



**Monitoring International Labor Standards:  
International Perspectives -- Summary of Regional  
Forums**

Crispin Rigby, Editor, National Research Council

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# **MONITORING INTERNATIONAL LABOR STANDARDS**

## ***INTERNATIONAL PERSPECTIVES***

*Summary of Regional Forums*

Crispin Rigby, Editor

Division of Behavioral and Social Sciences and Education

Policy and Global Affairs Division

NATIONAL RESEARCH COUNCIL  
*OF THE NATIONAL ACADEMIES*

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This summary has been reviewed in draft form by individuals chosen for their diverse perspectives and technical expertise, in accordance with procedures approved by the Report Review Committee of the National Research Council. The purpose of this independent review is to provide candid and critical comments that will assist the institution in making its published report as sound as possible and to ensure that the report meets institutional standards for objectivity, evidence, and responsiveness to the charge. The review comments and draft manuscript remain confidential to protect the integrity of the process.

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Although the reviewers listed above provided many constructive comments and suggestions, they were not asked to endorse the content of the report nor did they see the final draft of the report before its release. The review of this report was overseen by Burt Barnow, Institute for Policy Studies, Johns Hopkins University. Appointed by the National Research Council, he was responsible for making certain that an independent examination of this report was carried out in accordance with institutional procedures and that all review comments were carefully considered. Responsibility for the final version of this report rests entirely with the author and the institution.



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## List of Acronyms

AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
AGOA	African Growth and Opportunity Act
APFOL	All Pakistan Federation of Labour
AWARD	Actual Wage Rates Database (South Africa)
BCEA	Basic Conditions of Employment Act (South Africa)
BEPZA	Bangladesh Export Processing Zones Authority
BFTU	Botswana Federation of Trade Unions
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BOI	Board of Investment (Sri Lanka)
CEACR	Committee of Experts on the Application of Conventions and Recommendations (ILO)
CFA	Committee on Freedom of Association (ILO)
CMILS	Committee on Monitoring International Labor Standards (NRC)
COVERCO	Commission for the Verification of Corporate Codes of Conduct
DOL	U.S. Department of Labor
DOLE	Department of Labor and Employment (Philippines)

ECC	Employment Conditions Commission (South Africa)
EPZ	Economic Processing Zone/Export Processing Zone
FSE	Federation of Swaziland Employers
GSP	Generalized System of Preferences
HIV/AIDS	human immunodeficiency virus/acquired immunodeficiency syndrome
ICEM	International Federation of Chemical, Energy, Mine and General Workers' Unions
ICFTU	International Confederation of Free Trade Unions
ILAB	Bureau of International Labor Affairs (DOL)
ILO	International Labour Organization
ILS	international labor standards
IMF	International Monetary Fund
IMSS	Mexican Institute of Social Security
INEGI	National Institute of Geography and Computer Sciences (Mexico)
IPEC	International Programme on the Elimination of Child Labour (ILO)
ITGLWF	International Textile, Garment and Leather Workers' Federation
LCHR	Lawyers Committee for Human Rights
LRS	Labour Research Service (South Africa)
LSAS	Labor Standards Advisory Service
MPHS	Multipurpose Permanent Household Survey
NAFTA	North American Free Trade Agreement
NATURE	National Association for Trade Union Research and Education (Sri Lanka)
NEPAD	New Partnership for Africa's Development
NGO	nongovernmental organization
NRC	National Research Council
NTUC	Nepal Trade Union Congress

*LIST OF ACRONYMS*

*xi*

SADC	Southern African Development Community
SFTU	Swaziland Federation of Trade Unions
SLASA	Strengthening Labour Administration in Southern Africa
TBP	Time-bound Programme (ILO)
UN	United Nations
UNICEF	United Nations Children's Fund
UNITE	Union of Needletrades, Industrial and Textile Employees
WEBCOP	Workers-Employers Bilateral Council of Pakistan
WRC	Workers Rights Consortium
WTO	World Trade Organization
WWC	Workers' Welfare Committee (Bangladesh)
ZCTU	Zimbabwe Congress of Trade Unions



# 1

## Introduction

In February and March 2003, the Committee on Monitoring International Labor Standards (CMILS) of the National Research Council (NRC) convened regional forums in Costa Rica, Sri Lanka, and South Africa. Participants included representatives from the International Labour Organization (ILO), national governments, workers' and employers' organizations, nongovernmental organizations (NGOs), and the academic community. These meetings were designed to provide the CMILS with a broad range of international perspectives on the many complex issues related to monitoring compliance with international labor standards, particularly within developing countries. The CMILS has convened similar forums in the United States and held workshops examining data quality, assessing national legal frameworks, and exploring linkages between human capital development and compliance with labor standards.

These activities have been sponsored as part of an NRC contract with the U.S. Department of Labor (DOL), requesting expert, science-based advice on monitoring compliance with international labor standards. The NRC convened the CMILS for the study, a two-year project with multiple intersecting activities that will

- identify relevant, valid, reliable, and useful sources of country-level data on labor standards and incorporate them into a database tailored to the current and anticipated needs of DOL's Bureau of International Labor Affairs (ILAB);

- assess the quality of existing and potential data and indicators that can be used to systematically monitor labor practices and the effectiveness of enforcement in order to determine compliance with national labor legislation and international standards;
- identify innovative measures to determine compliance with international labor standards on a country-by-country basis and to measure progress on improved labor legislation and enforcement;
- explore the relationship between labor standards compliance and national policies relating to human capital issues; and
- recommend sustainable reporting procedures to monitor countries' progress toward implementation of international labor standards.

The substantive scope of the CMILS study includes national compliance with the international standards identified in the ILO's 1998 Declaration on Fundamental Principles and Rights at Work, which are

1. freedom of association and the effective recognition of the right to collective bargaining;
2. the elimination of all forms of forced or compulsory labor;
3. the effective abolition of child labor; and
4. the elimination of discrimination in respect of employment and occupation.

Additionally, the committee will examine issues related to "acceptable conditions of work," as defined in U.S. trade law, including minimum wages, hours of work, and occupational safety and health. The committee's findings and recommendations to the DOL will be published in a final report to be released in early 2004. The final report will be accompanied by a web-based database, which compiles available sources of information on country compliance with labor standards.

In convening the international forums, the CMILS was seeking not only to identify sources of information and indicators that may assist in measuring compliance with core labor standards, but also to gain a greater understanding of the national and regional context and factors that must be considered in such an endeavor but often escape statistical measurement. Thus, presenters were asked to address a broad range of topics, such as the policies and programs that are being developed to address labor issues in their countries, the obstacles to implementation, and how these obstacles may be overcome. While already aware of the nature of these

challenges—such as resource constraints, lack of political will, inadequate legal frameworks and enforcement mechanisms, training needs, etc.—the CMILS convened these forums to hear about these issues directly from the people with firsthand knowledge so that committee recommendations and the web-based monitoring resources would be based on evidence from the field and incorporate a wide variety of international perspectives.

Although members of the CMILS assisted in identifying speakers and developing the agenda of the forums, they did not participate in writing this summary. This summary does not contain any deliberations, conclusions, or recommendations of the committee or NRC staff but presents edited contents of each forum participant's presentation and summaries of audience questions and comments.

### KEY THEMES AND ISSUES

The forums in Costa Rica, Sri Lanka, and South Africa provided an opportunity for participants to discuss local, national, and regional issues relating to compliance with international labor standards. While some topics received greater attention on a regional basis—such as child labor in Asia and the impact of HIV/AIDS in Africa—the three forums, when viewed together, demonstrate more similarities than differences when it comes to the challenges of adopting, promoting, and monitoring compliance with international labor standards.

This report includes a brief summary of the presentations of 61 participants from 24 countries in the Americas, Asia, and Africa. Forum participants—representing the ILO, national governments, workers' and employers' organizations, NGOs, and the academic community—provided a variety of insights into both country-specific and more global challenges or obstacles to compliance. The following is a brief overview of some of the critical, often interrelated, themes that emerged from these three forums.

Poverty, debt, and the challenges of maintaining a “comparative advantage” in a fiercely competitive globalized economy were all described as having a significant impact on the policies and practices of key stakeholders in developing countries. For example, the desire to attract trade and foreign investment has in many cases placed macroeconomic policies above those designed to protect workers' rights in terms of national priority. Structural adjustment programs promoting more “flexible” labor market regulation, the nonapplication of freedom of association and other rights to workers in Economic Processing Zones, and other inducements to potential investors



are among the issues demonstrating the tension between generating employment and ensuring that the quality of employment meets certain minimum standards. This tension is particularly pronounced when one considers the high rates of unemployment and underemployment in the countries discussed.

Against this background, regional trade agreements and the possible linkage of trade and labor standards received considerable attention from the participants. While some opposed the conditioning of trade benefits on compliance with certain labor rights, others described this link as a valuable tool that offers leverage in promoting change within their countries and protecting against a “race to the bottom.”

Another key issue, the rapid increase in the proportion of workers in the informal economy, was cited by numerous presenters as a challenge both to promoting compliance and to monitoring it. Falling outside the scope of national labor legislation, the wages, hours, and workplace conditions of those workers in precarious informal work most often escape regulation and inspection, even though the conditions are frequently exploitative or illegal. Standard statistical instruments, such as the household or labor force surveys discussed by several presenters, provide a broad range of data on the formal labor market but have severe limitations in their ability to capture activities in the informal economy. Other issues relating to the quality, reliability, and accessibility of information were raised by numerous presenters, illustrating the difficulties of monitoring compliance not only in the informal economy but in all sectors.

