the Dock Labourers Regulations 1948 is concerned primarily with the safety of work at docks and imposes various duties on ship owners,

---

<sup>7</sup> An occupier is defined as “the person who has ultimate control over the affairs of the factory” (Section 2(i)). This can be either a natural or legal person

<sup>8</sup> Every factory must nominate a natural person to be the ‘manager of the factory’ for the purposes of the Act (section 6(1)(f))

<sup>9</sup> Factories Act 1965, section 2(f)

<sup>10</sup> Factories Act 1965, section 2(h)

ship-masters and officers-in-charge and agents of ships in this regard; and the Mines Act 1923 and Consolidated Mines Rule 1952 deal with, inter alia, the safety of mines.

- 3.4 The legislation relating to factories and to the docks is enforced by the Factory Inspectorate.<sup>11</sup> However, although there are now mines in Bangladesh,<sup>12</sup> no inspectorate has been established to enforce mine safety legislation.

### **The Factory Inspectorate**

- 3.5 There are currently 80 staff<sup>13</sup> involved in inspection activities,<sup>14</sup> based in four Divisional offices - Dhaka, Chittagong, Khulna and Rajshahi. These inspectors have jurisdiction over 24,229 registered factories throughout Bangladesh, about 3 million shops and establishments<sup>15</sup>, and two ports<sup>16</sup>.
- 3.6 There are five different grades of inspector - Chief inspector, Deputy Chief Inspector, Assistant Chief Inspector, Inspector and Assistant inspector – with the first two grades generally not being involved in any field inspection activities. These inspectors are divided into four basic categories set out in Table 1.

*Table 1: Categories and Numbers of Inspectors in August 2006*

<b>Inspector Category</b>	<b>Purpose</b>	<b>Nos</b>
Inspectors of shops and establishments	enforce legislation applying to shops and offices which does not impose any health and safety obligations	29
Inspectors (general)	involved in the enforcement in factories of legislation relating to wages and maternity leave.	26
Inspectors (engineering)	involved in the enforcement in factories of safety legislation.	13
Inspectors (health)	involved in the enforcement of health and welfare legislation	9
Dock labour safety officer	responsible for enforcement of dock safety legislation in the two docks in Bangladesh.	1

Source: Factory Inspectorate Interview, 2006

- 3.7 Since the focus of our work is on the enforcement of worker health and safety legislation – our discussion is focused on ‘inspectors (medical)’, ‘inspectors (engineering)’, and dock labour safety inspectors.

### **Process of Inspection and Investigation**

<sup>11</sup> The Dock Labourers legislation allows for the establishment of a special

<sup>12</sup> In the past the Bangladesh government told the Committee that mines do not exist in Bangladesh. There are now no mines in Bangladesh – but no inspectorate.

<sup>13</sup> There are 30 vacant inspector positions.

<sup>14</sup> The Inspectorate also has 39 administrative staff

<sup>15</sup> The Inspectorate does not have exact figures for this

<sup>16</sup> One in Chittagong, the other in Mongla (Khulna district)

- 3.8 Every month, each inspector/assistant inspector, draws up a plan setting out which companies s/he intends to inspect. Once this has been approved by the Deputy Chief Inspector, the inspector writes a letter to the businesses informing them that they will be visited on a particular day. The dock labour safety officer does not draw up a list but waits until ships come to the port.
- 3.9 The process by which inspection should take place is as follows. Inspectors (medical) and inspectors (engineering) each have their own checklist corresponding to duties imposed upon the business in relation to ‘health’ and ‘safety’ respectively (see annex 2). If a violation is identified, the inspector marks this on the checklist<sup>17</sup> and at the end of the inspection, the employer (and worker representative) are asked to sign this document<sup>18</sup>. The inspector then writes to the employer setting out the nature of the violation and a time period by which the violation should be rectified. For certain violations (i.e. those involving bathrooms, staircases, cleanliness, electrical wiring, machine guards, personal protective equipments) a period of one month will be given; for other violations (involving day care centres, ventilation systems and lighting etc) a period of between three and six months is given; and for violations that require construction to take place, a period of more than six months will be provided. After the time period has expired a follow-up visit will take place after first informing the company by letter or phone. If the violation still exists, the inspector will either give more time or take a decision to prosecute.
- 3.10 Inspectors can also investigate reported injuries. Factory managers are required to report to the Inspectorate details of:
- fatal injuries;
  - other ‘bodily injuries’ which prevent the person from resuming work in the factory for 48 hours<sup>19</sup>. Those injuries where there is no prospect that the person will resume employment in the factory within 20 days are deemed to be ‘serious injuries’;<sup>20</sup>
  - any explosion, fire, collapse of buildings or serious accident to the machinery;<sup>21</sup>
  - specified industrial diseases;<sup>22</sup>

---

<sup>17</sup> Sometimes marked in a notebook.

<sup>18</sup> We were told however that it is common practice for managers not to do so.

<sup>19</sup> Section 88, Factories Act

<sup>20</sup> Section 84, Factories Rules

<sup>21</sup> Section 88, Factories Rules

<sup>22</sup> Section 90 of factories Rules and section 89, Factories Rules

- 3.11 There is no obligation on inspectors to investigate deaths – but it appears to be common practice for an investigation into a reported death and serious injury to take place, and section 87 of the Factories Act implies that an inspector will visit the site of a fatality.<sup>23</sup>
- 3.12 One of the purposes of any investigation into an injury is to assist in the process of obtaining compensation for an injured worker or family of a deceased worker. Our research shows that very few cases result in a compensation claim. In Dhaka labour court, between 2002-2005, there were 105 cases involving 18 separate incidents – all but one involving a death (see table 2).

*Table 2: Compensation cases filed in Dhaka Division, 2002-5*

	<b>Individual cases file</b>	<b>Numbers of separate incidents</b>	<b>Unpaid by June 2006</b>
<b>2002</b>	7	3	2
<b>2003</b>	6	6	0
<b>2004</b>	9	6	0
<b>2005</b>	83	3	6
<b>Total</b>	105	18	8

Source: Research by Centre for Corporate Accountability, 2006

### **Powers of Inspectors**

- 3.13 Inspectors have the following powers:
- to enter any factory<sup>24</sup>
  - to obtain and seize any documents necessary for the enforcement of the Factories Act and Rules<sup>25</sup>.
  - to make any examination or enquiry necessary to determine whether any health and safety laws are being complied including requiring any person in a factory to provide information about the occupier of the factory and to give a signed statement;<sup>26</sup>
  - to take samples<sup>27</sup>
- 3.14 In addition, when an inspector considers that any part of a building, or any machinery, or plant within a factory “may be dangerous to human life or safety”, an inspector can serve an order on the factory manager:
- (a) to provide him or her drawings, specifications and other information to help determine whether or not it is dangerous;<sup>28</sup> or

<sup>23</sup> This section requires that the site of a death must not be altered in any way until either three days has passed or an inspector has visited the site.

<sup>24</sup> 10(1)(a)

<sup>25</sup> 10(1)(b) and 10(3)

<sup>26</sup> 10(1)(c), (d), (e), (f) and 10(2)

<sup>27</sup> section 92, Factories Act

(b) to carry out tests to determine the strength or quality of any specified parts of the building and provide the information to the inspector, within a specified time period;<sup>29</sup> or

(c) to require him to carry out specified measures;<sup>30</sup> before a specified date.

