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Carrots and Sticks - Inspection Strategies in Denmark

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Introduction

The duty to assure safe and healthy working condition will always have people in enterprises as the primary actors. They might consult external agencies, but they will never be able to handle the obligation to assure the working environment¹ in an enterprise. This is recognized in the Danish law on working environment. In the preamble the parliament has stated that:

*This law has in view to create...the foundation for enterprises to solve questions concerning safety and health under guidance from the labour market organizations and guidance and supervision from the labour inspectorate
(AML, 1999, our translation)*

More studies have shown that most enterprises have difficulties in fulfilling the intentions of the law unassisted (Jensen, 2001). More external agencies have explicitly been singled out as having a supportive role by the parliament: the labour inspectorate (officially named National Working Environment Authority of Denmark), the labour market parties and the occupational health services. More studies have addressed the functioning of the occupational health services and the effects of the systems in specific areas (monotonous work and chemical substances). This paper address the role of the labor inspectorate in relation to the enterprises as it has developed since the law was passed. The perspective taken emphasizes the strategic decisions taken and the implementations of these decisions. But first ‘the scene’ for regulating working environment in Denmark has to be established.

The field of regulation

A quantitative description of the Danish industrial structure is given in figure 1.

		Size of workplace						Fictive	Total
		1	2-9	10-19	20-49	50-99	100+		
Jobs	No.	121.697	490.025	391.404	507.465	386.250	984.266	200.464	3.081.571
	%	4%	16%	13%	16%	13%	32%	7%	100%
Workplaces	No.	121.697	120.597	29.012	17.101	5.592	3.707		297.706
	%	41%	41%	10%	6%	2%	1%		100%

Figure 1. Distribution of jobs and working places, Nov. 2001 (Statistics Denmark, 2003)

As can be seen SMEs are dominating the Danish industrial structure (with more than 90% being smaller than 20 employees) while the bigger enterprises are dominating the labour market (with

¹ The concept ‘working environment’ has been institutionalised in the Scandinavian countries by the legal reform of the 70’s. It corresponds to concepts as ‘ergonomics’, ‘human factors’ and ‘occupational health and safety’.

enterprises bigger than 50 employs 45% of the employees). The labour market is highly organised as more than 80 % (Scheuer, 1988) of the labour force is estimated to members of a union. The labour market parties are well organised in three federations organising three fragments of the work force (LO: blue collar workers, FTF: white collar workers and AC: academic staff), one organization the middle management and six organisations represent different sections of employers (DA: the industry, service and transport sector, FA: the financial sector, SALA: the agricultural sector, KL: the municipal sector, ARF: the regional sector and the ministry of finance covering the state as employer).

Within the working environment sector a co-operative structure has developed since the beginning of the 19's century. The law establish tree-partite agencies at national and branch level. These institutions offer a platform for a discussion between the labour inspectorate and the labour market organisation on legislation and its implementation. In the discussions clashes of interests often occur, but the interplay between the three parties has in general been found instructive, and has in line with the argument of Winter (1990) implied benefits in the implementation processes as all parties supports most of the demands agreed upon.

The role of the labour inspectorate is defined in the law. In relation to the enterprises the inspectorate has on the one hand to direct them in questions concerning working environment and on the other to ensure observance of the law. The number of employees in the labour inspectorate is approximately 300. Compared to the total numbers of enterprises Denmark it can be seen that there is 1 inspector for every 1.000 enterprises, signifying a relatively high degree of coverage compared to many countries. For years the labour inspectorate has been organized in one central office and 14 council offices with a relatively high autonomy. Recently this has been changed to a unified structure.

A point of departure

The adoption of the law in 1975 did impose new areas into the activities of the labour inspectorate. Besides expanding the aspects of working conditions regulated, it also brings on the agenda the ability of enterprises to deal with the issues. But the passing of the law was not followed by any change in organizational structure and did not radically change the way the inspections were planed. There was over the year's changes in the general prioritizing of direction and compliance respectively reflecting changes in political priorities of government. In general the efforts were 'governed by the mail-box', implying that local applications had an important role in determining where the resources of the inspectorate were used. The formal criteria's for evaluating the effort of the inspectorate was time spend on inspections in enterprises and reactions given. In the later phases this was supplemented with analysis of stakeholders' satisfaction with the performance of the inspectorate, which in general was found to be high among all stakeholders.