Often inextricably linked to poverty and resource constraints, the lack of institutional capacity—whether of governmental institutions or of other organizations with a role in implementing workers’ rights—was most often cited as a primary obstacle to compliance. At the governmental level, adequate funding of labor inspectorates or judicial and educational systems may simply not be available. Given these resource limitations—combined, in some cases, with a lack of political will—building the capacity of the individuals within these institutions is of utmost importance, requiring education and training of inspectors, judges, workers, factory owners, and union leaders, among others. As noted by many presenters, the result is that national commitment to international labor standards, while expressed theoretically by ratification of ILO Conventions and the existence of legislative provisions on labor rights, is often found lacking in its practical application.

## 2

# The International Labour Organization

### **WERNER KONRAD BLENK—ILO SOUTH-EAST ASIA AND THE PACIFIC MULTIDISCIPLINARY ADVISORY TEAM, PHILIPPINES**

Mr. Blenk gave a broad overview of the mechanisms and issues that might be relevant for monitoring compliance with international labor standards. These included

- regular supervisory machinery of the ILO, including national reporting requirements, observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), and the cases of the Committee on Freedom of Association (CFA);
- the “more promotional approach” of the ILO Declaration, which states that the obligation of member states to respect, promote, and realize the principles concerning the fundamental rights is matched by an obligation of the ILO to provide technical and advisory services;
- workplace monitoring in ILO technical cooperation projects, in particular through the International Programme on the Elimination of Child Labour (IPEC) and new Declaration programs; and
- developments in corporate social responsibility, such as codes of conduct and the United Nations Global Compact.

In addition to the above, Mr. Blenk said that the National Action

Programmes for Decent Work, which are being developed by the ILO with its tripartite partners in several countries, can be a useful resource, offering an analysis of gaps that may exist in the implementation of standards. These documents also address the current policies of the government and discuss the priorities and activities of the social partners. It is important to note that the national action programs also contain an examination of the ILO's responses to promoting "decent work" (described below by Mr. Bru). This impact assessment further describes ongoing challenges and the ways in which the ILO—through various sectoral or integrated programs—seeks to address these issues with the government and social partners. While these programs are still being developed within the region, the Philippines has already begun to implement its action program, which is available online through the ILO's website.

Responding to a question from the audience on the ILO's impact within the informal sector, Mr. Blenk acknowledged that international labor standards "do not reach deeply into the informal sector." However, he noted that a large portion of ILO technical cooperation projects, such as those addressing child labor, target workers in the informal economy. Additionally, ILO assistance to trade unions increasingly focuses upon the challenges of recruiting workers in the informal economy. For trade unions, Mr. Blenk said, it is "a question of their playing a continued important role in society because this is where the working people are."

### ENRIQUE BRU—ILO, COSTA RICA

Mr. Bru, director of the ILO office in Costa Rica, discussed some of the new challenges to the ILO as the realities of the "labor world" are transformed along with increasingly globalized economies. He identified the following three processes that are occurring simultaneously:

- the increasing informalization of the economy,
- the growth of the service and trading sectors, and
- the "deterioration of employment."

Mr. Bru explained that the nature of work is changing not only within the informal economy. "We have seen that, as a reaction and response to the globalization challenges, many companies, many productive sectors tend to address these challenges by reducing some values, rights, and job

characteristics that lead to deterioration in the quality of employment even in the modern sectors of society.”

In response to these challenges, Mr. Bru said, the ILO has been promoting the concept of “decent work.” He described “decent work” as a complex concept with several dimensions including “productivity, compensation, security, equality, freedom, and human dignity.” In order to measure the extent to which the decent work concept is being implemented at a national or regional level, the ILO has been developing sets of indicators that go beyond the fundamental rights and principles. These indicators, Mr. Bru said, “allow [the ILO] to diagnose the deficiencies in each of the dimensions of decent work that could exist at a certain moment in a specific country.” He said that the ILO’s Central American office is entering 27 indicators of decent work into a database, “which is gradually becoming more public depending on the relationship we have with each country and on the permissions to make the data public.”<sup>1</sup>

In the discussion that followed his presentation, Mr. Bru emphasized an important aspect of the ILO’s work to promote “decent work”: Establishing national commitments to reduce deficits in “decent work” must be based on a tripartite consensus. Although it is “the countries that are committing themselves to making improvements regarding their deficiencies in the area of decent work,” he said, all of the social partners should assist in defining common commitments and work with the ILO to meet national goals.

Mr. Bru also answered a question from the audience about the possibility that the incorporation of the ILO’s core labor standards into a regional free trade agreement would “debilitate the ILO.” He responded by noting that the discussion of the ILO’s role in trade issues is closely tied to a debate that has been ongoing since the World Trade Organization’s ministerial meeting in Singapore in 1996 regarding the role of the ILO. The conclusion of that conference, he said, was to recognize the ILO as the competent body to deal with labor standards and to reject the use of standards for protectionist purposes or to call into question the “comparative advantage” of low-wage developing countries. It is therefore perceived by some, he said, that incorporating references to the fundamental rights in trade agreements would mean “invading the field of the ILO.” In response,

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<sup>1</sup>This database and other regional statistics can be accessed through the website of the ILO’s Regional Office for Latin America and the Caribbean at [www.oit.org.pe/spanish/260ameri/index.html](http://www.oit.org.pe/spanish/260ameri/index.html).

he said, the ILO is planning to more fully integrate economic and social policies. “We have to make sure that people understand that if macroeconomic policies are only addressed at reestablishing financial and monetary policies, that if they are only aimed at reestablishing this balance, they will not solve the problems of unemployment and poverty.”

**ULLRICH FLECHSENHAR—ILO SOUTHERN AFRICA  
MULTIDISCIPLINARY ADVISORY TEAM, ZIMBABWE**

Mr. Flechsenhar discussed some of the economic, social, and political factors that have a great impact on the implementation of labor standards in Africa, as elsewhere. “After nearly two decades of economic stagnation, the economic performance of a number of African countries has started to improve,” he said. In addition, the process of democratization in Africa, begun in the 1980s and continued through the 1990s, has led to greater transparency in the management of public and private institutions at the national, provincial, and local levels.

However, Africa is still facing a multitude of problems, which include a “towering” debt burden, a lack of food security, instability caused by armed conflicts, and the pandemic of HIV/AIDS, which “devours the marginal gains of the economies.” These problems have complicated adherence to the provisions of the ILO Declaration, in particular with regard to child labor. Mr. Flechsenhar said that the ILO estimates that there are about 85 million children working in Africa, many of them under exploitative conditions.

Adequately addressing these problems, Mr. Flechsenhar said, will require a concerted effort involving information, advocacy, and training to facilitate the ratification and adherence to the ILO’s core Conventions. The ILO’s employment agenda also emphasizes the need for a strategy that promotes the major forces of change in today’s global economy, including

- expansion of trade and foreign direct investment;
- promotion of the Declaration;
- technological innovations of all sorts—in particular, the improvement of information and communications capacity;
- abstention from pressures on natural resources; and
- good governance.

Mr. Flechsenhar called for full support of the New Partnership for

Africa's Development (NEPAD) initiative. This program commits African countries to setting and policing standards of good governance across the continent, respecting human rights, and working for peace and poverty reduction in return for increased aid, private investment, and a reduction of trade barriers by rich countries. "It might well be that, if this initiative fails, Africa risks becoming even more marginalized than is already the case." He concluded by saying that the NEPAD initiative should be used for aligning labor market information systems, improving collection of data, defining effective frameworks for social protection, harmonizing basic labor legislation, and reviewing migration policies within Africa.

### **MOMAR N'DIAYE—ILO PROGRAMME ON PROMOTING THE DECLARATION, SWITZERLAND**

Mr. N'Diaye opened his presentation with a "pessimistic remark" derived from the evolution of the United Nations Development Programme objectives. The aim of poverty *eradication* in the 1970s has been replaced with discussions of poverty *alleviation*, which "means that we are less ambitious, and this shows the seriousness of the poverty situation in the world and especially in Africa."

Turning to the role of the ILO Declaration and its follow-up mechanisms within the context of globalization and marginalization of economies in Africa, Mr. N'Diaye emphasized that the fundamental principles are applicable irrespective of the country's level of socioeconomic development. They provide a "universal framework for all countries to pursue equity and social progress hand-in-hand with economic growth, and they are a key element to decent work as they reinforce participation and empowerment." Recognizing and respecting the rights of the Declaration, he said, is part of a "dynamic puzzle" consisting of several phases: First, there must be respect for the individual, which should protect individual rights to associate with others as well as promote protection against forced labor, child labor, and discrimination. Second, social dialogue and participation must be encouraged, leading to the third phase in which all social forces combine their efforts to work together for economic and social development.

Both the Declaration, with its promises of technical support, and other instruments, such as the U.S. African Growth and Opportunity Act (AGOA)—which offers trade incentives based on eligibility criteria including observance of international workers' rights—have raised the expectations of many countries to foster social and economic development and to

be less marginalized in the global system. However, Mr. N'Diaye said, these hopes are not necessarily matched by the reality, and countries have become disappointed. For example, the high demand for technical cooperation through the Declaration programs has not been met, particularly as support from the current U.S. administration has declined, he said.

On the critical impact of HIV/AIDS on the workplace, Mr. N'Diaye stressed the need for being sensitive to employee rights and, at the same time, addressing employer concerns about productivity. He concluded by discussing the need for support in the democratization process through social dialogue.

### **CHARLES NUPEN—ILO TECHNICAL ADVISOR, SOUTH AFRICA**

Mr. Nupen is the chief technical advisor to an ILO project on dispute resolution in the southern African region. The project covers South Africa, Lesotho, Namibia, Swaziland, Botswana, Zimbabwe, and Mozambique, and there are plans to expand to Angola. Mr. Nupen discussed the critical relationship between conflict management and labor standards. Because labor standards often come to the public domain in the form of disputes, he said, having the appropriate institutional mechanisms to resolve and *prevent* conflict could have a positive impact.