3.15 Where an inspector considers the use of any part of a building or the use of machinery or plant “involves imminent danger to human life or safety”, he may serve on the Factory manager an order in writing prohibiting its use until it has been properly repaired or altered.<sup>31</sup>

3.16 Inspectors<sup>32</sup> can also prosecute the ‘occupier’<sup>33</sup> and ‘manager’ of a factory for “any contravention” of the Factories Act or Rules – with a maximum fine of 1000 taka (€11.3/£7.60). If the contravention continues after conviction, a further 75 taka (€0.87/£0.58) can be imposed for every further day in which the contravention continues.<sup>34</sup> If a person is convicted of a second offence involving the same contravention within a two year period, that person can be sentenced to imprisonment for up to six months or a fine of up to 1000 taka.<sup>35</sup> The court can also impose an order upon the defendant requiring action be taken to remedy the cause of the offence.<sup>36</sup>

### **Permissions and Licensing Duties of the Factory Inspectorate<sup>37</sup>**

3.17 No factory can be constructed or extended without the permission of the Inspectorate<sup>38</sup> and no factory can operate without obtaining a licence which must be renewed annually.<sup>39</sup> Before a new licence can be provided, an inspector (engineering) should inspect it to ensure that the factory complies with safety regulations (such as safe exit

---

<sup>28</sup> section 38(a) and (b) Factories Act

<sup>29</sup> Section 38 Factories Act

<sup>30</sup> Section 39(1) Factories Act

<sup>31</sup> Section 39(2) Factories Act

<sup>32</sup> Prosecutions can only be initiated by the inspector or by someone under his authority (section 107)

<sup>33</sup> Where a company is the factory ‘occupier’, and has committed an offence, every director (if it is a public company) or every shareholder (if it is a private company) will be deemed to have also committed the offence – unless notice has been given to the inspector that one nominated director or shareholder respectively is the occupier of the factory. (Section 102). The same rule applies where the business is a partnership – every partner will be considered to have committed the offence unless one has been nominated as the occupier

<sup>34</sup> section 93, Factories Act

<sup>35</sup> section 95, Factories Act

<sup>36</sup> section 104, Factories Act

<sup>37</sup> This is not an obligation required of Labour Inspectorates but is included as a requirement in the ‘Recommendation’ to this Convention, though Bangladesh is not a signatory.

<sup>38</sup> Factory Rules, section 3

<sup>39</sup> Factory Rules, Section 4 and 6

and entry, ventilation, electrical wiring, area per worker allocated, machine lay out etc.). The inspector is not responsible for undertaking a structural inspection.

### Issue of resources

- 3.18 A Common argument used by the government and others in support of the status quo is that Bangladesh is a poor country and unable to afford a more effective inspectorate. This justification is particularly used in relation to the low number of inspectors.
- 3.19 Whilst we accept that the Government has a limited budget and competing priorities, it is our view that the lack of money spent on the Inspectorate has less to do with lack of resources and more to do with lack of interest and commitment of Bangladesh Governments over the years to improve worker safety.
- 3.20 In the current financial year the Inspectorate received 28.1 million taka (€315,899) – which is an increase of 37% compared to two years earlier (see table 3). However it is unclear for what purpose this money has been used – there has for example been no increase in the number of health or safety inspectors. It is very important to note that only about one-third of this Inspectorate expenditure is spent on health and safety enforcement.

*Table 3: Bangladesh Government Expenditure on the Inspectorate*

	<b>Taka (million)</b>	<b>Euro (actual)</b>	<b>US Dollars (actual)</b>
<b>2003/4</b>	20.5 million	230,451	297,532
<b>2004/5</b>	23.5 million	264,197	341,074
<b>2005/6</b>	28.1 million	315,899	407,837

Source: Government of Bangladesh Budget, 2003/4-2005/6

- 3.21 The total amount of Bangladesh Government Expenditure is set out in the table 4 which also shows that the budget for the Inspectorate is 0.004% of the total – ranging from 0.00434% in 2004 to 0.0046% in 2006.

*Table 4: Percentage of government expenditure spent on the Inspectorate, 2004-6*

	<b>2004 (million taka)</b>	<b>2005 (million taka)</b>	<b>2006 (million taka)</b>	<b>2004-6 % increase</b>
<b>Factory Inspectorate</b>	20.5	23.5	28.1	37%
<b>Total Government Expenditure</b>	472,100	530,700	610,700	29.4%
<b>% of Total Expenditure</b>	0.00434	0.00443%	0.0046%	

3.22 0.004% seems to be a very low percentage of a country's total expenditure to be spent on a Labour Inspectorate<sup>40</sup>. This for example compares with the United Kingdom which spends 0.05% of its total government expenditure on the Health and Safety Executive<sup>41</sup> – which is ten times more in percentage terms than the Bangladesh government spends on all labour law enforcement.

### **Unethical Professional Practice**

3.23 In October 2005, Bangladesh topped (along with Chad) the list of countries in the 'corruption perception index' of Transparency International. It is perhaps not surprising therefore that there is a widespread perception in Bangladesh society that factory inspectors take money from employers. We set out to test this assumption. We asked inspectors the question, "There is a perception in the general population that inspectors obtain money from employers instead of taking proper enforcement action. What is your view of this and what do you do to make sure that this does not happen?" The Chief Inspector of Factories has insisted to us that there is no evidence that inspectors take money. However, although this is a very sensitive issue, four of the six other inspectors that we interviewed acknowledged, in confidence, that such practices did exist amongst some inspectors to a greater or lesser extent. They said the following<sup>42</sup>:

- 'sometimes it is true'
- 'the perception of corruption is not false'
- 'Yes, this perception is not false. We take bribes. It was a practice that inspectors [give the money to those higher up in the management chain]. Nowadays this practice has become a rule. If any honest person becomes an inspector either he has to adjust to this practice or he has to leave the job. So to stop corruption in the factory inspectorate, top management should be honest first.'
- 'every government department is corrupt ... but it is true that [factory inspectors] have a bad reputation'

3.24 The view of these four inspectors was reflected in the comments made by the employer representatives that we interviewed. They both suggested that paying inspectors money was a standard practice. One employer representative told us:

"Actually they do nothing, they always come here and take money and go back ... Usually they come to the factories and visit factory premises and identify

---

<sup>40</sup> That would seem to be the case even if you take into account the dominance of agriculture in the economy.

<sup>41</sup> Total government expenditure in the UK is £426,257 million in 2004/5. In that the year the Health and Safety Executive spent £214 million

<sup>42</sup> All of these comments were said specifically off the record, so we would not be able to substantiate these comments.

the loopholes – no proper ventilation here or no safety guard there etc. – but they do it only for taking money from the management. The management just give 500 taka to them and offer them lunch or some snacks. Sometimes they have not contacted the factory before hand for that visit. They visit factories just for their income purpose. ... They are like the ‘beggar department’, Management just give 100-500 taka as a bribe. They are satisfied with that amount.”

Another indicated that money was given to avoid legal harassment by the inspectors.

He stated:

“my manager usually gives him a bribe in the name of Eid bonus – even though my factory is compliant with the law

- 3.25 We were unable to undertake any research to substantiate further these comments – though it is significant that **both** employers and inspectors admit that this practice takes place. It is implicit within the Convention that inspectors should not be involved in these kinds of unethical practices. It is also important that if such practices do exist that the Inspectorate’s senior management recognises them and develops a suitable strategy to eradicate them.

## **COMPLIANCE WITH CONVENTION 81**

### **Articles 1, 2 and 4:**

- 4.1 These articles together require the Government to “maintain a system of labour inspection in industrial workplaces,” - under the “supervision and control of a central authority”<sup>43</sup> - which functions in relation to those workplaces which are subject to laws – though mining and transport activities can be exempted.<sup>44</sup>
- 4.2 These articles seem to mean that the obligations under this convention only apply where the Government has enacted legislation setting out obligations; they do not apply to those sectors where the Government has not passed laws. So the failure of the Bangladesh Government to have a system of inspection relating to the construction sector or to factories employing less than 10 people does not appear to be in violation of this Convention. *It would however be useful for the Committee to clarify this matter.*

### **Article 3**

- 4.3 This Article requires that the Inspectorate’s functions should be to (a) “secure the

---

<sup>43</sup> Article 4 states that “labour inspection shall be placed under the supervision and control of a central authority.”

<sup>44</sup> Article 2(2). “National laws or regulations may exempt mining and transport undertakings or parts of such undertakings from the application of this Convention”

enforcement of the legal provisions”<sup>45</sup> including those relating to health and safety; (b) provide any “technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;”<sup>46</sup> and (c) inform the Government of any “defects or abuses not specifically covered by existing legal provisions.”

