

Occupational safety and health in Ecuador: legal frameworks, labor inspectorate challenges and insights

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ABSTRACT

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Introduction: Occupational Safety and Health (OSH) is crucial to the well-being and productivity of workers, necessitating robust legal frameworks and effective enforcement. In Ecuador, despite comprehensive legislation, challenges persist in ensuring compliance and protecting workers from occupational risks. This study aims to examine the existing legal framework of OSH in Ecuador, highlight the challenges faced by the labor inspectorate, and provide insights into improving worker protection, with a specific focus on the province of Cañar.

Methods: This research employed a qualitative approach, utilizing inductive, analytical, synthetic, and deductive methods. The study applied a bibliographic review and documentary analysis to synthesize existing knowledge and critically examine the legal framework of OSH in Ecuador. It specifically investigated the practices of the labor inspectorate in the province of Cañar, including the types of documents requested during inspections.

Results: The findings indicate that while Ecuador possesses an extensive legal framework for OSH, its enforcement is significantly hindered by an acute shortage of labor inspectors (0.04 inspectors per 10,000 workers) and inconsistent inspection procedures. Specifically, in Cañar, labor inspectors often fail to request crucial documentation related to workplace safety and health, leaving employers unchecked. It leads to inadequate supervision of occupational risks, contributing to a high incidence of workplace accidents and diseases, as evidenced by 301 reported accidents in Cañar in 2021. This situation constitutes a violation of constitutional principles and the fundamental rights of workers.

Conclusion: The study concludes that there is an urgent need to strengthen Ecuador's labor inspection system. Recommendations include increasing the number of labor inspectors, standardizing inspection procedures to ensure consistent review of all relevant OSH documents, improving training and awareness for both employers and workers, enhancing state oversight and accountability of inspectors, and imposing stricter penalties for non-compliance. Implementing these measures is crucial to ensure adherence to OSH regulations, protect workers' rights, and foster safer working environments in Ecuador.

Keywords: Labor inspection, Labor law, Occupational risks, Working conditions, Workplace safety

Introduction

Workers are exposed to various occupational risks while performing their duties,¹ which may harm their fundamental rights (health, life, and integrity). These rights are recognized and protected by both national and international regulations. Occupational risks are "the physical, psychological, chemical, environmental, social, and cultural factors acting upon the individual".² Similarly, the Andean Instrument on Occupational Safety and Health (2004), in subsection (e) of Article 1, describes occupational risks as "the likelihood that exposure to a hazardous environmental factor at work causes illness or injury".³

The Ecuadorian Labor Code considers occupational risks as "(...) the harmful events to which a worker is exposed during or as a result of their activity. For employer liability, occupational risks include professional diseases and accidents".⁴ Moreover, occupational risks comprise factors or events, including chemical, physical, social, and psychological hazards, that may harm individuals during their work activities, potentially leading to accidents or occupational diseases. Employers bear responsibility for inadequate risk management.⁵

These occupational risk factors result in two harmful events: workplace accidents and occupational diseases. First, a workplace accident is defined as "any unforeseen and sudden event causing bodily harm or functional disturbance to the worker as a result of or during the work performed for someone else".⁴ Similarly, Ecuador's National Court of Justice (2013), in ruling 0272-2013-SL, declares that, legally and doctrinally, a workplace accident is a harmful event that occurs during or as a result of work, entitling the affected worker to compensation or reparation.

There is significant debate about the scope of OSH. One perspective sees these as inseparable concepts, while another argues they are distinct sciences with independent applications. Proponents of the

first perspective assert that occupational safety and health are an indivisible pairing with mutual influence, aiming to protect workers.⁶⁻⁸ Meanwhile, the second view regards workplace safety as encompassing actions within production processes, machinery use, workplace settings, or worker habits aimed at preventing workplace accidents.⁹ In contrast, occupational health focuses on preserving health by identifying and controlling factors that cause harm¹⁰. Furthermore, OSH is defined as "a multidisciplinary field concerning the protection, safety, health, and well-being of people involved in work."² Therefore, safety focuses on the work environment, while health emphasizes the well-being of the worker.