The starting point for developing conflict management capacity, Mr. Nupen said, is labor law reform. While the southern African region has a good record of ratifying Conventions, one must ask to what extent have those standards been incorporated into national laws and actually given practical expression on the ground. This requires an examination of current laws and practices and determining what changes, if any, need to be made to establish the appropriate regulatory environment of dispute prevention and resolution systems. This assessment presents an opportunity to advance the notion—often through recommending legislative amendments—of the adoption of core labor rights.

Mr. Nupen said, “Most countries in this region historically have not had the capacity to do anything real and profound on the ground in terms of protecting core labor rights through enforcement.” The most common, and perhaps most difficult, obstacle is “logjam and delay” of the adjudicatory system. For example, he said, if a dispute arises in a factory in Zimbabwe, one can reasonably expect seven years to elapse before the case comes before the courts. In Mozambique, even though the laws require a “timely resolution,” it can take 5 to 10 years—a situation that Mr. Nupen de-

scribed as “completely subversive of the possibility of any real prospect of enforcement.” Additionally, the legal system can be manipulated through “forum shopping”—litigants choose the forum they believe will give them the greatest advantage. In this type of situation, Mr. Nupen said, “questions of evenhandedness and industrial justice will go out the window.”

Access to industrial justice is another critical issue—in terms of geography (access) and cost. While institutions to address workers’ or employers’ claims may exist in the major cities, farm workers and others in the rural areas may have no practical means of exercising their rights through a judicial system that does not extend to the region where they live. Mr. Nupen added that new arrangements in the countries seek to address this issue, with most of the social partners viewing access as a “non-negotiable political imperative.” Without access, which is critical to lending stability and predictability to labor markets, “disputes will continue to exhibit themselves in increasingly problematic ways on the shop floor.”

Turning to the issue of education, Mr. Nupen discussed the development of codes of best practice and guidelines. Describing the codes as a relatively innovative and low-cost approach in the southern African context, he said that they could have a profound impact if they are accepted by the social partners. The codes seek to educate the social partner on the best ways to address a range of issues at the level of the shop floor before they turn into formal disputes submitted to the courts. “This,” he said, “is the notion of dispute prevention, pure and simple.” The codes are intended to be “infused” into national systems through the adoption and promulgation by the minister and will have the status of “soft law.” “In other words,” Mr. Nupen said, “people are enjoined to abide by the terms of these instruments. They are not obliged to abide, but if they depart, then they have to justify why they departed.” He noted that Botswana has been a leading example of this approach; the social partners there are in the process of adopting 23 different instruments. By educating the social partners on best practices in the workplace, Mr. Nupen concluded, one is promoting the notions of certainty and stability in labor relations because both workers and employers will have a clearer understanding of what practices are acceptable, and they will be able to “play the game according to the rules.”

#### OSCAR ERMIDA URIARTE—ILO, URUGUAY

Mr. Uriarte provided a historical background of the ILO’s development; he said that two concerns have coexisted since the formation of the



organization after World War I: “One [concern is] ethical and legal, related to social justice, and [the other is] economic ... more specifically related to international trade to prevent social dumping.” In order to address these concerns, the core purpose of the ILO—working through its unique tripartite structure—has been the development of international standards through Conventions, Recommendations, and Declarations. However, these standards have to be implemented at the national level through incorporation into national legislation and development of national machinery, such as an independent judiciary, with responsibility for ensuring compliance. “It is important to mention this because the efficacy of these international labor standards in those countries that have ratified them is not just an international control problem; it is also a national control issue as they are part of the national legislation of these countries.”

The specific legal obligations that states have undertaken upon ratification of specific Conventions, Mr. Uriarte said, have now been supplemented by the Declaration on Fundamental Principles and Rights at Work. “The dogma of the national sovereignty is surpassed, and it no longer matters whether the state has ratified [Conventions] or not.” Even though the Declaration did not require the act of ratification, Mr. Uriarte asked, is it “a draft of the universal social clause that is going to operate in international trade so that those countries that do not comply with these minimum core standards are effectively going to be banned from the international community?”

#### **HUMBERTO VILLASMIL—ILO, COSTA RICA**

Mr. Villasmil continued the discussion of the 1998 Declaration and its role in promoting the universal application of core standards. While noting that most countries in the Central American region have ratified the majority of the core Conventions, Mr. Villasmil said that the Declaration has been an “important qualitative step forward for the [ILO] and in the international guardianship of the core labor standards.” The Declaration, he said, is transcendental because it bases the obligations of states to observe certain fundamental principles on membership and the ILO Constitution, rather than on ratification of specific Conventions. He said that it’s important to note that the ILO Constitution “has always allowed the creation of monitoring mechanisms and requests of information from countries that can no longer shield themselves under the argument that they have not ratified some of these fundamental Conventions.”

In further describing the process of international norms being incorporated into domestic systems, Mr. Villasmil discussed several aspects of international treaty law. For the purposes of monitoring compliance, the states' obligation—under Article 22 of the ILO Constitution—to submit regular reports on application of Conventions provides the “basic input for the ILO’s monitoring bodies,” such as the CEACR, the CFA, and the Conference Committee on the Application of Standards.

### **JEFFREY WHEELER—ILO STRENGTHENING LABOUR ADMINISTRATION IN SOUTHERN AFRICA, ZAMBIA**

Before describing the Strengthening Labour Administration in Southern Africa (SLASA) project, Mr. Wheeler emphasized the importance of recognizing practical realities. In the ILO’s work in southern Africa, one of the realities that “casts a shadow over everything is the impact of HIV/AIDS.”

The ILO’s SLASA project is funded for three years by the U.S. Department of Labor. The project countries include Zambia, Malawi, Lesotho, and, to a lesser degree, Botswana. The development objective of the SLASA project, which recently completed its first year of operation, is to improve the application of the ratified fundamental Conventions and thereby help promote stable economic growth beneficial to the countries, businesses, and workers. The immediate objectives are to

- help bring Zambian labor legislation into conformity with ratified ILO Conventions;
- strengthen the institutional capacities of the ministries of labor in all the project countries to protect international labor standards (ILS) and support social dialogue;
- strengthen the institutional capacities of worker organizations in Zambia, Malawi, and Lesotho;
- strengthen the institutional capacities of employers’ organizations in those three countries;
- strengthen the capacities of the dispute resolution systems, including the labor courts, as well as promoting mediation, conciliation, and arbitration; and
- promote tripartite and bipartite cooperation through regular meetings.

During the course of the SLASA project, several difficulties have been encountered, often involving processes and procedures. For example, the amount of time between meetings and the lack of “institutional memory” on the part of the social partners have hampered momentum and made it difficult to move forward with necessary reforms. However, Mr. Wheeler said, the social partners have been able to raise important issues. Employers have expressed concern about the high cost of the retirement benefits required by law, and the unions have criticized the government’s occasional failure to pay public employees their wages or to grant wage increases to lower-level employees.

Assisting all stakeholders in the SLASA project countries to implement ILS poses different challenges. The social partners must be empowered, Mr. Wheeler said, by providing them with skills and resources to address their own concerns. Assistance is also needed in building governmental institutions that can effectively implement the standards. For example, labor courts may require a system that allows them to track their caseloads in order to issue decisions in a timely manner. The ministries and courts need strong institutional structures that will allow them to set specific goals and monitor their performance, Mr. Wheeler said. “The temptation to avoid is to promote complex comprehensive systems that cannot be maintained because of a lack of funding, insufficient infrastructure, or an insufficient number of properly trained personnel.”

Mr. Wheeler also identified as a problem the extensive reliance on external donors. As a way to help “internalize” the development of institutional mechanisms and policies, and thus promote sustainability, SLASA emphasizes social dialogue. He said, “In some cases, there may be a tradeoff between short-term outcomes and long-term process changes. For example, social dialogue may lead to changes that are only partly consistent with ILS principles. On the other hand, the social partners may very well find solutions that are better adapted to local conditions and provide a foundation for later changes.”

Mr. Wheeler concluded by stating that ILS issues are intricately linked to a broader range of issues. To address these issues properly, it is useful to understand a country’s history, culture, economics, and politics. Protection of ILS may be affected by programs on poverty reduction, job creation, childhood education, trade, anti-corruption, HIV/AIDS, structural adjustment, and government reform.

## 3

# National Governments

### **YADIRA DEL CARMEN ADAMES—OFFICE OF STATISTICS AND CENSUSES, PANAMA**

Ms. Adames gave a brief overview of the ILO Conventions that have been ratified by Panama, adding that “permanent assessment” is required to guarantee that compliance is being achieved. Statistics are a fundamental element of this assessment, she said, and Panama has several agencies and instruments that provide information relevant to monitoring the labor market and working conditions. This information is made public through the publication of annual bulletins, and it is accessible on the website of the general controller’s office. Box 3-1 shows the primary instruments and some of their data elements.

Ms. Adames said that conceptions of how these statistics might be used to determine compliance with labor standards may vary from country to country and even within countries. For example, Panama considers as employed those people who worked at least one hour during the week-of-reference period, and this has been the subject of great debate internally. In an effort to reach consensus and harmonize the concepts used in the Household Survey, the Directorate of Statistics and Censuses meets regularly with employer and worker representatives.