Developing a new strategy

More public servant in the inspectorate found that the law put demands on the enterprises that also gave new demands to the labour inspectorate. That law emphasises that:

- All factors contributing towards healthy and safe working conditions has to be taken into consideration, implying that a narrow focus on a limited number of factors do not fulfil the demands of the law. A comprehensive view was claimed.
- Prevention is the major aim for enterprise activities implying a shift in focus from remedy over repair to integration into planning processes is preferred, and
- The enterprise plays a major role in these activities as they are demanded to establish routines (structures and processes) to locally assure compliance with the general demands of the law.

Research showed that these demands where not automatically meet in practice. Jensen (2001a) summarizes the experience of practitioners' as well as research findings, by stating that the intentions formulated by the legislators were not put into practice. Even though the law emphasizes management's responsibility for the work environment most firms leave this responsibility to the safety organization (that is the safety groups and the safety committee) and leave these groups in a marginal position with regard to decision-making processes within the firm. This situation has in a study of the Swedish system been described as the 'side-car-functioning' of work environment (Aminoff & Lindström, 1981). In short, working environment has not generally been integrated as an important aspect of the decision-making processes within the firm and the safety organization typically has a peripheral role in developing simple solutions to fairly minor problems. Nevertheless, it should be noted that the system has successfully handled many minor working environment problems, and that work environment issues have not disappeared from enterprise agendas. Even in periods with severe economic depression the legislative basis of the safety organization provided a legitimate forum for taking up working environment issues.

As the enterprises did not automatically demonstrate abilities to comply the labour inspectorate had to be supportive to such a development through a mixture of directions and commands. From mid-80 a search for instruments to accomplish this task were examined and tested out.

Targeted inspections

In the mid-80 a more targeted approach to inspection was developed. Base on public statistical material on accidents and occupational diseases and through discussions with the labour market parties specific branches and problems were targeted and a fraction of the resources of the labour inspectorate was reserved for concerted actions in these areas. This gave a temporary alertness to the issue, but generally it was difficult to maintain over time.

Internal control and system inspection?

In the second half of the 1980's the Norwegian labour inspection advanced the idea of demanding the enterprises to establish an intern control system on working environment and to combine this with a new inspection strategy: system inspection. Gaupset (2000) has given an account and analysis of the Norwegian development. Here the focus was on the management system and it's penetration into practice instead of focusing on the condition at the work sites. Through a series of meeting and reports (Hovden & Jensen, 1989) this approach were discussed. While Sweden followed in line with Norway, the Danish labour inspectorate did not find this approach suitable for the Danish setting. Firstly, it was seen as demanding management abilities, which might not be met in many - especially smaller - firms. Secondly, it was conceived as to bureaucratic for most firms with a risk of red tape decoupled from the actual practice in production.

EU directives

Thirdly, within the European Union initiatives were taken to pass a directive on occupational health and safety (EEC, 1989). The Danish state and interest groups had been active in the process of drawing up the directive. Therefore most of the elements from the Danish legislation were incorporated. But an explicit demand on risk assessment was a new supplement to the Danish legislation. In the transposition this demand were reformulated to a demand on joint workplace assessment involving a processes of continuous improvement as known from quality management.

Even though the demand was met with scepticism in the public debate, it was experienced as a success in enterprises trying to comply with the demand, even though studies shown that the potentials of WPA are not fully utilized in most enterprises (Jensen, 2001b & 2002).

New political signals

A change in government in the beginning of the 90's from a liberal government to a government dominated by the social-democratic party brought new life to working environment as a political issue. Across the political spectrum it was agreed that it was important to establish a pressure on firms unwilling to comply. This was in the labour inspectorate transformed to a general policy of prioritizing resources. Conceptually the population of enterprises focussing on their willingness and ability to comply three groups can be distinguished as shown in figure 3.

		Able to comply	
		Yes	No
Willing to Comply	Yes	I	II
	No	III	

Figure 3 Grouping in three of Danish enterprises.

If tools to classify enterprises could be developed the labour inspectorate would be able to establish a strategy aiming at moving enterprises towards group I by focusing resources on group III. A necessary prerequisite was that an acceptable way of classifying enterprises with reasonable validity was needed and secondly incentives towards the enterprises had to be developed.

New public management

Finally, all state agencies became during the nineties subject to the principles of new public management emphasising recurrent contract negotiation followed by explicit, often quantitative evaluation of goal fulfilment. This directed the attention of the labour inspectorate to be able to document their efforts in relation to goals formulated at not only procedures accomplished.