Historically, occupational safety and health were studied and considered independent sciences with autonomous applications. However, it is now recognized that they share a common purpose: protecting workers during their activities. As such, these fields complement each other to such an extent that they form a unified field of study. Health cannot be ensured without proper safety measures, and vice versa. Thus, implementing occupational safety and health as an integrated field is essential for achieving its objectives.

Identifying the two fields of action is necessary to establish the indivisibility of occupational safety and health. Occupational safety encompasses non-medical prevention methods to combat workplace accidents¹¹. According to World Health Organization (WHO), occupational health involves activities that define measures to protect workers' health. The distinction between these areas is presented in Table 1.⁸

Throughout its history, the International Labor Organization (ILO) has issued several international conventions on OSH, which aim to protect workers through actions by member states. Table 2 provides a timeline of these conventions.

Table 1: Action fields in Industrial Safety and Occupational Health⁷

Industrial Safety	Occupational Health
Ergonomics	Industrial Hygiene
Environmental Analysis	Occupational Medicine
	Occupational Mental Health

Table 2: ILO conventions timeline¹²

Year	Convention
1964	The Hygiene (Commerce and Offices)
1979	The Occupational Safety and Health
1981	The Occupational Safety and Health
1985	The Occupational Health Services
1988	The Safety and Health in Construction
1995	The Safety and Health in Mines Convention
2001	The Safety and Health in Agriculture
2006	The Promotional Framework for Occupational Safety and Health

Considering this historical reality, it is notable that Ecuador, like many Latin American countries, experienced delays in developing labor law. During the early republic, the economy was primarily agricultural and artisanal. However, the exploitation of oil and the move from rural to urban living necessitated the regulation of labor relations. In 1916, the workday was regulated; in 1921, workplace risks were addressed; and in 1938, the Labor Code was enacted.¹³

Within this context, the 1938 Labor Code established foundational principles, including individual contracts, workday duration, rest periods, and occupational risk prevention¹⁴. In 1975, the Regulations on Workplace Safety and Hygiene came into force to prevent occupational risks.¹⁵ These regulations were repealed in 1986 by Executive Decree No. 2393, which enacted the Regulations on Workplace Safety and Health and Environmental Improvements at Work. This decree established the State's role as a guarantor of worker safety and remains in effect today.¹⁶

Subsequently, the 1990 General Regulations on Occupational Risks Insurance were issued, followed by the 1998 Regulations on Safety for Construction and Public Works. In 2001, the Social

Security Act was enacted, and in 2011, the General Regulations on Occupational Risks Insurance were issued. These regulations were replaced in 2016 by updated regulations. Collectively, these provide broad legal coverage within Ecuador's domestic legal framework.

OSH initially emerged as a dual discipline focused on preventing risks to which workers are exposed during their activities. However, this subject transcends such a simple concept. Occupational safety and health are fundamental rights for workers and are integral to the concept of decent work proposed and developed by the ILO.

Despite multiple legal frameworks governing Occupational Safety and Health (OSH) in Ecuador, there is a lack of comprehensive studies that compile and analyze national and international regulations in a single, structured manner.¹⁷ Previous research has primarily focused on isolated aspects of OSH, such as specific laws, compliance issues, or enforcement mechanisms, without offering a holistic view of the regulatory landscape.¹⁸ Therefore, this study aimed to fill that gap by consolidating and critically analyzing Ecuador's legal framework on OSH, including constitutional provisions, labor laws, international treaties, and government responsibilities such as

those of the Ecuadorian Ministry of Labor. This research provides an exhaustive and detailed overview, serving as a valuable resource for policymakers, labor authorities, employers, and researchers seeking to navigate and improve OSH regulations and enforcement. It also highlights gaps in labor inspections, using the case study of the labor inspectorate in the province of Cañar as an example, and proposes reforms to enhance compliance and worker protection.