**Box 3-1**  
**Statistical Instruments and Data Elements in Panama**

Household Survey (annual)	<ul style="list-style-type: none"><li>• economically active population</li><li>• unemployment</li><li>• visible underemployment</li><li>• informal employment</li><li>• regular working hours</li><li>• net earnings</li><li>• structure and distribution of wages</li></ul>
Income and Expense Survey (decennial)	<ul style="list-style-type: none"><li>• household expenses</li><li>• retail and consumer price indices</li></ul>
Child Labor Survey	<ul style="list-style-type: none"><li>• number of employed minors</li><li>• age</li><li>• activities</li><li>• salaries and income</li><li>• work-related injuries</li></ul>
Administrative Records of Ministry of Work and Labor Development	<ul style="list-style-type: none"><li>• conciliation and mediation procedures</li><li>• collective bargaining units</li><li>• labor organizations</li></ul>

**ERICK BRIONES—MINISTRY OF LABOR, COSTA RICA**

Mr. Briones discussed labor inspection in Costa Rica, a task that underwent significant changes several years ago. In 2000 Costa Rica's system of labor inspection was decentralized, and the task was assigned to six regional offices coordinated by the National Directorate, which is located in San José. The objectives of the new inspection system include

- a preventive approach,
- active participation of employers and workers in the inspection process, and
- a high level of productivity in relation to the available resources.

Mr. Briones pointed out that in Costa Rica, the Ministry of Labor

cannot issue fines or sanctions directly, as can be done in other countries, such as Spain. After identifying violations, the ministry must give the employer a warning, which can be followed by an application to the Labor Court for a remedy. Mr. Briones explained that court rulings are monitored in order to evaluate the impact and efficiency of inspection activities. "If we have accused 2,000 companies, and we only obtain 10 percent convictions, only 10 percent are sanctioned, something wrong is happening. We are failing to do our job [because] we are not presenting enough evidence to the court." In 1999 the percentage of court rulings against an employer was 35 percent. The following year, that rate increased to 46 percent.

Between 2000 and 2001, violations of occupational health standards were the most common in Costa Rica. Mr. Briones said, "We are talking specifically about companies that do not have occupational risk insurance and those that have the minimum coverage and don't want to increase it."

#### **HANS LEO CACDAC—DEPARTMENT OF LABOR AND EMPLOYMENT, PHILIPPINES**

Mr. Cacdac discussed the roles of the Bureau of Labor Relations in the Philippines:

- serving as the central registry of unions and collective bargaining agreements;
- adjudicating, or assisting in the adjudication of, intra- or inter-union and representation disputes;
- acting as a secretariat of the Tripartite Industrial Peace Council; and
- managing the workers' training and scholarship fund.

He stressed the importance of administrative rule-making in the process of ensuring respect for workers' rights within political systems that seek a separation of powers. "The thin line separating enforcement and constitutional and statutory norms for compliance with Conventions 87 and 98 will be the vast body of rules and regulations issued by the Secretary of Labor." The Philippines has both a socially progressive constitution (drafted after the end of the Marcos era) and comprehensive labor legislation guaranteeing the rights of association, which goes to the extent of criminalizing interference with the exercise of that right. However, "the real core of labor standards is enforcement, and the level of enforcement is in the executive branch of the government."

In addition to shedding light on compliance with international standards for external assessors, the monitoring of the government's regulatory and enforcement efforts, through statistics and other means, can spur changes in national policies. "The inclusion of simplified procedures [for registration of unions and collective bargaining agreements]," Mr. Cacdac said, "was born out of statistical data showing numerous delays." The process cycle for registration has now been reduced from 30 days to 10 days. Similarly, the petition process for certification elections is down to 45 days from 90 days. Regional comparisons, Mr. Cacdac said, showed that in Singapore, this process only takes 15 days, and "that is our dream at this moment."

Mr. Cacdac called for greater collaboration between administrative and judicial processes. "There have been a series of decisions [of the Supreme Court of the Philippines] that appear to have undermined the right to self-organization ... because they try to snuff the life out of a labor union at the point of seeking a certification election." He said that departmental action at an administrative level—"without being disrespectful of the Supreme Court"—was required in order to "adjust and align ourselves with the Conventions." These adjustments came in the form of amendments to procedural rules, removing some of the requirements that had been so strictly interpreted by the court to the detriment of nascent unions.

Mr. Cacdac's third key point was that "compliance with the core labor standards and a search for industrial peace go hand in hand." He said that one of the difficulties the Department of Labor and Employment (DOLE) has encountered is "the mistaken notion that seeking compliance with the core labor standards means seeking rights for the workers or ensuring that the rights of workers are protected." He said that it is also important to emphasize the "obligations and responsibilities [that go] hand-in-hand with rights." Going beyond the rights-oriented approach is one way to "transcend the core labor standards." As an example, Mr. Cacdac said that DOLE is heavily involved in enforcing Article 241 of the Philippine Labor Code, which covers rights and conditions of union membership. "This entrenches a state policy to protect the worker from abuses that may be practiced by an oppressive and corrupt union leadership." Furthermore, DOLE engages in dialogue with the ILO "on principles that go beyond the mandate or the wording of the Convention" in the hopes that "maybe it would show our sincere desire to comply with the basic core Convention."

Mr. Cacdac concluded by saying, "All told, assessing our country's compliance with core labor standards entails close attention to details—details

as to how we have carried out the constitutional and statutory policies relative to the right to self-organization; how we strive for industrial peace in our country; how we desire to go beyond the basic tenets of freedom of association and collective bargaining and into the realm of more intricate, comprehensive compliance.”

**EUGENIO SOLANO CALDERÓN—MINISTRY OF LABOR,  
COSTA RICA**

Citing the ongoing trade negotiations between Central America and the United States, Mr. Calderón, the director of labor affairs in Costa Rica, focused his presentation on the incorporation of workers’ rights provisions into any future agreement. “There is no doubt that the increase in the liberalization of trade has to be accompanied by measures to protect the core labor standards,” he said. “The explicit protection of labor standards in the letter and spirit of the free trade agreements should be the first step taken in that direction.”

Mr. Calderón discussed the important role of the ministries of labor in the region, “specifically in the areas related to the treatment and approach of labor relations, the verification of standards compliance through labor inspections, employment policies, and, in general, the administration of work within the new concepts that are part of today’s labor activities.” Given these critical and difficult roles, the provision of necessary human and technological resources is required so that the ministries of labor are no longer treated as “the Cinderella of national budgets.”

Returning to the issue of labor in the pending regional agreement, Mr. Calderón cited the criteria for free trade agreements developed by the Lawyers Committee for Human Rights (LCHR). LCHR, a U.S.-based non-profit human rights organization, states that free trade agreements must meet the following minimum requirements:

- Negotiations must be conducted in a transparent way.
- Only governments that comply with core labor standards should be invited to sign.
  - Basic labor rights must be an integral part of the agreement.
  - Enforcement mechanisms for labor rights must be equal to enforcement mechanisms for any other rights and obligations embodied in the agreement.
  - Trade remedies should be applicable to labor standards.



- Labor rights must be enforceable in the entire territories of the signatory parties.
- A permanent labor standards monitoring body must be part of the agreement.

Mr. Calderón said that following this approach would “strengthen the basic and legal protection of workers’ rights in our region, having as a fundamental premise that an increase in international trade should not be achieved at the expense of workers’ rights.”

**VICE-MINISTER JOSÉ ECHEANDÍA—  
MINISTRY OF LABOR, PERU**

Vice-Minister Echeandía discussed the divergent trends relating to capital and labor within the process of globalization. “Although there is an unprecedented volume of capital and technology mobilization across borders,” he said, “the utilization of labor is subjected to many obstacles. In other words, the asymmetry between capital and labor expands global inequalities because the highly industrialized group of nations is in a position to control the capital while the other group—developing countries such as ours—can only provide their labor force.”

Turning to labor standards, Vice-Minister Echeandía discussed the significant impact of unemployment and underemployment. While unemployment in Peru was 8.1 percent in 2002, *underemployment* was nearly 56 percent. The underemployed included “workers who have no social security rights, no vacation rights, no overtime payment, no regulated working hours, etc.” For those who are employed, the quality of employment has steadily declined, he said, as part-time work—with reduced benefits—becomes more common.

Employers in Peru have also been able to manipulate the rules applicable to trainees in the workplace, Vice-Minister Echeandía said. “The implementation of very extensive labor apprenticeship programs and preprofessional practicum has allowed companies to improve labor costs and to mock their legal labor obligations.” The current administration has issued an order to reduce the percentage of these workers in each company from a maximum of 40 percent to only 10 percent. This has advantages as well as disadvantages. Although this reduces the number of workers-in-training who do not receive full benefits, small and medium enterprises

that have fewer than 10 workers are now unable to legally hire apprentices or offer this method of skills development.

The reduction of employment opportunities has led to an increase in labor migration and in the informality of the Peruvian economy, with concomitant declines in job quality as the labor supply continues to outpace formal demand. In the face of these problems, which are exacerbated by “external debt, recession, and leniency of labor laws,” Peru has undertaken several policy initiatives. First, the current economic policy is now oriented toward controlling inflation and promoting economic growth. The government has also implemented a program called *A Trabajar* (Let’s Work) that has given jobs to 125,000 workers in its first 20 months. The National Labor Council is revising labor legislation with the aim of “unifying and reorienting [the law] with the purpose of making it more viable and flexible.” This includes a proposal for a law pertaining to micro- and small enterprises that would allow these enterprises, which have trouble complying with labor law because of low competitiveness, to observe lower standards than larger enterprises while still maintaining core ILO principles.

#### **GERMÁN LEITZELAR—MINISTER OF LABOR, HONDURAS**

Minister Leitzelar said that international labor standards have been incorporated into the national legislation of Honduras since the 1950s. He said that looking at the comprehensive protections found in the Labor Code—issued in 1959 following a strike in the banana sector—might make us say “that we live in a labor heaven because everything regarding the minimum standards is duly regulated, but when we compare this situation with reality, we find that the legislation is not sufficient to be able to talk about the application of these labor standards.” He pointed to “enormous problems” in two areas: (1) the control, supervision, and monitoring of child labor and (2) the health of the economy.