Classifying enterprises

To rank the enterprises tools had to be developed. They must fulfil certain criteria's. They shall:

- Comprise a comprehensive evaluation of the working environment
- Comprise an evaluation of the local activities to improve working environment from a legal perspective

- Be acceptable by the parties involved, which - as a minimum - implies uniformity across national regions and to a certain extent reproducibility and validity
- Be feasible in relation to the number of enterprises embraced and the resources to be used on that type of inspection.

Based on former experiences with establishing a comprehensive inspection strategy, a procedure labelled 'Adapted Inspection' as been developed. A detailed description of the approach is given in a quality handbook. Here this approach to inspection is described as having three purposes: Firstly, the labour inspectorate contributes to the development of a safe, healthy and developing working environment. Secondly, the labour inspectorate allocates resources to enterprises with the most sever working environment problems and no systematic problem solving focused on the most sever problems. Thirdly, the labour inspectorate applies an inspection strategy supporting local activities focused at handling the most sever problems.

Adapted Inspection was during developed and tested out during 97-98. Seen from the perspective of a labour inspector to accomplish an Adapted Inspection the phases shown in figure 4 have to be passed:

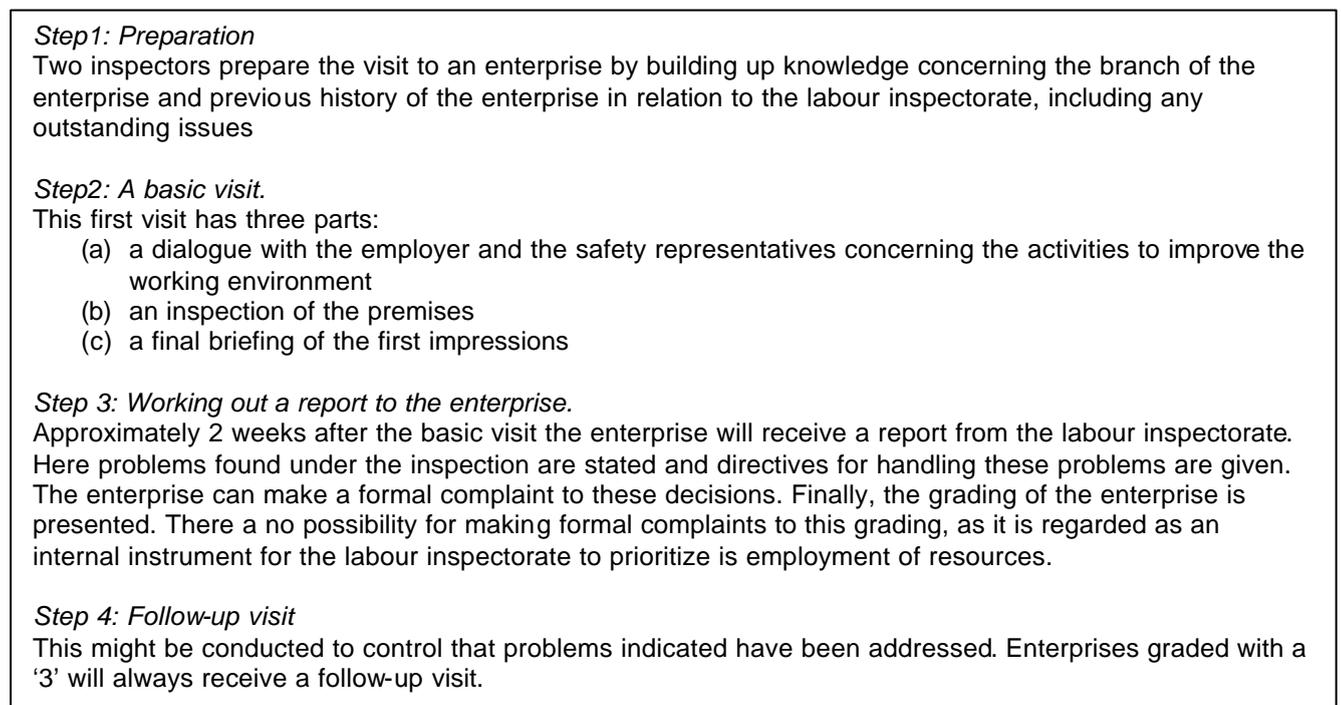


Figure 4. Steps to be followed in an 'Adapted Inspection'.