4.4 **Securing enforcement of legal provisions:** It is clear that the inspectorate has been set up to perform this function.

4.5 **Provision of Advice:** In relation to this obligation, the Committee has stated:

“If labour inspector’s interventions are to be effective, it is essential for employers and workers to be fully aware of the need to know and exercise their respective rights and obligations. Article 3, paragraph 1(b), of Convention No. 81 ... give the same importance to information and advice to employers and workers concerning the most effective means of complying with the legal provisions as to enforcement. These two functions are inextricably linked and represent the two key aspects of labour inspection.<sup>47</sup> ... The credibility of any inspectorate depends to a large extent on its ability to advise employers and workers on the most effective means of complying with the legal provisions within its remit ..”<sup>48</sup>

4.6 Our research indicates that the provision of advice to employers about their legal obligations and about how these can be complied with, appears to be limited. This is shown by the following:

- (a) the process of inspection seems focused on the identification of violations;
- (b) the Inspectorate does not publish any advice leaflets or guidance;
- (c) comments made by a representative of one employers organisation:

“Inspectors have no role to facilitate owners to follow the laws. Many of the owners don’t have ideas about the Factory Acts. You know many Ready Made Garment factory owners are not sufficiently qualified to understand the law. I think [that the] inspectorate should play an awareness-creating role; however the inspectorate has no initiative to campaign among the owners to follow the obligations under the Factory Act and Rules You will not find any campaign materials or any promotional activities in order to motivate the owners.

Normally owners submit application[s] with [the] factory lay out and other required papers for getting licence from Inspectorate. In most of the cases, [the] Inspectorate don’t play any facilitating role so that the owners can understand easily the requirements for getting licence, instead they create a difficult

---

<sup>45</sup> Article 3(1)

<sup>46</sup> Article 3(2)

<sup>47</sup> “Committee of Experts: General Survey: Labour Inspection”, para 85  
<http://www.ilo.org/public/english/standards/relm/ilc/ilc95/pdf/rep-iii-1b.pdf>

<sup>48</sup> “Committee of Experts: General Survey: Labour Inspection”, para 280

situation for the owners.”

4.7 However, the Inspectorate has told us that its inspectors does provide two types of training. One is for mid-level managers which lasts for one week – with accommodation, food etc provided by the Inspectorate. About twenty five of these take place each month. The other kind of training is for workers – which take the form of short lectures and are arranged inside the factories<sup>49</sup>.

4.8 **Defects or Abuses:** In relation to this obligation, the ILO has stated:

“The forms and frameworks of the employment relationship, production processes and technologies used at the workplace are changing increasingly fast. It is essential that relevant legislation keep pace with these changes if the workers in new employment relationships or abusive conditions of work are not to suffer as a result of an inadequate legal framework.”<sup>50</sup>

4.8 The ILO goes onto say that in response to this information, the “corrective measures” that can be taken by the Government:

“may take the form of regulations (orders, instructions or circulars) to supplement or clarify existing legislation, or they may consist of a legislative proposal to fill a more important gap in the legal framework.”<sup>51</sup>

4.9 We have no precise information about the proposals, if any, that have been made by the Inspectorate but it is important to note that there have been no new health and safety law or regulations introduced since 1979. For the last 14 years, there have been discussions about a new “Labour Code”. In its 1997 report, the Government told the Committee that it:

“constituted a national labour law commission in 1992 to review all existing labour laws in Bangladesh and recommend a comprehensive labour code so as to meet the changing needs of the time. While appointing the above commission, the Government advised it to review the laws and submit recommendations in light of the ILO conventions and recommendation ratified by Bangladesh. The commission comprises of 35 members representing employers, workers and Government with a retired judge of the High Court as its Chairman. The Commission submitted a draft labour code to the Government in 1994. The government has appointed a high powered tripartite committee to review the said draft labour code with a view to finalising the Code and placing it before the Parliament for enactment. The committee is working on it.”

4.10 Discussions about the Code are still continuing. However apart from in the area of sanctions (para 4.60), we understnad the proposed new labour code would not result in any significant changes to the existing legal regime in relation to health and safety.

## Article 6

---

<sup>49</sup> Interview with Chief Factory Inspector

<sup>50</sup> “Committee of Experts: General Survey: Labour Inspection”, para 133

<sup>51</sup> “Committee of Experts: General Survey: Labour Inspection”, para 135

4.11 This article requires that inspectors have “stability of employment” and their status and conditions of service are ‘independent of changes of government.’ The Committee has previously stated that ‘conditions of service’ includes matters involving “remuneration”<sup>52</sup> and “career prospects” and has stated in relation to this that:

“It is vital that levels of remuneration and career prospects of inspectors be such that high-quality staff are attracted, retained, and protected from any improper influence.”<sup>53</sup>

4.12 **Remuneration:** Specifically, in relation to remuneration, the Committee has stated:

“When inspectors do not receive remuneration commensurate with their responsibilities, the labour inspection itself is devalued. In carrying out their duties, inspectors may then find themselves treated with disrespect which detracts from their authority. Their low standard of living can also expose inspection officials to the temptation of treating certain employers leniently in exchange for favours.”<sup>54</sup>

It has further stated:

“having more than one position concurrently .... interferes with the performance of inspection duties.”<sup>55</sup>

4.13 In the Inspectorate, the salary structure is based on civil servant’s pay scale. The overall salary of an inspector comprises (a) basic salary (see table 5) (b) housing allowance which since 2005 is between 50-65% of the basic salary (see annex 3) and (b) medical allowance which is 500 taka per month. The total current starting salary of an inspector (including housing and medical allowance) is 11,040 taka (€124) and this can rise by yearly increments to a salary no higher than 20,135 taka (€226) per month – though this will take about 19 years to reach.

*Table 5: Salaries of Inspector 1997 and 2005*

Position	Status	National salary scale (1997)			National Salary Scale (2005)		
		Basic	Increment	Highest	Basic	increment	Highest
DCI	Class-I	4800 (€54)	210/year (€2)	8160 (€92)	7400 (€83)	365/year (€4)	13240 (€149)
Inspector (Med & eng)	Class-I	4300 (€48)	185/year (€2)	7740 (€87)	6800 (€77)	325/year (€4)	13090 (€147)
Asst. Inspector (Eng)	Class-II	3400 (€38)	170/year (€2)	6625 (€75)	5100 (€57)	280/year (€3)	10360 (€117)
Asst.	Class-III	2550	155/year	5505	4100	250/year	8820

<sup>52</sup> “Committee of Experts: General Survey: Labour Inspection”, para 208

<sup>53</sup> “Committee of Experts: General Survey: Labour Inspection”, para 204. The document goes onto say at para 209: “Although the Committee is aware of the severe budgetary restrictions governments often face, it is bound to emphasize the importance it places on the treatment of labour inspectors in a way that reflects the importance and specificities of their duties and that takes account of personal merit.”

<sup>54</sup> “Committee of Experts: General Survey: Labour Inspection”, Para 214

<sup>55</sup> “Committee of Experts: General Survey: Labour Inspection”, Para 211

<b>Inspector (med)</b>		(€28)	(€2)	(€62)	(€46)	(€3)	(€99)
------------------------	--	-------	------	-------	-------	------	-------

Source: Factory Inspectorate

The starting salary of 11,000 taka is not high – and the yearly increments are not significant. The low salaries are perhaps reflected in the fact that the Chief Factory Inspector himself reportedly feels bound to run a private medical practice that he carries out after work in the evenings – which appears to be against the Committee’s comments.

4.14 **Career Prospects:** In relation to career prospects, the Committee has stated:

“Career prospects that take into account seniority and personal merit are essential to attract and especially to retain qualified and motivated staff in labour inspectorates.”