Minister Leitzelar linked these problems to the growth of the informal economy, where 1.3 million of the 2.4 million economically active people in Honduras now work “outside every legal framework of social security, occupational safety, and, above all, with no compliance to the minimum labor standards of ILO Conventions.” He added that this problem is likely to continue to grow; every year 80,000 people ages 14 to 24 seek to enter the Honduran job market, which provides only 20,000 formal-sector jobs annually.

Addressing these problems will require bridging the gap between the framework of labor rights and current economic policies because “decisions in the economic arena are almost exclusively taken totally divorced from a national social policy.” This challenge may be particularly difficult, Minister Litzelar concluded, without the involvement of the union movement. Currently, only 7 percent of the economically active population is affiliated with trade unions, down from an estimated 15 percent in the 1960s. As a result, the union movement “is constantly losing legitimacy in the framework of defense of social and labor rights.”

### **HONORABLE ASHRAF QURESHI—HIGH COMMISSIONER FOR PAKISTAN IN SRI LANKA, PAKISTAN**

Mr. Qureshi gave an overview of the Pakistani government’s commitment to compliance with core international labor standards. In 2002 Pakistan announced a new labor policy based on the premise that “industrial growth, higher productivity, competitiveness, and decent working conditions can only be achieved through harmonious industrial relations.” He referred to the formation of the Workers-Employers Bilateral Council of Pakistan (WEBCOP)—discussed by Mr. Siddiqui in Chapter 5—as a “pioneering and positive development” in terms of encouraging dialogue and building trust among the social partners.

Pakistan is also in the course of consolidating its labor legislation. Reflecting a point made by several speakers throughout the three regional forums, Mr. Qureshi explained, “The existing labor legislation unfortunately is voluminous, overlapping in its coverage, and anomalous in definition and scope.” The result of the planned changes will be a consolidation of laws into six categories:

1. industrial relations,
2. employment conditions,
3. wages,
4. human resource development,
5. occupational safety and health, and
6. labor welfare and protection.

Acknowledging that Pakistan has often been the subject of criticism—which he said has been “unfair to a large extent”—for child labor, Mr. Qureshi discussed the work the country has been doing with the ILO’s

IPEC (International Programme on the Elimination of Child Labour). The national action plan consists of several interrelated strategies:

- progressive elimination of child labor from all sectors of employment;
- immediate elimination of the worst forms of child labor;
- coordination of child labor eradication efforts with other policy measures such as provision of universal primary education, poverty alleviation, and expansion of social safety nets;
- awareness-raising and dissemination of information related to child labor; and
- regular monitoring of implementation of the national action plan.

Since Pakistan signed a memorandum of understanding with the ILO-IPEC in 1994, 25,000 children have directly benefited from the action plan. Progress has also been made, he said, in developing a national consensus list of hazardous occupations through tripartite consultations and planning research studies and baseline surveys to gauge children's involvement in various employment sectors.

As for forced and bonded labor, Mr. Qureshi said that the scale and scope of the problem "has not been determined in a very consistent manner," but current programs may give more accurate measurements. With ILO support, the Ministry of Labor has convened a Bonded Labor Research Forum, and researchers have been conducting rapid assessments throughout the country. Mr. Qureshi cautioned that "without taking a holistic approach to tackle [child labor and forced labor], there is little chance of success. Prescriptive solutions coupled with punitive action often create more problems than they ... solve."

Mr. Qureshi concluded by discussing human resource development as an important part of Pakistan's labor policies. To improve the provision of training, there has been a restructuring of the National Training Bureau and decentralization of vocational training to the provinces where employer-led skill development councils are being supported and encouraged.

**BRIGADIER GENERAL M. MOFIZUR RAHMAN—  
BANGLADESH EXPORT PROCESSING ZONES AUTHORITY,  
BANGLADESH**

Mr. Rahman described the Bangladesh Export Processing Zones Authority (BEPZA), an autonomous government body responsible for the

promotion of investment and generation of employment within its zones. Currently, there are 174 industries operating in the Export Processing Zones (EPZs) of Bangladesh, employing more than 120,000 workers and producing almost 18 percent of the country's exports. Mr. Rahman noted that 61 percent of the EPZ workforce is female; certain industries, such as electronics and camera lens production, prefer women because "they concentrate more, and the quality of work is better, and rejection [of products because of quality control issues] is less."

In the early 1980s, as EPZs were being established in Bangladesh, all labor laws were made applicable to these zones. However, in the late 1980s, workers "carried out strikes and other unruly activities," Mr. Rahman said, and the flow of foreign direct investment was "seriously interrupted." He attributed these events to the "instigation of the outsiders." As a result, the government suspended the application of certain labor laws within the EPZs, including the Factories Act of 1965, the Employment of Labor Act of 1965, and the Industrial Relations Ordinance of 1969. As an alternative measure, the BEPZA issued a series of regulations covering working conditions in the EPZs, which Mr. Rahman described as the best approach for ensuring "reasonable wages, fair treatment of workers, and provision of reasonable facilities for workers." He added, however, that the government of Bangladesh has agreed to reapply the national labor laws to the EPZs as of January 2004. The challenge is to make that transition smoothly as certain rights—such as freedom of association and the right to organize—are introduced. Currently, workers are not allowed to form unions, but Workers' Welfare Committees (WWCs) are being formed at the enterprise level, Mr. Rahman said. Five workers from each factory represent the workers in resolving disputes with management, and a Labor Relations Tribunal has been established to handle disputes that cannot be settled by the WWC.

After his presentation, Mr. Rahman was asked to identify the "outsiders" he had referred to as instigators of the problems leading to the suspension of labor laws in the EPZs. He responded by saying that he believed that the majority of workers, whether inside or outside of the EPZs, are "very good, very docile, very gentle. They don't want to lose their jobs." However, he added, the problems were caused by a "small group of people who want more than they deserve" and were "multiplied because of the instigations from the people outside, including the unions outside."

**EDITHA RIVERA—DEPARTMENT OF LABOR AND  
EMPLOYMENT, PHILIPPINES**

Ms. Rivera's presentation complemented that of her colleague, Leo Cacdac, providing additional information on labor standards in the Philippines in a paper titled "Labor Statistics as Indicators of Compliance to International Labor Standards." She gave an overview of the coverage and sources of labor statistics in the Philippines. In general, she said, DOLE gathers information on

- manpower development and employment promotion,
- workers' welfare and protection, and
- maintenance of industrial peace.

The sources for these statistics include censuses, surveys, administrative reports, and research reports and studies.

Ms. Rivera noted that the administrative records supply the largest portion of the available data. There are two types of these records: mandatory reports and transaction records. Mandatory reports are required of DOLE's "clients," which include establishments and labor organizations. The transaction reports are submitted by DOLE's 16 regional offices throughout the archipelago; they include statistics from inspection reports, accident investigations, labor relations cases, and registration of unions and collective bargaining agreements.

The data collected from the various sources are included in the Statistical and Performance Reporting System of the DOLE, which is "conceived to be the [department's] mechanism ... [for monitoring] the implementation of its programs." Statistics have been used to assess compliance rates in certain establishments or sectors, Ms. Rivera said, as well as to determine the allocation of departmental resources. The data received have also been used, for example, to identify regions in which labor inspection targets are not being met so that the department can redeploy inspectors from other regions as necessary.

**EMILIA ROCA—MINISTRY OF LABOR, ARGENTINA**

Ms. Roca said that Argentina shares the common concerns of the region, such as the deterioration and informalization of the employment market. In this context, she discussed the impact of policies recommended

by international financial institutions, such as the International Monetary Fund and the World Bank. She referred to several fundamental laws that were passed in the 1990s in order to restructure the Argentinean labor market. Although legislation covering terms of employment, contracts, occupational safety, and family welfare was adopted, the results were questionable.

The National Law of Employment of 1992 incorporated more lenient rules for hiring and firing and reduced employers' compensation programs and contributions to social security. Ms. Roca said that two serious issues arose from this: First, there was a great deal of employment turnover as "fixed-time" contracts became more prevalent, and, second, "there was also a change in the pension regime that meant a transfer of important resources to private capitalization that, to a certain extent, had an impact on the public deficit problems that led to the crisis in Argentina." Other changes affected occupational safety and labor inspection as monitoring of workplace accidents fell increasingly under the purview of insurance companies rather than the state.

Ms. Roca said that data for Argentina in the 1990s raise many questions about the impact of these efforts at reform. Unemployment rose from 6 or 7 percent in the early 1990s to 21.5 percent in 2002; more than 50 percent of Argentina's population live in poverty, and approximately 25 percent suffer from malnutrition even though Argentina is a food-producing country. With 3.5 million Argentineans continuing to receive pensions, reductions in employer contributions represented about 50 percent of Argentina's new debt in the 1990s.

Ms. Roca concluded her presentation with a description of a government-sponsored program called *Jefes y Jefas de Hogar Desocupados* (Unemployed Heads of Households). This program currently provides financial assistance to more than 450,000 workers who have lost formal-sector jobs. However, Ms. Roca added, the benefits offered to these workers—intended to be the income equivalent of what they would have earned in the labor market—are decreasing. She also discussed an interesting finding from this program: Providing this income only served to reduce the poverty rate by eight percentage points. "This means that poverty is not due to unemployment; it is due to poor quality of employment. It is a problem of the precarious jobs people in the poor sectors have. It is a problem of the constant transition between employment and unemployment, which does not allow them to have enough money to support their families."