In the assessment of the enterprise the evaluation of both the working environment and the activities focused at developing the working environment is supported by two checklists.

Checking the working environment.

For checking the working environment checklists for 48 branches has been developed on the basis of official statistical material from the labour inspectorate. For each branch major problems are listed, and the inspector has to evaluate (1) the severity of problems found and (2) the level of preventive efforts. In evaluating the severity the inspector shall pay attention to:

- Acute problems, which are problems causing prohibition of continued activities, due to ‘imminent, considerable danger’. In such cases charges has to be raised.
- Severe problems, which are problems listed in the report of problems in the branch in question, constitutes a major problem in the enterprise and appropriate for official orders.
- Problems for written directions, which are problems where the inspector estimates that a formal reaction is needed.

The evaluation of the preventive efforts in relation to the dominating problems identified is based on the preventive principles established in the EU framework directive (EEC 89/839) and implemented in Danish laws and regulations. In this context these principles are formulated and grouped as shown in figure 5.

Level	Characteristics	Level of prevention
7	The problem has been eliminated	High
6	The persons have been removed	
5	The problem has been enclosed	Medium
4	The problem has been reduced by technical arrangements	
3	The problem has been reduced by organizational arrangements	
2	Personal protection has been applied as primary measure	Low
1	Nothing done	

Figure 5. Criteria for evaluating the preventive effort.

Checking the activities concerning working environment

The evaluation of the activities is based on a checklist divided into two. In the first part mandatory legal requirements is listed, see figure 6. Two get a classification ‘middle’ all claims has to be met.

1.	Has workplace assessment been carried through according to rules?
2.	Does a safety organization according to rules exist?
3.	Have all members passed mandatory courses?
4.	Is the enterprise affiliated to an occupational health service (if mandatory)?
5.	Is accidents analysed?
6.	Has preventive measures been established?
7.	Is the safety organisation involved in these activities?
8.	Has all relevant employees passed mandatory courses (trucks, scaffolding etc.)
9.	Are all employees trained in relation to working environment?
10.	Do instructions for use exist for all substances in use?
11.	Does technical equipment have instructions for use?
12.	Is mandatory inspections carried out according to law?

Figure 6. Mandatory legal requirements to local activities

In the second part claims beyond the law is listed – see figure 7. To be classified as ‘high’ a majority of these claims have to be fulfilled.

- | | |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| A. | Has the enterprise dealt with all the major problems of their branch? |
| B. | Does cooperation with the affiliated occupational health service and other working environment consultants exist in reality? |
| C. | Is inspection rounds conducted regularly? |
| D. | Is working environment issues integrated into planning procedures? |
| <i>And for bigger enterprises:</i> | |
| E. | Do procedures for information to sub-contracted staff at the premises exist? |
| F. | Is top-management head of the joint safety committee? |
| G. | Is a formal, systematic, preventive accident analysis conducted? |
| H. | Does the enterprise have an formal, written policy on working environment and a corresponding strategy? |

Figure 7 Additional aspects for evaluating the working environment activities.

Based on these classification a grading of the enterprise is the made according to figure 8.

Classification of work environment	High				Classification of activities
	Middle				
	Low				
		Low	Middle	High	
<i>Legend: Grade Signifying</i>					
	1	Willing and able to comply			
	2	Willing but not able to comply			
	3	Neither willing nor able to comply			

Figure 8. The grading system in TT.

Present situation

100 out of the 300 inspectors is involved in the Adapted Inspection, and between 13-15.000 enterprises have been inspected and graded. Roughly 25% have been graded '1', 50% graded '2' and 25% graded '3'. Probably this distribution is not representative as more critical branches have been pointed out for inspection.

Reactions

There has been a general understanding for and interest in Adapted Inspections. The labour inspectorate has made a questionnaire to management and safety representative in enterprises having had an Adapted Inspection. Here they found a positive evaluation of the approach.

For the labour inspectorate Adapted Inspection is a tool for prioritizing resources, but the enterprises regards it as an official quality mark, which has provoked frustrations when getting a lower grad than expected.

The approach has disseminated into the activities of the consultative system (i.e. the occupational health services) and the labour market organizations.

The labour market organizations are in general also very satisfied with the approach. Especially the employer's organizations have been very active in promoting the approach towards their members.

The labour inspectorate ascribes this to the open approach towards all stakeholders –especially the labour market parties – applied in the development of Adapted Inspections.