4.15 In its 1984 report to the Committee, the Government stated that: “The inspection service is composed of public officials who are assured of stability of employment and protected from extraneous influences and changes of government.”<sup>56</sup> Our research did indeed find that positions within the Inspectorate were unaffected by changes in Government. Appointments within the Factory Inspectorate are considered ‘technical positions’ and people appointed to these posts– including the Chief Inspector - are not deputed from the Ministry<sup>57</sup>. The Chief Inspector also insisted that inspectors with a good work record did get promoted. However our research has indicated that:

- it is the perception of some inspectors that promotion opportunities are often based on departmental favoritism or on other arbitrary criteria rather than merit or need. We were told, for example, of a person who was appointed as a Deputy Chief Inspector who only has secondary education. As such, ‘improper external influences’ do appear to play a part the conditions of work of inspectors.
- there is very little opportunity for promotion within the Inspectorate. There are a number of inspectors who started employment in the Inspectorate ten or fifteen years ago as an Inspector and remain in the same position today. For example we interviewed two inspectors both employed between ten and 20 years who had not been given a single promotion.

## Article 7

4.16 This article requires that labour inspectors are recruited “with sole regard to their qualifications” and that they are “adequately trained”.

<sup>56</sup> No other more recent Government report to the committee seems to mention article 6

<sup>57</sup> It was noted by one employer representative that this was not such a good thing as it prevented the most competent managers to be put in charge of the Inspectorate.

4.17 **Recruitment:** The Government in its 1984 report to the Committee stated that “inspectors are recruited on selection by the public service commission as per qualification and experience as fixed by government in the recruitment rules and in consideration of their competence in this field.” We have no information about whether inspectors are recruited with sole regard to their qualifications. It does seem to be the case that most Inspector positions (other than assistant inspectors) are filled by those who have passed the Public Services Commission exams and that Inspectors (medical) are all doctors and Inspectors (engineering) have an engineering degree.

4.18 **Training:** The Committee has stated:

“Developments in technology and methods of work in all sectors of the economy have been accompanied by a constant growth in knowledge of the impact of these factors on occupational health and safety and on productivity. The importance of advanced training for inspectors in the course of their employment has become obvious.”<sup>58</sup>

4.19 The Government stated in its 1984 report to the Committee that inspectors “receive on the job training” and are “sometimes supposed to be sent abroad for overseas training on study tour.” Our research, however, indicates that the inspectors are not “adequately trained”. When inspectors first start at the Inspectorate they receive one months induction training at the Industrial Relations Institute (IRI). For a number of inspectors, even if they stay many years at the Inspectorate, this may be the only training they are given. We were told that there is no annual training programme. The lack of training opportunities was keenly felt by the inspectors we interviewed.

4.20 In addition, we were told that Ministry officials decide on who should be able to take the intermittent training opportunities that arise – and a common criticism by inspectors was that these training places are often taken by Ministry officials themselves or are distributed on the basis of favoritism or nepotism and not on merit or institutional requirements. Several examples of this were given to us.

4.21 In assessing the adequacy of training it is important to take into consideration the great variety of industries into which inspections must be undertaken; these include

---

<sup>58</sup> “Committee of Experts: General Survey: Labour Inspection”, para 187

garments, tanneries, rice mills, pharmaceutical, ship-breaking and engineering (see annex 1). Inspectors are not provided any specialised training into the technologies used in these industries.

## **Article 8**

- 4.22 This article requires the Inspectorate to be open to women. We found only one female inspector in the whole Inspectorate – and none involved in health and safety inspection.<sup>59</sup>

## **Article 9**

- 4.23 This article requires that that “duly qualified technical experts and specialists, including specialists in medicine, engineering, electricity and chemistry, are associated in the work of inspection.” In relation to this, the Committee has stated:

“In order to be effective, inspection of workplaces must permit the detection of potential hazards so that measures can be determined to eliminate or reduce them as far as possible. Such inspections often require a high level of expertise and is thus a matter for specialist technical advisers. Inspectors must collaborate with such technical advisers or experts in order to carry out technical inspections for which their own qualifications are not sufficient.”<sup>60</sup>

- 4.24 Inspectors involved in occupational health are qualified medical doctors; and inspectors involved in occupational safety matters are qualified engineers – though only at an undergraduate level. Assistant inspectors do not though need to have any technical qualification. The Inspectorate has no access to any other expertise outside of the 20 inspectors employed on these issues.<sup>61</sup> There must be a real concern whether the expertise within the Factory Inspectorate is able to deal with the complex technologies that exist within some industries.

## **Article 10 and 16:**

- 4.25 These two articles are connected. Article 10 requires that “the number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate” and in deciding the numbers “due regard” should be given to

- (a) the importance of the duties which inspectors have to perform, in particular
  - (i) the number, nature, size and situation of the work-places liable to inspection;
  - (ii) the number and classes of workers employed in such workplaces; and
  - (iii) the number and complexity of the legal provisions to be enforced;
- (b) the material means placed at the disposal of the inspectors; and
- (c) the practical conditions under which visits of inspection must be carried out in order to be effective.

---

<sup>59</sup> Article 8 states: “Both men and women shall be eligible for appointment to the inspection staff”

<sup>60</sup> “Committee of Experts: General Survey: Labour Inspection”, para 196

<sup>61</sup> Expertise on all these matters does exist within institutes and universities within Bangladesh – and also within other government departments.

4.26 Article 16 states that “Workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions.”

4.27 These provisions go to the core of whether or not an inspectorate can carry out its functions adequately.

4.28 **Inspector Numbers:** Information provided by the Inspectorate (set out in table 6) shows that in August 2006 the number of employed inspectors responsible for either health or safety in factories and docks for the whole of Bangladesh was only 20<sup>62</sup>. This is in fact a decrease of 1 compared to the number of inspectors that the Government informed the Committee were present in 1984<sup>63</sup>.

*Table 6: Numbers of inspectors with a health and safety function in 1984 and 2006*

	1984	2006
<b>DCI (Eng)</b>	1	2
<b>DCI Medical</b>	1	1
<b>Inspector (eng)</b>	5	8
<b>Asst Insp (eng)</b>	4	2
<b>Inspector (med)</b>	4	5
<b>Asst Insp (med)</b>	4	1
<b>Dock Labour</b>	2	1
<b>Total Inspectors</b>	21	20

Source: Government of Bangladesh Report to ILO Committee, 1984; and Factory Inspectorate, 2006

4.29 This decrease in the number of inspectors since 1984 should be contrasted with the 67% increase in number of registered premises and 140% increase in the number of workers in this period (see table 5 and 6). It should be noted that as far back as 1984 the Committee considered the Government to have an inadequate number of inspectors (see annex 4) but 22 years on, the situation has only got worse

*Table 5: Number of Registered Factories<sup>64</sup>*

	1988	1993	2002	2006	% increase
<b>Dhaka</b>	6471	7470	10,028	11,665	80%
<b>Chittagong</b>	3334	3719	4390	4,851	45%
<b>Khulna</b>	517	579	681	863	67%
<b>Rajshai</b>	4211	4416	4898	6850	62%
<b>Total</b>	14533	16184	19997	24229	67%

Source: Factory Inspectorate Reports.

*Table 6: Numbers of Workers*

	1988	1993	2002	2006	%
--	------	------	------	------	---

<sup>62</sup> There are eight vacancies which are not included in this number.

<sup>63</sup> It should be noted that this 1984 figure may include vacant post which the figures for 2006 does not.

<sup>64</sup> The 2002 figures are from the 2002 annual report.

					<b>increase</b>
<b>Dhaka</b>	490,606	554,056	970,229	1,060,394	116%
<b>Chittagong</b>	160,317	219,905	396,241	561,903	250%
<b>Khulna</b>	82,309	87,087	99,546	108,845	32%
<b>Rajshai</b>	121,656	143,962	234,006	313,056	157%
<b>Total</b>	854,888	1,005,010	1,700,022	2,044,198	140%

Source: Factory Inspectorate Reports.

- 4.30 Dhaka, there are four ‘safety’ inspectors (though the DCI is not involved in active inspections) and three “health” inspectors responsible for 11,665 premises. The number has not changed in the last five years. In Chittagong (where the ship-breaking yards are located), for the last two years there have only been three active inspectors<sup>65</sup> - none of whom undertake occupational health inspections – responsible for 4851 premises (see table 7). There is no dock labour inspector for the port in Mongla. The table shows the lack of relationship between numbers of premises and numbers of inspectors.