**SERGIO BECERRIL SEGOVIA—DEPARTMENT OF LABOR AND  
SOCIAL SERVICES, MEXICO**

Mr. Segovia presented an overview of Mexico's adoption of international labor standards and the information sources available to assist in monitoring compliance with those standards. Mexico has ratified six of the eight fundamental ILO Conventions, and in order to comply with reporting requirements, information is drawn from a variety of surveys—the National Employment Survey in particular—and from administrative records. While these sources provide a great deal of information for ILO reporting, Mr. Segovia said that there have been difficulties in responding fully to areas of concern, “especially those that have to do with the observations from the [Committee of Experts on the Application of Conventions and Recommendations (CEACR)] about very specific issues.”

In 2003, for example, the CEACR asked for additional information on reports of discrimination against pregnant women—including pregnancy testing prior to recruitment or denial of benefits—particularly in the EPZs (*maquiladora* industry). The CEACR also requested additional information on child labor, citing estimates provided by the International Confederation of Free Trade Unions that there are approximately five million working children in Mexico, two million of whom are under 12. On these two issues, Mr. Segovia said that the National Employment Survey “does not deal with issues such as discrimination toward job applicants, [and] there are no sources aimed at obtaining information about the worst forms of child labor because they are illegal.”

Mr. Segovia noted several data problems that impact compliance assessments more generally:

Some sources of information do not include variables of interest or don't do so with the detail required to draw conclusions about situations as required by the Conventions. Some other sources of information have the problem that their coverage is temporary and insufficient, which causes a lack of data that does not allow making comparisons over time. In addition, no comparisons can be made at an international level because of methodological differences.

Mr. Segovia provided several examples of Mexico's “methodological differences” in studying the labor market. One divergence from international recommendations is to include people who are “about to start a new job and those suspended temporarily from their jobs and ... expecting to return” among those classified as employed. He concluded by saying that



employment and unemployment indicators are being revised through a technical committee on labor statistics and that the Secretariat plans to implement a “labor information service that can be accessed easily and that has a flexible consultation process that will make the information more transparent.”

Responding to a question from the audience about the impact of the North American Free Trade Agreement (NAFTA) on the levels and quality of employment, Mr. Segovia said that the National Survey on Salaries, Technology and Training in the Manufacturing Sector may be useful for this purpose. The most recent survey, which was carried out in 1999, “will contribute important information” for carrying out such an analysis.

### **JUSTICE BERNARDO VAN DER LAAT—SUPREME COURT, COSTA RICA**

Despite the proliferation of law schools in Costa Rica (over 50 institutions for a population of four million), Justice van der Laet said that knowledge of international labor standards is lacking. “We assume that all justice operators know about them [but] I seriously doubt this is the case.” In his 30 years of teaching law, Justice van der Laet has found that “students would probably not consider labor law as an economically rewarding profession,” and the curricula of law schools reflect this; very few courses dealing with labor law—particularly international standards—are available on Costa Rica’s campuses.

According to Justice van der Laet, Costa Rica’s 1943 Labor Code included the provision that ratified ILO Conventions were equivalent to national law. This was followed by a 1968 amendment to the constitution that stipulated that Conventions approved by Congress would have a higher standing than national law. While Justice van der Laet attributes this amendment to Costa Rica’s desire to join the Central American Common Market, rather than a desire to elevate ILO standards, the amendment did provide “important support for Conventions such as those of the ILO to be legally enforced.”

However, this legal framework has not necessarily provided results, as Justice van der Laet explained.

For instance, Convention 87 and Convention 98 were ratified in 1960, yet I am sure that for about 30 years, the Costa Rican union movement has complained about persecution against trade unions and about the fact that the provisions in the Conventions were not being complied with. Something

important was happening. We had regulations, we amended the constitution, we ratified important Conventions, but they were not being enforced.

One milestone in the effort to improve enforcement, Justice van der Laet said, was the creation of the Constitutional Court in 1989. In a famous 1993 ruling, the court held that persons dismissed as a result of anti-union persecution must be reinstated with full payment of lost salaries. Additionally, the court established the presumption that union workers laid off with severance pay were fired for anti-union reasons, and consequently the action was nullified. Since that ruling, the Constitutional Court has applied that line of thought in numerous cases. Justice van der Laet's Second Chamber of the Supreme Court has also applied these standards, ordering payment of lost wages for up to four years after an unlawful dismissal.

Justice van der Laet said that the higher courts have an important role to play in training other judges and lawyers on international labor standards. Application of these standards in the higher courts "will surely force lower courts to make similar decisions because of the risk of having their rulings overturned." Similarly, these standards will be conveyed to the attorneys handling the cases. In this way, Justice van der Laet said, the "judicial schools"—complemented by occasional ILO seminars for judges—will be able to offer the training that law schools are not currently providing.

Following his presentation, Justice van der Laet responded to a question on the mechanisms available in Costa Rica for workers or unions to file complaints alleging labor standards violations. He noted that the Labor Code allows workers to petition the court, either hiring a lawyer or—as is most often the case—representing themselves to pursue the case, but there is a limitation on the direct intervention of unions. This approach differs from that of Panama, which was described by Luis León of the General Independent Worker's Union of Panama. When Panamanian workers pursue a case with the tripartite Conciliation and Decision Boards, an attorney will be assigned free of charge or—if the worker belongs to a union—the union will assume the fees. Given the complexity of legal procedures in Costa Rica, Justice van der Laet said, without legal assistance "a worker will probably lose." Therefore, reforms are being considered in Costa Rica that would allow more direct involvement of unions in individual labor disputes. Additionally, after a recent dispute that affected 120,000 public-sector workers, the Ministry of Labor and the Supreme Court are engaging with unions to study possible reforms that may pave the way for class action suits to be filed in Costa Rica.

**Box 3-2**  
**Data on Children (Ages 5 to 18) from Multipurpose**  
**Permanent Household Survey, Honduras (2002)**

• Total population of Honduras	6,697,916
• Number of children ages 5 to 18	2,545,483
• Percentage of children working	15
• Percentage of children not attending school	34
• Average number of schooling years for working children (ages 16 to 18)	5.6
• Average schooling years for nonworking children	8.6

**GLORIA LIZZETTE VELÁSQUEZ—**  
**NATIONAL INSTITUTE OF STATISTICS, HONDURAS**

Ms. Velásquez focused her presentation on monitoring child labor in Honduras through the use of the Multipurpose Permanent Household Survey (MPHS). The overall purpose of this survey is “to produce a flow of integrated, timely, and reliable statistical data to prepare policies, formulate plans, and execute projects for the economic and social development of Honduras.” In addition to providing general information on population characteristics, poverty, housing, employment, and education, the MPHS has been used to analyze the nature and extent of child labor. Selected statistics on child labor are provided in Box 3-2.

Ms. Velásquez emphasized the detrimental effects on children, as well as on the future of the labor market, when they sacrifice education for early entry into the labor force. “This is of great concern because if this situation continues, we will not have children trained for the new demands, and they will be young adults who will work in nonproductive activities or activities with little production [and] will not participate in the country’s growth.”

**TATIANA VELAZCO—MINISTRY OF LABOR, PERU**

Ms. Velazco said, “One of the most outstanding characteristics of [Peru’s] labor market is the relative importance that the private salaried

worker has.” Private salaried workers represent 40 percent of the labor force, public-sector employees account for 10 percent, and “independent workers, self-employed persons, and workers who work for relatives without pay, which almost reaches 8 percent,” make up the remaining 50 percent. As in other countries, about half of Peru’s workers are not covered by national labor legislation. This reality, Ms. Velazco said, is an important consideration when one is trying to understand the application of standards in Peru.

To gather information on the labor market in Peru, the Ministry of Labor conducts several surveys, the “most important” of which is the National Household Survey. Ms. Velazco said that this survey is applied “directly,” that is, no information is accepted from third parties. Each member of the household who participates in the labor market must fill out the survey form independently. Ms. Velazco said, “This is an important issue because the information is usually biased when the mother or some other relative responds for the person who should be doing so.”

Other valuable sources of information, Ms. Velazco said, include company surveys and the ministry’s administrative records, which cover items such as strikes, lockouts, and collective bargaining agreements. One of the fundamental issues measured through the company surveys is the labor turnover, which is analyzed by looking at indicators on hiring rates, dismissals, and contract modes. This information on transitions within the labor market is supplemented by the household surveys. Ms. Velazco said that her office has noticed “very interesting results” when workers’ activities are analyzed over a one-year period. Only 50 percent of the population remains employed throughout the year, while 25 percent are “always inactive,” and the remaining 25 percent move in and out of employment, with some (8 percent) managing to avoid becoming “unemployed” as officially defined. For those who do become unemployed, the duration is “very short [and] informal employment is like a refuge for those people who are looking for a job.”

During the discussion period following her presentation, Ms. Velazco elaborated on the statistics that are gathered concerning union membership and the efforts to ensure consistency of the information received from administrative records and that collected from company surveys. She noted that the data from both demonstrate that only 8 percent of salaried employees are affiliated with a trade union. In terms of salaries, she said, the statistics indicate that workers who are covered by collective bargaining agreements receive higher pay. Additionally, 96 percent of workers in for-

mal establishments with 10 or more employees receive more than the minimum wage. In smaller companies—“where precariousness is the norm”—Ms. Velazco recommends the use of mixed surveys, “not only for issues related to contracts, salaries, but also to understand the context in which the companies operate [including examination of] labor costs, company’s sales, and labor productivity.”