All the major parties in the political system support the idea of focusing the resources of the inspectorate towards ‘the bad guys’ (enterprises grade ‘3’). Therefore there is a general support to the Adapted Inspection. It is in the reactions needed the political parties disagree.

The positive experiences with Adapted Inspection have implied that this approach have shifted from being one of more approaches to inspection to becoming the major approach. From a purely scientific position the validity of the grading can be questioned, and as argued by more (Gallagher, Underhill and Rimmer, 2001, Frick & Wren, 2000) there is a risk of establishing ‘windows dressing’ not showing the realities of the working conditions. But up till now the validity of the approach in the specific context has not been questioned. Besides, as the inspectors combine an evaluation of the working condition with an evaluation of the activities established, they are to a certain extent testing the validity of the approach.

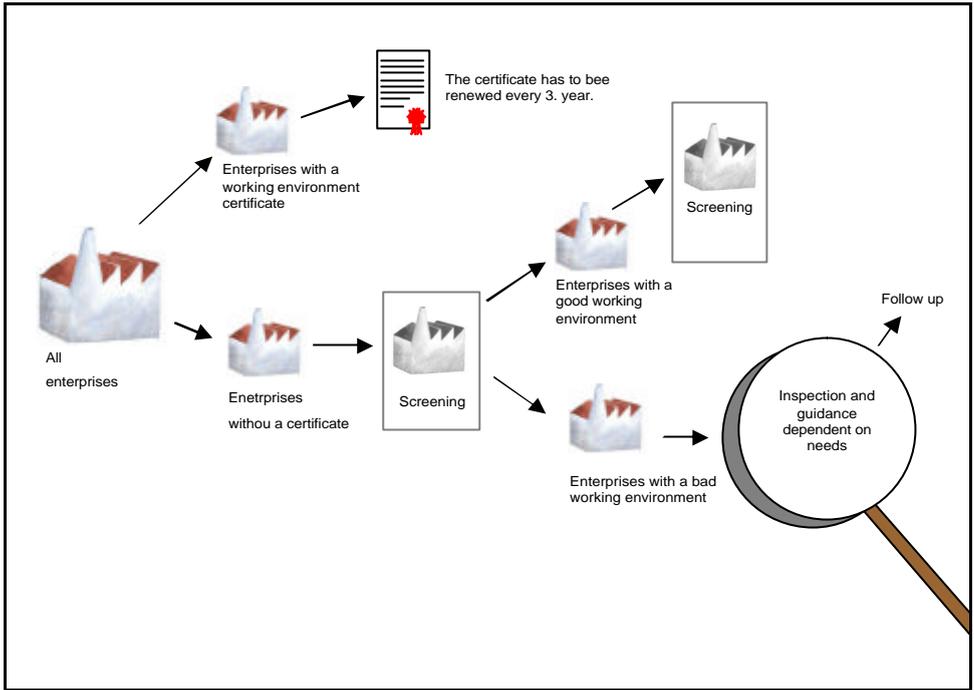
It is the experience, though, that Adapted Inspection is not suitable in relation to the psycho-social aspects of work. Here the possibility in the Danish law on working environment (§21) to demand a special examination is used.

Present challenges

Adapted Inspection must presently be seen as a success. It is a feasible tool for directing the resources of the Labour inspectorate towards the critical enterprises. This is a policy supported by all political parties and other stakeholders.

In June 03 the Minister of Employment announced a new policy within working environment to be discussed in autumn 03 to be passed in parliament before the end of the year. Here the development has to be accelerated. The following figure has been used to explain the new mechanism. As can be seen the enterprises is divide into two groups: the ‘resourceful’ and the ‘unable-to-comply’. An enterprise can be classified as ‘resourceful’ by fulfilling the demands in a certification procedure established by internationally accredited agencies or by been given a positive evaluation in a screening procedure. The ‘unable-to-comply’ enterprises are the enterprises left behind. They will be subject to intensified inspection and mandatory affiliation to ‘especially qualified consultancy’, which might be an occupational health service. To promote the evaluation of enterprises the government will through additional founding increase the number of inspectors handling Adapted Inspection from 100 to 165.

This proposal will be discussed in the months to come. But it opens for further development of the approach of the Adapted Inspection. Consideration must be given to an approach to establishing performance indicators within working environment demanding fewer resources in the Labour inspectorate.



Overhead used by the Danish minister of employment to illustrate the new approach proposed.

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