*Table 7: Numbers of Health and Safety Factory and Dock Safety Inspectors by Division, August 2006*

	<b>Dhaka</b>	<b>Chittagong</b>	<b>Khulna</b>	<b>Rajshai</b>
<b>Factory Safety</b>				
Deputy Chief Inspector (engineering)	1	0	1	0
Inspector (engineering)	2	2	2	2
Assistant Inspector (engineering)	1	1	0	0
<b>Factory Health</b>				
Deputy Chief Inspector (medical)	0	0	0	1
Inspector (medical)	2	0	1	2
Assistant Inspector (medical)	1	0	0	0
<b>Dock Safety</b>				
Dock Labour Inspector	0	1	0	0
<b>Total Health and Safety inspectors</b>	7	4	4	5
<b>Total Registered Premises</b>	11,665	4,851	863	6850

Source: Factory Inspectorate

- 4.31 It is important to note that when an Inspector (engineering) does an inspection, s/he is only looking at safety issues; and when an inspector (medical) does an inspection, s/he is only looking at health issues. Therefore in order for a company to have a full health and safety inspection, it requires two inspectors.
- 4.32 **Inspection numbers:** As a result in part due to the low number of inspectors, there is also a low number of inspections carried out. The Inspectorate was unable to provide us with the number of inspections undertaken by either health or safety factory inspectors.<sup>66</sup> We were however told that these inspectors undertake an average of about

<sup>65</sup> As of July 2006, there is an unfilled Inspector (engineering) position that would make a total of three, and an Inspector (medical) and Asst. Inspector (medical). The Chittagong office has asked for these positions to be filled but no action has been taken by the Dhaka office

<sup>66</sup> The only published data relates to the total number of inspections; it is not disaggregated

10 to 12 inspections each month.<sup>67</sup> Assuming that each inspector undertakes 12 inspections, this would mean that in Dhaka each month, there would be 36 safety inspections and 36 health inspections and that each year there would therefore be 432 safety and 432 health inspections. In Chittagong, there would be 36 health inspections per month and 432 per year – but there would be no safety inspections.

4.33 In Dhaka, therefore, each year a factory will have a one in 27 chance of receiving a visit from a safety inspector and a one in 27 chance of receiving a visit from a health inspector. This is a one in 729 chance of receiving both a health and safety inspection. A factory in Chittagong has a one in 11 chance of a health inspection. It should be noted however that about one third of these inspections are follow-up visits and some involve licence inspections.

4.34 Moreover since a fire at the KTS garments factory in Chittagong in February 2006 that killed 58 people, inspectors are only inspecting garment factories; there are no inspections being undertaken into any other kind of factory. Even the dock inspector is only inspecting garment factories. This is a reflection of the very low numbers of inspectors.

4.35 In addition, in Chittagong, since 2005 there have been no inspections into any of the 99 ship-breaking yards – despite the notoriously poor working conditions in these sites – because there are not enough inspectors.<sup>68</sup>

4.36 We have been told that the Labour Inspectorate has, over the years, asked the Ministry for more staff. Since the fire at KTS Garments the issue of more inspectors is again before the Ministry. There does not however seem to be sufficient commitment to follow this process through. This is clear from looking at previous reports provided by the Government to the Committee which indicate that over the last twenty years, again and again, the Government promised the committee more inspectors and not followed through on this (see annex 4).

## **Article 11**

4.37 This article requires inspectors to have “suitably equipped” offices, and “transport facilities necessary for the performance of their duties in cases where suitable public facilities do not exist”. In addition “travelling and incident expenses” should be

---

<sup>67</sup> Directive given by the Chief Factory Inspector

<sup>68</sup> This is also in part due to the Ship-breaking owners not allowing inspectors access.

reimbursed.

4.38 **Equipment:** The Committee has stated in relation to equipment that:

“Labour inspectorates need adequate equipment (which has to be stored and maintained) to take samples and carry out measurements in enterprises. To perform analyses that require special technical processes or methods, they need to have access to the services of specialised regional or national laboratories.”<sup>69</sup>

Our research found that offices were not well equipped. One illustration of this lack of basic equipment is that there are very few computers, so that inspectors have to hand-write everything before it is then typed. By way of a further example, there is some chemical-testing equipment in the Chittagong office that is simply not used as it is too heavy to carry and inspectors cannot take it with them to factories as they do not have use of any private transport.

4.39 **Transport:** In relation to payment of transport, the Committee has stated:

“The Committee has considered that the possibility of obtaining assistance from employers ..... is likely to prejudice the impartiality and authority which are necessary to inspectors in their relations with employers and workers, by creating a risk of dependency on employers.”

Inspectors do not have access to vehicles – and so in order to undertake inspections they have to use public transport. The Chittagong and Dhaka divisional offices each have a vehicle, which is only used by the DCIs in charge of the respective offices and are not used by any active inspectors. Most of the inspectors we interviewed said that lack of transport facilities hampered their ability to inspect premises. In the Dhaka divisional office, inspectors have to travel an average 100 km – which by public transport would take about two to three hours – and sometimes upto 200 km to visit a factory.<sup>70</sup> Although, there is a system to pay the public transport costs of inspectors, no expenses are paid if the factory is within 5 km of the divisional office. In relation to longer journeys, although there is a system of getting back expenses, we were told that this can be a very long-winded process. As a result it is not uncommon for inspectors to expect that employers will pay their expenses.

4.42 The dock labour inspectors have particular problems. Hired vehicles are not usually

---

<sup>69</sup> “Committee of Experts: General Survey: Labour Inspection”, Para 247

<sup>70</sup> For example to Sherpur district. The Dhaka divisional office comprises 16 districts: Dhaka, Narayanganj, Narshingdi, Munshiganj, Gazipur, Manikganj, Tangail, Mymensingh, Jamalpur, Sherpur, Kishorganj, Netrokona, Faridpur, Shariatpur, Madaripur and Gopalganj

allowed in the port vicinity and in order to get from one part of the port to another – which can involve long distances - they have to depend upon ship stevedores. In addition, they are unable to inspect or investigate ships which are anchored at sea as they do not have access to a launch vessel.

## **Article 12**

4.43 This article requires inspectors to have powers to enter premises freely, without notice, and to carry out any necessary inquiries including interrogation. It also requires inspectors to be able to access and copy any relevant documentation the keeping of which is required by law, and to take any samples for analysis.

4.44 **Unannounced visits:** The Committee has stated:

“Unannounced visits enable the inspector to enter the inspected premises without warning the employer or his or her representative in advance, especially in cases where the employer may be expected to attempt to conceal a violation, by changing the usual conditions of work, preventing a witness from being present or making it impossible to carry out an inspection.”<sup>71</sup>

The Committee has said that some scheduled visits are appropriate:

“where deemed useful or necessary by the inspector, the employer or his or her representative cannot be informed of the time and purpose of the inspection. The practice of combining unannounced visits with scheduled visits has the advantage of ensuring that employers and workers are constantly aware that an inspection may occur at any time.”<sup>72</sup>

4.45 Although the Inspectorate can undertake unannounced visits, the Inspectorate’s standard practice (see para 3.8 above) is to inform employers before all inspections which appears to be in violation of the Convention.

4.46 **Testing:** In relation to testing of materials, the Committee has stated:

“inspectors must be able to verify whether the conditions in which such materials or substances are to be found at the workplace are in conformity with the legal provisions, and whether they are used or handled in accordance with the established regulations, and to conduct or have conducted by a competent body analyses requiring special equipment or technology.”<sup>73</sup>

4.47 Due to lack of equipment, lack of training in existing equipment, and inability to transport the equipment that the inspectorate – inspectors do not sample chemicals for testing. This section therefore seems to be breached.