**A.P. WICKREMASINGHE—  
DEPARTMENT OF LABOUR, SRI LANKA**

Mr. Wickremasinghe, the deputy commissioner for labor standards in Sri Lanka, presented an overview of that country’s experience with core labor standards. Sri Lanka has ratified all eight fundamental ILO Conventions, but issues of implementation—particularly with regard to the national legal framework—remain before full compliance is achieved. He said that Sri Lanka’s Trade Unions Ordinance has “a lot of small problems” with freedom of association; for example, judicial and prison officers and members of agricultural cooperatives are prohibited from forming trade unions. Earlier problems of freedom of association in Free Trade Zones have been resolved, Mr. Wickremasinghe said, explaining that restrictions on the entry of trade union representatives were only being imposed “for security reasons.” Additionally, because the Trade Unions Ordinance stipulates that union members must be at least 16 years of age and the minimum age for employment in Sri Lanka is 14, amendments are being considered that would enable these young workers to join unions.

As for forced labor and compliance with Convention 29, Mr. Wickremasinghe acknowledged that the government needed to address the lack of a penal sanction for the illegal imposition of forced labor and that legal amendments would be completed “very soon.” Additional issues of concern identified by Mr. Wickremasinghe were restrictions on resignation of military officers and the use of certain types of prison labor, but these too, he said, have been the subject of recent legislative and administrative action. Mr. Wickremasinghe also noted legislative measures relating to the worst forms of child labor and an amendment to the Industrial Disputes Act, making it mandatory for employers to recognize for collective bargaining purposes a union representing 40 percent of the workers.

Following his presentation, Mr. Wickremasinghe was asked whether labor inspectors may enter the Free Trade Zones unannounced. He responded by saying that in all establishments—whether inside or outside

the Zones—prior notice is required “in order to avoid problems at the workplace and not to interrupt their business systems.” Anton Marcus of the Free Trade Zone Workers Union asked Mr. Wickremasinghe to comment on a new law that extends overtime from 100 hours per year to 60 hours per month. Mr. Wickremasinghe responded by saying that overtime is voluntary in Sri Lanka and that disciplinary measures could not be taken against a worker who refused to work the additional hours. These matters, he said, were often handled through mutual understanding and cooperation between workers and employers. Mr. Marcus disagreed on whether this provision was mandatory and could result in termination of workers. During the open forum, William Conklin of the Solidarity Center in Sri Lanka returned to this issue, saying, “What happened was that the phrase ‘with consent of the workers’ was taken out [of the legislation], which can lead to *de facto* mandatory overtime.” Mr. Conklin also challenged the assertion that there were mutual understandings between workers and employers, noting that there were very few unions in the garment industry to engage in any meaningful negotiations.

## 4

# Trade Unions

### **ZAHOOOR AWAN—ALL PAKISTAN FEDERATION OF LABOUR, PAKISTAN**

Mr. Awan, general secretary of the All Pakistan Federation of Labour (APFOL)—the APFOL represents nearly 400 unions in Pakistan—emphasized the responsibility of governments to oversee the implementation of labor standards and to provide the legal framework and institutional mechanisms to promote and enforce compliance. It is the employers' responsibility to adhere to national laws, codes of conduct, and the terms of collective agreements. The third stakeholder is the trade union, and "there is a need for [the] promotion and creation of strong, viable, transparent, and responsible unionism." The APFOL has accepted this responsibility, in part, by rarely resorting to industrial action to protect the interests of workers. Although nearly 300 collective agreements are negotiated every two years, Mr. Awan said, there have been only three strikes in the past 10 years, and none have lasted more than five days.

Mr. Awan discussed the general aims of the APFOL and the challenges the federation has encountered in its efforts to fight for a living wage and improved working conditions. He described the role of multinational corporations in lowering standards as developing nations compete for the investment with inducements of cheap, nonunionized labor as well as tax and

other incentives. Mr. Awan concluded that a “national and international rethinking is therefore necessary to determine the extent to which workers in the developing nations have to sacrifice the basic rights, rights of unionism and collective bargaining, for transient economic gains.”

### **LAXMAN BAHADUR BASNET—NEPAL TRADE UNION CONGRESS, NEPAL**

Mr. Basnet, president of the Nepal Trade Union Congress (NTUC), explained why core Conventions need to be implemented, rather than merely ratified. “The basic reason is this: With this globalized trade in search of cheap labor and in search of easy production, the multinationals will be compromising labor standards.” He added that in Nepal the minimum wage is 2,116 rupees per month—the equivalent of \$28—which is “in no way sufficient for one month’s sustainable living.” In order to address these issues, he said, the NTUC was seeking to work with the Federation of Nepalese Chambers of Commerce and Industry (represented at the forum by Mr. Shrestha; see Chapter 5) to promote compliance with basic minimum standards.

The NTUC has also been discussing the possibility of forming a single confederation with another trade union, so that the two largest unions in Nepal can negotiate from “one point of view” on important issues, such as the procedures for hiring and firing workers and the need to replace child laborers with adult workers so that school enrollment can improve over the current level of 35 percent. As for the other 65 percent of Nepal’s children, he said, “they are either working in the informal sector, they are working in small kiosks, transportation, and mines, or running away to India for off-hand jobs [and] being sold in Bombay brothels every year.”

Mr. Basnet concluded by saying that addressing violations of labor rights is not only a question of morality or social responsibility, it “is good for business also. The employers are going to benefit if business expands, and the economy expands.” As evidence of this, he pointed out that nearly 100 motorcycle shops have opened in Kathmandu alone in the last three years. “Who is buying?” he asked. “The workers are buying because the unions have been able to negotiate better conditions with the employers and a better mortgage system so that all the workers in the companies have been able to buy motorcycles.”



### **SIMON BOSHILO—CONGRESS OF SOUTH AFRICAN TRADE UNIONS, SOUTH AFRICA**

Mr. Boshielo discussed labor relations in southern Africa within the historical context of anti-colonial struggles that involved interplay between trade unions and independence movements. Following the political reconfigurations of independence, some unions have continued to maintain strong links—or are officially affiliated through resolutions—to liberation movements and are now part of the political structure. The problem that this creates, he said, is that union movements can be bound by the political decisions taken by ruling parties.

“Democracy,” Mr. Boshielo said, “did not automatically translate into workplace democracy in the southern African region.” There has been a “glaring absence of democratic values” in many countries, most notably in Swaziland (discussed by Jan Sithole in this chapter). In the case of Zimbabwe, the relationship between the union movement and the ruling party has deteriorated significantly. President Mugabe’s regime has established a parallel trade union organization that undermines independent unionism in the country, and a number of trade union members have been forced into exile. Members of the Zimbabwe Congress of Trade Unions have reported that they are placed under surveillance and cannot attend conferences such as this regional forum without being accompanied by officers of the Central Intelligence Office who “monitor the nature of their input,” Mr. Boshielo said.

As for enforcement, given the lack of resources for government inspection, Mr. Boshielo said that a strong union movement is required to intervene in cases where working conditions are unsafe or exploitative. Citing several recent explosions that have taken the lives of workers locked in factories, Mr. Boshielo said that the lack of unions in the most vulnerable sectors has made it more difficult to intervene in time when safety and health risks arise. Additionally, in some countries, conflicts have devastated civil society, although the possibility of peace in the Democratic Republic of the Congo and Angola “may offer hopes of building an independent union movement.”

Mr. Boshielo addressed the issue of linking trade and workers’ rights, stating that investments in promoting trade should not be made at the expense of fair labor standards, as seen in the Free Trade Zones that do not allow workers to unionize.

**ANTONIO CANDRAY—CENTER FOR LABOR STUDIES AND  
SUPPORT, EL SALVADOR**

Mr. Candray's presentation examined the "huge gap between statistical data and the labor reality that the new economic order imposes." In El Salvador, he said, labor market data are dispersed among many state institutions, with no single source providing centralized, accurate information. Additionally, the information that is gathered is not always relevant for assessments of compliance. According to Mr. Candray, "They provide global figures, but they do not make it possible to assess what aspects of the labor standards are not being complied with."

He discussed the specific limitations of collecting data about compliance with the core standards. In terms of forced labor, he said, labor statistics do not show the increases in overtime that are being imposed on workers in the *maquila* sector, often under the threat of dismissal. The International Labour Organization (ILO) definition of forced labor is "all work or service which is exacted from a person under the menace of any penalty and for which the said person has not offered himself voluntarily."<sup>1</sup> Mr. Candray asked, "What penalty is worse than losing your job if you do not work overtime?"<sup>2</sup>

Mr. Candray discussed the lack of information on discriminatory practices. In particular, he cited discrimination against job applicants with union ties or aspirations—employment applications often ask questions about past union membership or the intentions of a potential employee to join a union. Along with the blacklists (discussed in this chapter by Mr. Gómez), these practices serve as a mechanism to discriminate on the basis of affiliation, but there are no statistics available on the subject. Discrimination based on religion, which Mr. Candray described as "very common," has been seen in classified ads requesting applicants only from certain denominations, but it also has not received attention from the Ministry of Labor, nor has it been captured in data instruments.

Where statistics are collected, Mr. Candray said, they often do not address the issues that are critical to assessing compliance. For example,

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<sup>1</sup>Forced Labour Convention, 1930 (No. 29), Article 2(1).

<sup>2</sup>It should be noted, however, that the ILO has made a distinction between prohibited forced labor and compulsory overtime. See, e.g., CEACR General Report of 1998, par. 107 ("The Committee considers the imposition of overtime does not affect the application of the Convention so long as it is within the limits permitted by the national legislation or collective agreements").

data on the number of unions and their membership totals do not fully demonstrate whether freedom of association is respected in practice. He added that additional information should be gathered and disseminated, such as the success rate of efforts to form new unions and the reasons for any rejections on the part of the government. Mr. Candray has attempted to conduct a study of this issue with labor law students in El Salvador, but they were told by the ministry that “this information is confidential and that under no circumstances would they be told the reasons why unions were not being authorized.”