Ecuador: Legal Framework for OSH Protection

In Ecuador, the right to OSH is regulated and protected by the legal framework, which includes the Constitution, international instruments, regional agreements, conventions, the Labor Code, and other relevant laws.¹⁶

National Legislation

The Constitution of the Republic of Ecuador (CRE) is the supreme legal norm of the Ecuadorian legal framework. Article 33 declares that work is both a right and a social duty, and it must be performed under healthy conditions, respecting the dignity, life, and other rights of workers. Similarly, Article 32 establishes the State as the principal guarantor of the right to health, which is closely connected to other rights, such as the right to labor.¹⁹

The right to work is also supported by principles outlined in Article 326 of the Constitution. Paragraph 5 states: "Every individual has the right to carry out their work in an appropriate and conducive environment that guarantees their health, integrity, safety, hygiene, and well-being."

At a sub-constitutional level, there is also extensive regulation. For example:

- Article 42, paragraphs 2 and 3 of the Labor Code stipulates that employers must comply with preventive measures concerning workplace safety and hygiene. Additionally, employers must compensate the affected worker if an occupational

accident or disease occurs.⁴

- The Social Security Act (2001) includes provisions for occupational risks and diseases under its social security framework, aiming to protect employers and employees. The law emphasizes prevention and rehabilitation, offering support for physical, mental, and professional reintegration in the event of incidents.
- The General Regulations on Occupational Risks Insurance (2016) define the scope of insurance coverage for injuries or illnesses resulting from work. They also regulate benefits for damage caused by workplace accidents or occupational diseases that impede work activities.
- Executive Decree No. 2393 of 1986 issued the Regulations on Workplace Safety and Health and Environmental Improvements at Work. These regulations, still in effect today, emphasize the implementation of minimum measures to prevent, mitigate, or eliminate occupational risks and improve the work environment. Article 1 states:

"The provisions of these Regulations shall apply to all work activities and workplaces. Their objective is preventing, reducing, or eliminating occupational risks and improving the work environment".²⁰

International Legislation

Ecuador has also ratified international agreements on OSH:

- The country has ratified 32 ILO conventions, including those related to OSH.
- Ecuador has adopted regulations from the Andean Community of Nations (CAN), such as Decision 584: Andean Instrument on Occupational Safety and Health, later regulated by Resolution 957. This decision aims to reduce, prevent, or eliminate workplace risks across member countries.³ Table 3 offers a comprehensive list of the OSH legislation in Ecuador.

Table 3: OSH Legislation in Ecuador

International Agreements	National Laws	Executive Decrees	Ministerial Agreements	ILO Conventions
- Decision 584	- Labor Code	- Decree 860	- AM-Nro-MDT-	- CVN 024
- Resolution 957	- Social Security	- Decree 2393	2020-001	- CVN 029
	- Education Act		- AM 13	- CVN 077
	- Judicial Act		- AM 82	- CVN 078
	- Public Safety		- AM 135	- CVN 113
			- AM174	- CVN 148
				- CVN 162

Source: Ministry of Labor Ecuador; adapted by the authors

The Importance of OSH in Labor Law

Labor law regulates wage-based labor relationships, both individual and collective, between employers and workers. These regulations impose obligations on employers, such as providing wages and meeting legal requirements.²¹ Under existing laws, labor law governs contractual relationships between employers and workers, emphasizing key components such as mutual consent and bilateral obligations.²² In Ecuador, the Labor Code aims to guarantee and protect workers' rights. It regulates the relationship between employees and employers and imposes sanctions for non-compliance.²³ Thus, the Labor Code reflects the balance of power between capital and wage labor.²⁴

Furthermore, OSH is a right and a duty. For employers, it is an obligation. For workers, it is a right and a responsibility. Employers must inform workers about the risks inherent in their work and take action to prevent, mitigate, or eliminate them. They must protect the integrity, health, and safety of their employees and others in the workplace.^{25,26} Additionally, workers have the right to a safe and healthy workplace, supported by the protective principle of labor law. The State and employers must ensure working conditions that uphold workers' dignity and personal development.²⁶

It is fundamental to analyze both perspectives to understand how OSH benefits both parties in the labor relationship:

- Employers benefit by reducing liability for

occupational accidents or diseases and potential financial consequences. Employer liability arises when employers fail to provide optimal working conditions, leading to workplace accidents or illnesses. Employer liability includes compensating workers when the Ecuadorian Institute of Social Security (IESS) is unable to grant the benefits to which they are entitled or has denied such claims. If employer liability is established, the employer must provide compensation as specified in Article 15 of the Regulations on Employer Liability (2016). Additionally, when a worker is not registered with IESS, the Ministry of Labor is responsible for investigating and enforcing compliance, as stated in Article 353 of the Labor Code. In cases where workers are not affiliated with IESS, employers must still provide compensation for workplace accidents or diseases, as mandated by international agreements such as ILO Convention 121, which Ecuador has ratified.

- Workers are exposed to occupational risks that can affect their health and job performance. Implementing occupational safety and health measures reduces accidents and professional illnesses by preventing, mitigating, and eliminating risks.²⁷ It is essential to understand that receiving wages does not justify exposing oneself to avoidable risks. Risk management ensures safe and healthy workplaces.¹⁷ Additionally, OSH measures extend beyond the workers, benefiting their families, collaborators, and society. Effective management prevents occupational diseases, creates healthier work environments, and reduces costs associated with

workplace accidents.¹⁸

The Ministry of Labor as a Regulatory Body for OSH

While employers are legally obligated to ensure occupational safety and health, this is insufficient to guarantee compliance. Therefore, the State plays a critical role in enforcing these obligations through its relevant authorities, primarily the Ministry of Labor. The Ministry of Labor oversees the enforcement of labor rights, ensuring compliance with legal obligations related to occupational safety and health in both the public and private sectors. Its role is essential in upholding social justice in the workplace, promoting equality, and ensuring dignified labor opportunities.²⁸

Historical Evolution

The Ministry of Labor has undergone several transformations since its inception in 1925, following the Juliana Revolution. Initially established as the Ministry of Labor and Employment, it later adopted additional roles.²⁸

- In 1928, it became the Ministry of Labor and Human Resources, focusing on protecting the rights and duties of employers and employees.
- In 2009, through Executive Decree No. 10, it was renamed the Ministry of Labor Relations after merging with the National Technical Secretariat for Human Resources and Public Sector Remuneration Development. This merger expanded its authority to include responsibilities outlined in the Organic Law on Civil Service and Administrative Careers and the Labor Code.
- In 2014, Executive Decree No. 500 renamed it the Ministry of Labor, emphasizing the human dimension of labor over economic concerns.

The Ministry is the central authority for public policies related to work, employment, and public sector human resources. Among its many functions, it oversees the regulation and enforcement of labor obligations, including those on occupational safety and health.²⁸

The Ministry of Labor derives its mandate from

the Ecuadorian Labor Code, which grants it extensive authority, including:

- Regulating and enforcing compliance in occupational safety and health,
- Imposing sanctions and collecting fines for violations,
- Conducting comprehensive inspections to ensure compliance with labor laws concerning wages, social benefits, safety and health, and other rights.

To fulfill its duties, the Ministry has established regional offices across the country, which address:

- Inquiries regarding labor laws and regulations,
- Administrative jurisprudence unification,
- Fines and penalties,
- Complaints and collective labor mediation,
- Approval of internal workplace regulations and safety and health protocols.

Labor inspectorates operate under these regional offices, ensuring compliance with national legal mandates.

Article 539 of the Labor Code outlines the Ministry's powers, including labor regulation, monitoring compliance, and leading initiatives on workplace safety and risk prevention. The Ministry works collaboratively with other key institutions, such as the Ecuadorian Institute of Social Security (IESS) and the Ministry of Public Health, as part of the Inter-institutional Committee on Workplace Safety and Hygiene. The Committee's primary role is to coordinate public sector risk prevention efforts and fulfill legislative and regulatory mandates.²⁹ These actions aim to improve working conditions, encourage preventive measures, reduce workplace injuries and illnesses, and enhance productivity through proactive management.²⁸ The Ministry's powers mentioned above are carried out through the Labor Inspectorates.