---

<sup>71</sup> “Committee of Experts: General Survey: Labour Inspection”, para 263

<sup>72</sup> “Committee of Experts: General Survey: Labour Inspection”, para 267

<sup>73</sup> “Committee of Experts: General Survey: Labour Inspection”, para 278

### **Article 13**

- 4.48 This article requires inspectors to have powers which allows them “to take steps with a view to remedying defects observed in plant, layout or working methods which they may have reasonable cause to believe constitute a threat to the health or safety of the workers.” It goes onto say that inspectors should be able to impose orders requiring changes “within a specified time limit” or “with immediate executory force in the event of imminent danger to the health or safety of the workers.”
- 4.49 As is set out in para 3.14-3.18 above, the Factories Act 1965 does provide inspectors with these powers. There are no statistics on the use of these notices.
- 4.50 We note that, stretching right back to 1984, there has been previous correspondence between the Committee and the Government concerning whether Article 13 requires there to be an amendment to the Shops and Establishments Act which would authorise labour inspectors to make orders “requiring (a) such alterations to the installations or plant to be carried out within a specified time limit as may be necessary to secure compliance with the legal provisions relating to the health or safety of the workers and (b) measures with immediate executory force in the event of imminent danger to the health or safety.”<sup>74</sup>
- 4.51 We are not clear why the Committee considers that the Government is required to make this change. The Shops and Establishments Act does not impose obligations concerning health and safety and since the Convention only requires enforcement of laws that have been enacted, it is unclear what is the basis of this requirement. Indeed, if there was such a requirement, then a much more obvious omission would be a failure to have such powers relating to the construction industry. *It would therefore be useful for the Committee to clarify its position on this issue and the basis upon which it makes a demand for legislative change.*

### **Article 14**

- 4.52 This article requires the Inspectorate to be notified of “industrial accidents and cases of occupational disease.” According to the ILO’s own data, there are 51.8 million people in employment in Bangladesh – 5.7 million (11%) working in the industrial sector<sup>75</sup>. In

---

<sup>74</sup> Direct Request 1982, Direct Request 1984, Government report 1985, Direct request 1986; 1991 report: direct request 1994

<sup>75</sup> [http://www.ilo.org/public/english/protection/safework/accidis/globest\\_2005/oai.pdf](http://www.ilo.org/public/english/protection/safework/accidis/globest_2005/oai.pdf)

2005, the ILO estimated that each year out of a total 11,767 work-related deaths, 683 (5%) involved ‘industrial’ workers. In addition (assuming that 5% of overall *injuries* involve ‘industrial’ workers) there were 449,000 industrial ‘over-three’ day injuries.<sup>76</sup>

4.53 These figures contrast with the level of deaths and injuries reported to the Inspectorate – which in 2004 show that there were only 11 deaths (1.6% of ILO ‘industrial death estimates) and 23,286 injuries (see table 1 below). The difference can in part be explained by the limited application of the Factories Act (not applying to construction, factories with less than 10 employees or mines). However lack of basic reporting is clearly a significant factor.

*Table 8: Nos of deaths and injuries reported to the Factory Inspectorate*

Year	Death	Injuries		Total
		Serious	Minor	
1995	13	286	3,587	3,886
1996	11	276	2,600	2,887
1997	13	639	3,539	4,191
1998	24	427	2,653	3,104
1999	11	458	1,761	2,230
2000	21	298	1,620	1,939
2001	29	205	801	1035
2002	15	198	1,822	2,035
2003	15	357	1,422	1,794
2004	11	268	609	888
<b>Total</b>	<b>163</b>	<b>3412</b>	<b>20,414</b>	<b>23,989</b>

Source : Statistics Cell, Department of Inspection for Factories & Establishments.

#### **Article 15**

4.54 This article requires that inspectors should neither have “any direct or indirect interest in the undertakings under their supervision”, nor reveal any manufacturing or commercial secrets obtained in the course of their work. This requirement set out in section 9(5) and 98 Factories Act, and this was not an issue that arose in our research.

4.55 The Article also requires inspectors to treat as “absolutely confidential the source of any complaint” concerning lack of compliance with the legislation and should not give “any intimation to the employer or his representative that a visit of inspection was made in consequence of the receipt of such a complaint.”

<sup>76</sup> ILO estimates that there were a total of 8,980,468 over-three day injuries

4.56 There is no provision in the Factories Act or Rules to this effect. Moreover, it is clear from our research that workers have little faith in the integrity of the inspectors, whom they perceive to be able to be ‘purchased’ by employers. One trade union leader stated:

“Usually in our country workers do not complain to the inspectors. Because workers can not depend on them. They visit factories with their own interest. As they get payment from owners they go for their interest.”

#### **Article 17**

4.57 This states that “persons who violate or neglect to observe legal provisions enforceable by labour inspectors shall be liable to prompt legal proceedings without previous warning.” It goes on to say that labour inspectors should have discretion “to give warning and advice instead of instituting or recommending proceedings.”

4.58 As set out in para 3.16, occupiers and managers can be prosecuted under the Factories Act. However, whilst it is possible for prosecutions to take place “without previous warning”, the practice is for inspectors to always provide them an opportunity to rectify the situation.

4.59 Inspectors stated that they face certain problems in prosecuting cases. First they have to prosecute cases themselves without any help from lawyers. Secondly, courts are sometimes far away from the main office which makes it very time-consuming having to deal with a particular case that may be subject to many adjournments. In addition, a new instruction has recently been circulated that requires inspectors to get the approval of the DCI before initiating prosecutions. One inspector indicated that this meant that prosecutions are prevented from happening for inappropriate reasons.

#### **Article 18**

4.60 This requires that there should be “adequate penalties” available to the courts following conviction for an offence and that these penalties should be “adequately enforced”. The Committee has stated in relation to the adequacy of the penalty:

“It is essential for the credibility and effectiveness of systems for the protection of workers for violations to be identified by national legislation and for the proceedings instituted or recommended by labour inspectors against employers guilty of violations to be sufficiently dissuasive and to make employers in general aware of the risks they run if they fail to meet their obligations. In order to be credible, it is important for penalties to be defined in proportion to the nature and gravity of the offence.<sup>77</sup> ... If penalties are to have a deterrent effect,

---

<sup>77</sup> “Committee of Experts: General Survey: Labour Inspection”, para 292

the amount of fines should be regularly adjusted to take account of inflation. It would be regrettable in every respect if employers preferred to pay fines as a less costly alternative to taking the measures necessary to ensure compliance with the legal provisions on working conditions.”<sup>78</sup>

As set out above, the maximum fine for an offence is 1000 taka (equivalent to €11 or \$14). This is a very small amount of money even in the context of the Bangladesh economy and provides absolutely no deterrent.

4.61 The Committee has also made it clear that penalties being ‘effectively enforced’ means that prosecutions must take place when appropriate violations are identified<sup>79</sup>.

---

<sup>78</sup> “Committee of Experts: General Survey: Labour Inspection”, para 295

<sup>79</sup> “Committee of Experts: General Survey: Labour Inspection”, para 303 to 305

### Annex 1: Registered Factories in Chittagong Division (as of May 2006)

Sl.	Category of Factory	Number of factory	Numbers of workers
1	Jute mill/jute press factory	43	41404
2	Carpet	5	2221
3	Cotton	156	36477
4	Engineering factory	479	37052
5	Ship breaking	99	8611 – employed by the owner. More than 20,000 are working in this sector under a contractor.
6	Bread and biscuits	189	5284
7	Beverages	39	3466
8	Pharmaceuticals	39	1820
9	Match	10	1007
10	Paper and newsprint	30	6484
11	Re-rolling	144	8855
12	Fertilizer	5	3566
13	Electricity and power	9	1606
14	Garments	653	138771
15	Salt	248	4645
16	Painting and packaging	141	7030
17	Cement	13	2552
18	Soap	80	2614
19	Tobacco	42	5644
20	Tea	158	117915
21	Tannery	48	3434
22	Rice mill	93	1987
23	Enamel and Aluminum	114	3604
24	Melamine and plastic	57	2241
25	Ice mill	47	1623
26	Fish processing	93	4105
27	Chemical	159	8147
28	Railway workshop	7	322
29	Saw mill	24	478
30	Glass	8	561
31	Ceramic	2	80
32	Flour	67	1036
33	Oil mill	162	4661
34	Weaving	1195	14136
35	Others	193	17414
	Total	4,851	561903

## **Annex 2: Check lists for Inspectors (engineering), Inspectors (medical) and Dock Safety Labour Officers**

### **Factory Inspection checklist (Occupational Safety) – Inspectors (engineering) Factory Act 1965 and Factory Rules 1979**

1. Factory Plan (Rule 8)
  - a. Has the Factory building plan approved?
  - b. Does the layout of the building and machines reflect the plans?
  - c. Has the factory been registered?
2. Precautions in case of fire (Rule 22):
  - a. Are there stairs and exits from the factory available from every room?
    - i. Can doors be opened from outside?
  - b. Are there fire extinguishers?
  - c. Are fire extinguishers regularly checked and re-filled?
  - d. Have at least 25% of workers, engaged in the use of fire extinguishers, been given essential training?
3. Fencing of machinery (Rule 23)
  - a. Are all machines fences according to this rule?
4. Work on or near machinery in motion (Rule 24)
  - a. Do all workers wear tight clothes when they work?
  - b. Are the names of workers, who have received special training, registered in form no. 8
5. Automatic machine (Rule 25)
  - a. Is there enough distance between each machine?
6. Power System (Rule 26)
  - a. Is there suitable system for cutting off power?
  - b. Are there standard power conductor and connection systems?
  - c. Is the power system checked regularly?
7. Cotton opener machine (Rule 29)
  - a. Are women and children employed in this work?
8. Cranes and other lifting machinery (Rule 30)
  - a. Is the machine checked completely at least once a year?
  - b. Is there a certificate from the person who has checked this machine?
9. Hoist and Lifts (Rule 31)
  - a. Are these hoists and lifts checked regularly?
  - b. Is the result of checking recorded in form no. 9
10. Pressure plant (Rule 33)
  - a. Are available safety valve, pressure gage, stop valve, drain bark etc.?
  - b. Is these checked by appropriate persons and recorded the result in form no. 10
11. Floors, stairs and means of access
  - a. Are all floors, stairs, passages and gangways properly maintained?

- b. Is their proper fencing?
  - c. Are there appropriate safety railings on stairs and platforms?
12. Excessive weights (Rule 36)
    - a. Are workers carrying excessive weights?
  13. Protection of eyes
    - a. Are eye-shields/safety goggles used by workers?
  14. Defective factory building or parts of machine (Rule 38, 39)
    - a. Is there any part of machine or any machine dangerous?
  15. Dangerous fumes (Rule 41)
    - a. Is there any engineering system to protected against fumes?
    - b. Do they use safety devise?
  16. Explosive or inflammable dust, gas etc. (Rule 42)
    - a. Is there any engineering system to protected against dust etc?
    - b. Do they use safety devise?
  17. Notice of certain accidents (Rule 88)
    - a. Have injuries been recorded in the form no. 28?
    - b. Have reports of accidents been reported in a timely manner?
    - c. Is the record kept regularly?
  18. Extra-allowance for overtime (Rule 58)

**The Workers Compensation Act, 1923**

1. Have the name of workers been recorded in form no. a (1)?
2. Has the yearly return been submitted?
3. Other (detail)

**Factory Inspection checklist (Occupational Health) - Inspectors (Medical)  
Factory Act 1965 and Factory Rules 1979**

1. Cleanliness (Rule 12)
  - a) Are factories cleaned and painted appropriately?
  - b) Are records of cleaning kept in form no. 6
2. Disposal of wastes and effluents (Rule 13):
  - a) Are wastes and effluents disposed according to specific rules?
  - b) Is the plan of disposal approved by the chief inspector?
3. Ventilation and temperature (Rule 14)
  - a) Is the circulation of fresh air adequate?
  - b) Is there a thermometer hanging inside the factory?
4. Dust and fume (Rule 15)
  - a) Is there an adequate ventilation system for dust and fume?
5. Lighting (Rule 18)
  - a) Is there an adequate lighting system in the workplace?

6. Drinking water (Rule 19)
  - a) Is there pure drinking water?
  - b) Is it possible to test the purity of the drinking water?
  - c) Is cold drinking water available in the hot season?
7. Latrines and urinals (Rule 20)
  - a) Are latrines and urinals available?
  - b) Are there separate latrines and urinals for women?
8. Spittoon (Rule 21)
  - a) Is a spittoon available?
9. Protected Dress (Rule 42)
  - a) Do the workers use protected or secured dress if necessary?
10. Washing facilities (Rule 43)
  - a) Is there any facilities for washing?
11. First-aid appliances (Rule 44)
  - a) Are first-aid facilities available according to the rule?
12. Canteens (Rule 45)
  - a) Are healthy or hygienic canteens available?
  - b) Was the plan of building for canteen approved?
13. Shelters or rest room (Rule 46)
  - a) Is a rest room available according to the rule?
14. Spreadover
  - a) Is the period of work maintained according to rule?
  - b) And is there any danger of illness or accident if the rule was violated?
15. Certificates of fitness (Rule 68)
  - a) Is there any disability among the young workers? And is this certificate up graded every year?
  - b) Has the register form no. 5 been maintained?
16. Dangerous operation and worker's eligibility (Rule 87 and 90)
  - a) Have any workers suffered ill health due to use of chemicals?
  - b) Have the list of chemicals been given to workers and are workers aware of the dangers?
17. Other (detail)

**Maternity Facility Act 1939**

1. Have maternity facilities been given to female worker during last 12 months.
2. Is there any record of sacking any female workers during their maternity leave?
3. Did the record of return been submitted during last couple of years?
4. Other (please explain detail)

## Checklist for dock labour safety officer

1. Name of the vessel:
  2. Port of registration:
  3. Official No.:
  4. Flag:
  5. Name of the Master:
  6. Owner's name and address:
  7. Name of the local agent:
  8. Name of stevedores:
  9. Berth/jetty/shed No.:
  10. Date of inspection
- 

1. Lifting machinery: (Reg. - 27)
  - a) Jib crane:
    - i) Is smooth rotation ensured?
    - ii) Is lifting and lowering operation working safely?
    - iii) Are the lifting wires in good condition?
  - b) Derrick booms, mast and permanent attachments: (Reg. - 27)

Is any irregularity present?
  - c) Winch:
    - i) Whether it is working properly?
    - ii) Whether effective means of stopping and holding the load at any position is provided?
    - iii) Whether safety device (limit switch) is functioning properly?
  - d) Cargo wire rope and sling: (Reg. 30)
    - i) Whether broken wire ropes are used?
    - ii) Whether the number of broken strings are within the limit?
    - iii) Whether the end of the rope is secured?
    - iv) Whether it has been tested and examined periodically?
  - e) Rope: (Reg. - 30)

Whether it is of suitable quality?
  - f) Loose gear: (Reg. - 28, 29)
    - i) Whether any defect present?
    - ii) Whether the provisions of Regulation No. 28 and 29 are observed?
2. Periodical Examination
  - a) Whether periodical examination of the lifting machinery has been done (Reg. - 27)
  - b) Whether the register of periodical examinations is maintained properly? (Reg. - 31)
  - c) Whether test certificates are available? (Reg. - 33)
3. Gangway or Ladder (Reg. - 16)
  - a) Whether gangway or ladder is constructed with hand rails properly?