Labor Inspectors: Their Functions and Obligations

Labor inspectorates are public services ensuring compliance with labor regulations, including occupational safety and health standards. These inspectorates provide guidance and conciliation on labor matters following the framework established by ILO Convention No. 81.³⁰ Labor inspectors who represent these bodies follow the directives of the Ministry of Labor.³¹ The ILO describes labor inspections as state institutions that provide services to employers and workers, ensuring the proper functioning of workplaces. Inspectors address workplace safety and health, wages, labor relations, child labor, and forced labor.³²

In Ecuador, labor inspectorates are administrative authorities responsible for monitoring compliance with labor laws in public and private sectors. Their jurisdiction is provincial, as established by Article 544 of the Labor Code (2005).

Labor inspectors are professional officials responsible for enforcing labor laws and social standards. They act as agents, supervisors, and advisors tasked with improving workplace conditions and ensuring compliance with legal provisions.³³ Their primary objective is to enforce labor laws and protect workers through various legal measures. Inspectors advise employers and employees on improving workplace conditions and oversee wage compliance, occupational safety and health, and child labor.³⁴

Powers and Obligations of Labor Inspectors

Labor inspectors are endowed with significant authority under both international and national law.

1. International Powers

The ILO's Convention No. 81 grants labor inspectors the following powers:

- Free access to workplaces without prior notification,
- Authority to investigate compliance with legal provisions,
- Power to interview employers or workers to verify compliance,

- Ability to request documents required by national legislation,
- Permission to take samples of substances or materials for analysis (with prior notice to the employer).

Inspectors must present their credentials to exercise these powers.³⁵

2. International Obligations

Labor inspectors must:

- Act with independence, impartiality, and integrity,
- Maintain confidentiality, including the origins of complaints,
- Uphold professional competence³³.

These obligations stem from Article 15 of Convention No. 81, which prohibits inspectors from having an interest in the entities being inspected and mandates confidentiality regarding trade secrets or production methods encountered during inspections.

3. National Powers

In Ecuador, labor inspectors enforce compliance with legal obligations by both employers and workers. Article 545 of the Labor Code grants inspectors authority to:

- Monitor occupational safety and hygiene compliance,
- Ensure that employers and workers meet their legal obligations,
- Conduct labor inspections,
- Resolve disputes related to labor violations,
- Impose fines and sanctions,
- Oversee workplace harassment cases and order public apologies, if necessary.

Inspectors must observe workplace conditions, including ventilation, lighting, machinery safety, and sanitation facilities, as well as worker protections such as social security registration and provision of personal protective equipment. These responsibilities are outlined in Article 412 of the Labor Code.⁴

Accountability of Labor Inspectors

The Labor Code holds labor inspectors accountable for any misconduct:

- Article 546 establishes civil and criminal liability for the malicious disclosure of trade secrets that may be encountered during inspections.
- Article 547 provides for sanctions, including dismissal, for inspectors acting with malice or partiality.

Inspectors must adhere to national and international regulations to ensure compliance and enhance workplace conditions.

OSH in Labor Inspections

Labor inspections are a vital mechanism through which the State ensures that workplaces meet the required safety and health standards. Labor inspectors conduct these inspections and verify compliance with occupational safety and health laws. Additionally, they aim to raise awareness among employers and workers about the minimum standards necessary for safe working conditions.

Labor inspections serve as a verification tool to check compliance with labor regulations, particularly those related to occupational safety and health. Inspections involve visiting workplaces to assess compliance with safety measures and identify potential risks and hazards that could impact the health and safety of workers.

In Ecuador, labor inspections are crucial for identifying and addressing violations of occupational safety and health regulations. These inspections are also crucial for identifying any breaches of workers' rights and ensuring that the working environment meets national and international standards.

Labor inspections also provide the opportunity to educate employers and workers on best practices, safety protocols, and regulations that ensure the well-being of workers. The primary goals of labor inspections in this area include:

1. Ensuring that workplaces comply with health and safety standards,

2. Promoting awareness of occupational safety measures,
3. Reducing workplace accidents and diseases by identifying risks and preventing hazards,
4. Verifying that workers are provided with appropriate safety equipment and training,
5. Providing a mechanism to report unsafe practices and conditions.

Labor inspections aim to identify violations, prevent accidents, and improve the working conditions in which employees perform their duties. It aligns with ILO Convention No. 81, which promotes the establishment of labor inspection systems to safeguard workers' rights, safety, and health.³⁵

Legal Framework for Labor Inspections in Ecuador

In Ecuador, the Labor Code provides the legal foundation for labor inspections, specifying the roles and powers of labor inspectors, as well as their responsibilities regarding occupational safety and health compliance. The Regulation on Occupational Safety and Health (Decree 2393, 1986) also outlines the obligations of employers regarding workplace safety and the conduct of labor inspections.

Article 412 of the Labor Code requires employers to comply with specific safety standards, including ensuring proper lighting, ventilation, cleanliness, regular inspection of machinery, and provision of adequate hygiene facilities. The code also mandates that workers be registered with Social Security and supplied with appropriate protective equipment. These obligations are subject to inspection by labor authorities.

Types of Inspections

Various types of labor inspections focus on ensuring occupational safety and health compliance:

1. Comprehensive Inspections: These inspections are thorough checks to assess compliance with labor regulations, including workplace safety.

Inspectors evaluate various aspects of the working environment, from structural safety to worker protection.

2. Focused Inspections: These are inspections conducted when specific issues or complaints have been raised regarding safety or health risks at a particular workplace. These inspections focus on a limited set of concerns but aim to address them comprehensively.

3. Random Inspections: These inspections occur without prior notice and focus on randomly selected workplaces. They ensure that employers consistently maintain compliance with labor laws across the board.

Labor inspections may be triggered by complaints, audits, or routine checks to ensure compliance with legal standards.

The Role of Labor Inspectors in OSH

Labor inspectors are critical in ensuring workplaces meet OSH standards. Their duties include:

- Conducting inspections to identify workplace hazards and ensure compliance with safety protocols,
- Recommending improvements in safety measures and guiding employers on best practices,
- Imposing fines and penalties for non-compliance,
- Providing reports on inspection findings and following up to ensure corrective measures are implemented.

The Ministry of Labor ensures that labor inspectors conduct thorough inspections and that businesses adhere to safety regulations. Additionally, the Ecuadorian Institute of Social Security (IESS) and the Ministry of Public Health coordinate with the Ministry of Labor to address occupational risks, promote preventive health measures, and provide resources for the rehabilitation of injured workers.

International Framework and Best Practices in Occupational Safety and Health Inspections

On an international level, the ILO's Convention No. 81 (1947) on labor inspections requires member states to establish labor inspection systems to protect workers' rights and improve workplace safety.

The ILO Convention No. 81 outlines the responsibilities of labor inspectors, which include:

- Ensuring that workplaces meet safety and hygiene standards,
- Providing assistance and advice to employers and workers on labor law compliance,
- Maintaining impartiality and independence in inspections,
- Ensuring that inspections are conducted to promote compliance through persuasion rather than punitive measures.

In Ecuador, labor inspectors are empowered to carry out their duties by the provisions outlined in the Labor Code, and they must follow strict guidelines to ensure fairness and transparency in their inspections. The Ministry of Labor coordinates these efforts to prioritize workplace safety and health in labor law enforcement.

Labor inspections are vital for maintaining a safe and healthy working environment. They ensure employers comply with legal obligations to protect workers from hazards and risks that could lead to accidents or occupational diseases. Labor inspectors play an essential role in this process by identifying potential risks, advising employers, and enforcing penalties for non-compliance.

In Ecuador, the comprehensive legal framework governing labor inspections, supported by national and international laws, guarantees that occupational safety and health are prioritized in all sectors. Continued efforts to strengthen labor inspections will improve working conditions, reduce workplace accidents, and protect workers' rights.