- b) Whether means of access is safe and secured?
4. Lighting (Reg. - 19)  
Whether lighting is provided effectively?
  5. Loading of lifting machinery (Reg. - 46)  
Whether the lifting machinery, chain and sling is loaded beyond the safe working load?
  6. Passageway:  
Whether clear space is maintained as per Reg. – 48?
  7. Deck and Cargo stage.  
Whether the provision of Reg. -49 is maintained properly?
  8. Signallers (Reg. - 56)  
Whether trained signaller has been employed as per provision of the regulation?
  9. Marking of safe working load:  
Whether the provision of Reg. – 35 and 36 are adhered to
  10. Beams and hatch covering:  
Whether the provisions of Reg. – 20, 21, 22 and 23 have been followed?
  11. Fencing of working places and approaches (Reg. - 7)  
Whether fencing is constructed properly and maintained in good condition?
  12. Life saving appliances (Reg. - 9)  
Whether sufficient number of life saving appliances have been kept in readiness on the wharf or quay for the use in case of emergency?
  13. First-aid: (Reg. - 10)
    - a) Whether each work-place is provided with first-aid appliances?
    - b) Whether it is maintained as per provision of Reg. – 10?
  14. Hygienic Condition and facilities for workers (Reg. - 13)
    - a) Whether the work places and premises are cleaned regularly?
    - b) Whether adequate protection has been taken for a healthy environment?
    - c) Whether a sufficient number of latrines are provided and constructed and maintained properly?
    - d) Whether adequate and suitable facilities for washing are provided and maintained properly?
    - e) Whether adequate arrangements of drinking water, changing and storage of clothes, shelter or rest room or lunch room facilities are provided and maintained in hygienic condition?
  15. Protective measures against dangerous fumes and other harmful agents (Reg. - 24)
    - a) Whether any harmful agents are loaded or unloaded or handled by workers?
    - b) Whether the hold is examined by a competent person?
    - c) Whether the workers are provided with protective equipment?
  16. Accidents (Reg. - 12)
    - a) Whether accidents are recorded?
    - b) Whether the reports have been sent to the competent authority.

17. Opinion of the workers (Reg. – 24A)

Whether the opinion of workers in respect of measures to be taken for the control of risk to their health and safety for ensuring their cooperation has been considered.

18. Others

Any other suitable measures are likely to be taken if it comes in the opinion of Dock. Labour Safety officer.

### Annex 3

#### Housing Allowance: According to new scale

<b>Basic salary</b>	<b>Dhaka Metropolitan area</b>	<b>Other Municipalities</b>	<b>Other areas</b>
<b>Up to Tk. 2800</b>	65% of basic salary - at least Tk. 1590	55% of basic salary - at least Tk. 1370	50% of basic salary - at least 1250
<b>2801 - 6000</b>	60% of basic salary - at least Tk. 1820	50% of basic salary - at least Tk. 1540	45% of basic salary - at least 1400
<b>6001-12000</b>	55% of basic salary - at least Tk. 3600	45% of basic salary - at least Tk. 3000	40% of basic salary - at least 2700
<b>12001+</b>	50% of basic salary - at least Tk. 6600	40% of basic salary - at least Tk. 5400	35% of basic salary - at least 4800

## **Annex 4**

### **Government reports to the Committee and Direct Requests from the Committee, 1984-2001 – inspector and inspection numbers**

#### **Government Report, 1984**

There is acute shortage of inspecting staff in comparison with the number of factories and establishments of the country and the number of workers employed therein.

#### **Government Report, 1985**

In order to strengthen the inspection department the Government created 4 posts of Asst Inspector (general), 4 posts of Labour Inspector (general) and 15 posts of Inspector (shops and establishments).

#### **Committee Direct Request, 1986**

The Committee takes note of the information supplied by the Government in reply to its earlier comments. It notes in particular that in view of the number of workplaces and the workers employed in these workplace, the number of inspector is not sufficient. It therefore requests the government to state the measures that it intends to adopt in order to increase the numbers of inspector so that all workplace may be visited regularly.

#### **Government Report, 1987**

There are proposals for expanding the Dept of Inspection for Factories and Establishments both in size and equipments.

The difficulties due to inadequate officers, staff, transport and equipment will be removed gradually. The Government has an intention to expand the Department of Inspection for Factories.

Shortage of officers and staff in comparison with the number of factories and establishments causes practical difficulties in inspection.

#### **Government Report, 1988**

The expansion of the Department of Inspection could not be initiated due to financial constraints.

#### **Government Report, 1991**

The Government is keen to expand the Department of Inspection of Factories; but it has not been possible to take measures to strengthen the Department owing to financial constraint. A project under the annual development programme 1991-2 to obtain equipment for inspection activities is under process. A proposals from the Bangladesh Employers Association to amend the Factories Rules 1979, so as to authorise qualified engineers of the Association to conduct inspection of factories and thus supplements the efforts of the Inspectors, awaits review and adoption.

#### **Committee Direct Request, 1992**

Further to its previous comments the Committee notes the information provided in the Annual report for the year 1988 of the Department of Inspector for Factories and Establishment. In addition, the Government states that, although it is keen to expand the labour inspectorate, this has not been possible because of financial constraints. The Committee will continue to provide information on developments, bearing in mind the Convention's requirements.

#### **Government Report, 1993**

The expansion scheme for the Department of Inspector for Factories and establishment is under consideration by the Government and two schemes [including] ... strengthening the Department for inspection. ...

#### **Committee Direct Request, 1994**

Further to its previous comments the committee notes from the Government's report that it is currently studying two schemes for the expansion of the labour inspectorate by strengthening the Department of Inspector, and by instituting a training programme on health analysis and prevention. It notes from the 1992 annual inspection report that the number of inspector has remained unchanged which there has been a steady growth in the number of new shops liable to inspection. While the Committee notes the improvement in the efficiency of inspection and the growth in the number of cases brought to courts, it hoped the government will still increase the number of inspectors to ensure that inspections of workplaces are as often and as thorough as is necessary.

#### **Government Report, 1995**

Since independent of Bangladesh, rapid growth of small and medium sized industrial and commercial establishment have taken place. Naturally duties and responsibilities of the department of inspector for factories and establishment have increased manifold. So a proposal for expansion of the department of inspector for factories and establishments has been submitted to the authority concerned and that expansion proposal is under active consideration of the service reorganisation committee formed by the Government. This expansion programme, if materialised, will help increase number of inspectors which will in turn increase the number and frequency of inspection.

#### **Committee Direct Request, 1995**

Further to its previous comments the committee notes with interest the indication in the Government most recent report that due to the increase in the workload of the labour inspectorate, a proposal to expand the inspection services is under active consideration by a committee set up by the Government. The committee hopes these developments will result in permitting the government to take the necessary measures to expand the staff of the inspectorate and thus increase the number and frequency of inspections. Please provide full particulars with the next report

#### **Government Report, 1997**

In recent years with gradual diversification and expansion in the private sector the number of industries and establishment have steadily increased. During the year 1997, the number of registered factories stood at 17,816. Beside the two sea ports and 157 tea gardens, number of shops and establishment brought within the purview of the Shops and Establishment Act 1965 have stood at 168119. The department of inspection for Factories and Establishment, entrusted with the responsibility for enforcement of 46 labour law, rules and regulations can hardly cope up with the volume of inspection jobs with a meagre strength of 103 inspectors of different categories including the Chief Inspectors of Factories and Establishment. Considering the need for strengthening the inspection machinery, govt of Bangladesh approved a development project under the name of 'strengthening the department of inspection for factories and establishment. This project started functions since July 1992 with 10 inspectors (4 doctors and 6 engineers) and 16 staff. The government of Bangladesh have brought this project within the fold of the revenue budget in financial year 1997.

#### **Committee Direct Request, 1997**

Further to its previous comments the committee notes with interest the indication in the Government's most recent report that due to the increase in the workload of the labour inspectorate, a proposal to expand the inspection services is under active consideration by a committee set up by the Government. The Committee hopes these developments will result in

permitting the Government to take the necessary measures to expand the staff of the inspectorate and thus increase the number and frequency of inspections.

**Committee Direct Request, 2000**

The Committee notes the information in the Government's report in reply to its previous comments. It notes that the number of registered factories, shops and establishment, which are liable to inspection, has been continuously increased, while the number of inspectors has remained unchanged since 1992 (103 inspectors). Noting that the Government's most recent report supplies no information on measures taken or envisaged with regard to the increased of inspection staff to which the Government referred in previous report, the Committee requests the Government to provide full particulars in this regard.

**Government Report, 2001**

the government is keen to expand the inspectorate of Factories and Establishment; but it has not been possible to take measures to strengthen the Inspectorate owing to financial constraints. A proposal from Bangladesh Employers Federation to involve them in inspection activities supplementing the efforts of the inspectors awaits review and adoption.