Methods

The research adopted a qualitative approach, which focuses on in-depth insights into the characteristics of the phenomenon by exploring complex issues in a natural setting. It emphasized the exploration and interpretation of data to gain a deep understanding of OSH legal frameworks in Ecuador. It utilized a combination of inductive reasoning to identify patterns and generate insights, analytical methods to deconstruct complex information, synthetic techniques to integrate diverse perspectives, and a dogmatic approach to examine established doctrines and principles. It focused on synthesizing existing knowledge by critically analyzing and summarizing findings from relevant sources. The research involved meticulous bibliographic note-taking and employed a structured review process to organize and evaluate the selected materials. As a result, thematic trends, gaps in the literature, and opportunities for further inquiry were identified. It provided a cohesive and comprehensive understanding of the Ecuadorian OSH legal frameworks, specifically labor inspections, which are valuable for OSH decision-making and serve as a guideline for navigating labor law in Ecuador and Latin American countries.

Case Study: Cañar Labor Inspectorate

As previously discussed, labor inspectors have significant authority to oversee compliance with labor regulations, particularly those related to OSH. One of the critical issues observed in Cañar is that labor inspectors often fail to request the necessary documentation from employers during inspections that would verify compliance with occupational safety and health regulations. According to official notices from labor inspectors, required documentation may include:

- The worker roster,
- Copies of the employer's tax registration (RUC),
- Entry notifications to the Ecuadorian Social Security Institute (IESS),

- Payroll statements for social security contributions,
- Certificates of compliance with obligations,
- Attendance records,
- Evidence of payment for overtime, night shifts, and bonuses,
- Employment contracts registered in the Unified Labor System, among others.

However, in practice, some documents related to safety regulations, such as the internal workplace safety and health rules or worker protective equipment, are often not requested. This situation leaves the issue of workplace safety and health largely unchecked, making it easy for employers to neglect these fundamental rights.

The inspectors' discretion in determining which documents to request creates inconsistencies in how inspections are conducted and fails to prioritize safety and health measures. This lack of standardized and thorough inspection violates constitutional principles and international labor standards.

Failure to perform comprehensive inspections undermines the objectives of the Ministry of Labor and violates the workers' constitutional right to a safe and healthy work environment. This issue is compounded by the shortage of labor inspectors in Ecuador, as there are only 0.04 inspectors per 10,000 workers in the country³⁶. This significant imbalance between the number of inspectors and workers further exacerbates the problem of non-compliance.

Discussion

The lack of enforcement of OSH regulations in Ecuador contributes to a high incidence of workplace accidents and diseases. According to statistics from the General Occupational Risk Insurance (2022), 301 workplace accidents were reported in Cañar in 2021 alone. These incidents are indicative of the ineffective oversight mechanisms currently in place.

While it cannot be claimed that accidents will disappear solely through more inspections, there is a clear connection between the regular

implementation of safety checks and a reduction in workplace incidents. Ensuring that safety measures are adequately enforced would allow for better prevention and the establishment of policies to reduce the occurrence of accidents.

Therefore, this failure to enforce safety regulations constitutes a violation of constitutional principles and workers' fundamental rights. It also demonstrates the State's shortcomings in its duty to ensure the safety and well-being of its citizens, particularly those in vulnerable labor positions.

The constitutional state paradigm places the responsibility on the State to uphold the rights of its citizens. One of the key features of the constitutional State is the rule of law, which requires that laws be applied equally and consistently to protect individuals. In this case, the State's failure to adequately enforce labor laws related to safety and health reveals a breach of the constitutional guarantees of equality and protection against harm.

The lack of proper oversight also weakens the relationship between workers and employers. Workers in a more vulnerable position in this relationship are left without sufficient protection from workplace hazards. Employers may neglect their duties to maintain safe workplaces without effective enforcement, further exacerbating the power imbalance between the parties.

This situation not only affects the safety of workers but also impacts the overall quality of work and the working environment. When workers are exposed to unnecessary risks, the workplace becomes less productive, less secure, and less supportive of personal development.

The failure of the Provincial Labor Delegation of Cañar to enforce occupational safety and health laws illustrates a significant gap in the implementation of Ecuador's labor regulations. This lack of enforcement results in a direct violation of workers' rights and a failure to adhere to constitutional principles, such as effectiveness and efficiency in public administration.

For the State to fulfill its constitutional role, it must ensure the proper functioning of labor inspection systems and enforce safety regulations that protect workers from harm. Strengthening the labor inspection system, increasing the number of inspectors, and prioritizing safety and health regulations are essential steps to rectify these issues and protect workers' fundamental rights.

The analysis presented throughout this research highlights critical gaps in enforcing OSH regulations, particularly within the Provincial Labor Delegation of Cañar. These gaps undermine the constitutional framework and international standards, putting workers at risk and perpetuating inequalities within the labor relationship.

The current situation, in which safety and health regulations are poorly enforced, is a pressing issue that demands immediate attention from the State and the relevant authorities. Given the limited number of labor inspectors and the lack of consistency in safety inspections, it is clear that improvements are necessary to ensure that workplaces are safe and that workers' rights are upheld.

Recommendations for Improvement

1. Increase the Number of Labor Inspectors

To address the labor shortage, it is essential that Ecuador significantly increase the number of labor inspectors. The recruitment and training of additional labor inspectors should be prioritized to allow for more frequent and thorough inspections.

2. Standardize Inspection Procedures

A standardized and transparent inspection procedure should ensure that all relevant occupational safety and health documents are consistently requested and reviewed consistently. Hence, it would prevent the current discretionary practices, where certain safety aspects may be overlooked.

3. Improve Training and Awareness

Both employers and workers must be better informed about occupational safety standards and

their rights and obligations under the law. Training programs should be established to increase awareness of safety procedures, risk mitigation strategies, and the importance of compliance with legal requirements.

4. Strengthen State Oversight and Accountability

The Ministry of Labor must enhance its oversight mechanisms and hold labor inspectors accountable for their actions. Ensuring inspectors adhere strictly to their legal responsibilities and guidelines will help create a more transparent and efficient inspection system. Regular audits of inspection practices could be a means to monitor the effectiveness of these measures.

5. Enforce Penalties for Non-Compliance

Employers who violate occupational safety and health laws should face stricter penalties. Ensuring that there are significant consequences for non-compliance would incentivize employers to invest in safety measures and comply with regulations. Imposing fines and sanctions for violations should be vital in improving workplace safety standards.

Conclusions

Ecuador's legislation includes a broad scope of protection for the right to occupational safety and health. This protection is enforced through the legal framework, which comprises the Constitution of the Republic of Ecuador, international treaties and conventions, laws, executive decrees, and ministerial agreements. These regulations establish the mandatory observance of this right, with the State acting as guarantor through its respective entities.

The importance of implementing OSH lies in the obligation of employers to comply with this duty,

while workers have the right to be informed about the occupational risks they face. Furthermore, by adhering to preventive measures, employers avoid incurring liability. On the other hand, workers must recognize that salary is not the only significant factor in a labor relationship; their activities must also be carried out under optimal conditions of dignity and safety.

Labor compliance is enforced through workplace inspections, which are governed by various national and international regulatory frameworks. Labor inspectors must be highly trained professionals to fulfill their duties and responsibilities outlined in national and international regulations. At the national level, particularly in the province of Cañar, it has been observed that the Labor Inspectorate does not fulfill its role as a guarantor of workers' labor rights concerning OSH. For instance, inspectors fail to request documentation or evidence demonstrating employer compliance with OSH obligations during on-site inspections. This neglect violates various constitutional principles and rights, undermines the proper functioning of public administration, and fails to protect workers from the discretion of competent authorities.

Under the fundamental principles recognized in Article 11, numeral 8 of the Constitution, developing the right to OSH through laws, jurisprudence, and public policies is necessary. It aims to provide proper protection for this right through competent agencies. Consequently, it is essential to reform the Labor Code, which dates back to 1938, to issue or amend ministerial agreements related to labor inspections and to provide training on the importance of OSH to all parties involved in the labor relationship. Additionally, administrative labor authorities must update their oversight processes.

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