Mr. Candray said that statistics are also insufficient to examine other aspects of industrial relations, such as collective bargaining and strikes. While there may be data on the number of contracts or the incidence of strikes, there is no information on the content of contractual clauses or the reasons for the strike. Mr. Candray gave an example of one contract that has been registered with the Ministry of Labor that does not even guarantee the minimum salary to employees. Because the terms of the contract are illegal, they should be null and void, but workers do not always have the appropriate legal knowledge to protect themselves from these violations, he said.

In conclusion, Mr. Candray emphasized the need to improve the reliability and relevance of labor market data to match today’s realities. He said this would require additional attention to qualitative aspects of labor information and incorporation of more primary sources, such as workers, unions, and nongovernmental organizations. He added that statistics need to be centralized, which might facilitate the critical objectives of improving transparency and dissemination.

#### **TERESA CASERTANO—SOLIDARITY CENTER, COSTA RICA**

Ms. Casertano described the methodology used by the Solidarity Center and its parent organization, the AFL-CIO (American Federation of Labor and Congress of Industrial Organizations), to measure application of labor standards in Central America. She said that the AFL-CIO and the Solidarity Center have specific experience in analyzing compliance with the labor provisions in the Generalized System of Preferences (GSP) and the Caribbean Basin Initiative. Among the criteria to be used for determining eligibility in these programs is the “extent to which the country provides internationally recognized worker rights” or, in the case of the GSP, whether the country is “taking steps to afford” those rights. She noted that the rights

in question differ somewhat in U.S. trade law from the fundamental rights of the ILO Declaration.<sup>3</sup>

Ms. Casertano said that in the last 15 years, the AFL-CIO (which launched the Solidarity Center in 1997) has presented several petitions “requesting that trade benefits for certain countries be revoked due to violations of the labor standards included in the [GSP] program.” In the preparation of these petitions, several issues had to be taken into consideration. First, Ms. Casertano said, problems of noncompliance “have to be generalized and systematic [and] not just a mistake or a bad employer.” Second, institutional deficiencies or inability to protect guaranteed rights must be considered, “emphasizing the exercise of rights in practice.” Third, measuring compliance includes a study of employer behavior when workers attempt to exercise their rights. And last, compliance is gauged by examining institutional responses when workers file grievances or otherwise allege violations.

In conducting compliance assessments, the Solidarity Center’s methodology incorporates various types of information, including quantitative statistical information as well as case studies and judicial analysis. Ms. Casertano gave several examples of the quantitative information that may be relevant in an assessment, such as statistics on case resolution, union affiliation, collective agreements, and use of complaint procedures, such as that of the ILO’s Committee on Freedom of Association (CFA). She noted, however, that statistics such as those relating to complaint-driven processes do not always give a complete picture because the motivation or ability to file a complaint can vary widely. “There may be a country in which the union movement makes it a priority to file complaints before this CFA and has the capacity to do so, while there may be another country where more or worse violations occur, but the union movement does not adopt the strategy of filing complaints before the ILO as a priority or does not have the capacity.”

Measuring compliance through case studies, Ms. Casertano said, requires assessors to work directly with workers and their organizations, as-

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<sup>3</sup>U.S. trade law overlaps with the Declaration in including freedom of association, the right to collective bargaining, and the elimination of child labor and forced labor, but it does not include discrimination. Additionally, the U.S. definition of “internationally recognized worker rights” includes “acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”

sembling testimony and documentation in an atmosphere of trust and safety. Because credibility is often an issue, Ms. Casertano said, the Solidarity Center has tried to work with unions “to train them to reflect the facts of the cases, without exaggerations, without multiple interpretations, without qualifying the facts because, in general, the facts are enough to determine if there was compliance or not.”

Each assessment, she said, contains a judicial analysis, which seeks to identify “bottlenecks or legal obstacles for the exercise of rights.” While the Solidarity Center has only studied labor legislation of one regional country in depth, case studies have helped highlight particular problems in legislation or judicial procedures. Ms. Casertano concluded by reiterating that the measurement of compliance is a subjective task that cannot depend on any one particular methodology. She also stressed that assessments should seek to identify the causes of noncompliance in order to determine corrective measures:

If we do not identify the causes, we can determine that two very different countries are not complying. There might be a country where the resources to protect workers’ rights granted to the institutions in charge of protecting workers are very low; they are insufficient, but the country does what it can in good faith, but they have some degree of noncompliance. On the other hand, there might be another country with the same degree of noncompliance, but due to an apparatus of corruption that is deeply rooted.

### **ERNESTO GÓMEZ—CENTER FOR LABOR STUDIES AND SUPPORT, EL SALVADOR**

Although labor administrations will always play a key role in the development of indicators to measure compliance with labor standards, Mr. Gómez said, it is necessary to encourage the full participation of workers’ and employers’ organizations. This will require a greater emphasis on collecting labor market data and more transparency. “It is worth mentioning that, traditionally, our ministries of labor have not been diligent enough on the issue of preparation and updating labor statistics because, in general, the figures are manipulated to hide the serious deterioration of the labor conditions and unemployment in our countries.”

As for freedom of association, Mr. Gómez said, “As production ways and processes evolve, employers implement newer, more sophisticated and more complex ways of violating this right.” It is no longer possible, he said, to determine compliance by noting the existence of a number of unions in

El Salvador. This approach may be useful “when the government and the employers need to prove before international forums that freedom of association is fully effective in our country,” but it does not give an accurate picture of compliance on the ground.

Mr. Gómez gave an example of one of the methods that employers have been using to discourage freedom of association in the *maquiladoras*, the preparation and distribution of blacklists. These lists, which contain the names of union leaders or people who have participated in unions or union activity in the past, are circulated to prevent these people from being hired. “In this way, employers prevent unions from having a stronger presence and exerting pressure for better and fairer working conditions.” Because of the existence of these “subtle and hidden” ways of violating the rights of association, Mr. Gómez said, case studies are more effective than administrative records, “which sometimes have fake files of union organizations that exist only on paper.” The case study approach, he concluded, “gives us the opportunity to identify a series of variables that are found in the employer–worker relationship. When these variables are cross-referenced, a clearer picture of the current state of affairs regarding labor rights appears.”

### **JEFF HERMANSON—SOLIDARITY CENTER, MEXICO**

Mr. Hermanson opened his presentation with a blunt assessment:

We talked about the fundamental rights of freedom of association and affiliation to a union, when we know that less than 10 percent of the labor force in the Americas belongs to a union. We talk about the right to collective bargaining when, in more than 4,000 maquila factories in Mexico, Central America, and the Caribbean, there are less than 10 collective contracts total. We talk about the prohibition on forced labor and child labor when we know that millions of children are working and that maquila workers are locked up in their factories until they finish their work. We talk about nondiscrimination when we know that women are required to have a pregnancy test before [they are hired] in the maquiladoras. We must see reality as it is and, if we see it, we should all—businessmen, union members, government officials, and citizens—feel ashamed. All of us are responsible for this.

Mr. Hermanson discussed the challenges of monitoring working conditions and the exercise of fundamental rights. Government labor inspection and enforcement efforts too often fall short, and NGOs (nongovernmental organizations), independent monitors, and corporate auditors do not always provide sufficiently reliable information to fill in the gaps. He

cited several recent audits conducted in the Americas in which corporate auditors failed to discover significant violations in the Free Trade Zones—“child labor, forced labor, dismissals due to union activities, imposition of an employer’s union, nonpayment of minimum wages, etc.”—while later investigations by the Solidarity Center and others revealed these problems.

Addressing the role of employees in monitoring working conditions, Mr. Hermanson said, “The most important source in my opinion, the only truly reliable source after all, is the testimony of the workers themselves.” He noted that this testimony must be received in conditions of anonymity and security, with interviews being conducted outside of the factories by people who have established a relationship of trust with the workers. Mr. Hermanson cited the efforts of the Worker Rights Consortium as a particularly successful model.<sup>4</sup>

Mr. Hermanson concluded by recommending to the Committee on Monitoring International Labor Standards a four-step process to monitor compliance with freedom of association and collective bargaining rights:

1. Analyze the labor laws with the assistance of legal experts to determine whether the laws are compatible with the fundamental rights.
2. Review how the laws operate in practice, assessing the efficiency of their implementation.
3. Assess outcomes through statistics and studies on income, unionization rates, and collective bargaining coverage.
4. Conduct more thorough investigations, using case studies from NGOs and talking to union labor lawyers and workers.

On this last point, Mr. Hermanson said that while case studies are not enough to know whether there is “global” compliance, they are essential in order to complement the quantitative sources such as statistics. For example, he said, “If one can determine the number of collective contracts, it is also necessary to analyze the content of the contracts: Are they authentic and do they truly represent workers’ interests, or are they—like in Mexico—employer protection contracts to formalize situations that are against the law?”

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<sup>4</sup>Information on the Worker Rights Consortium and its investigative protocols can be found at [www.workersrights.org](http://www.workersrights.org).

**LUIS LEÓN—GENERAL INDEPENDENT WORKERS' UNION  
OF PANAMA, PANAMA**

Mr. León focused on the issue of freedom of association in Panama. Although there are mechanisms for social dialogue in Panama—with worker representation on the boards of the Social Security Administration, the National Institute of Professional Training, the Minimum Wages Commission, and other governmental bodies—the result, Mr. León said, is not always a consensus agreement. For example, recent fiscal reform policies have been passed over the objection of workers, leading Mr. León to say, “Workers feel mocked; we do not believe in the government.” However, he added, there is a continued commitment to cooperation as “the workers [members of the National Council of Organized Workers] have decided by a majority of seven to one to remain in the dialogue because this is the civilized way to solve a country’s problems.”

Mr. León discussed several issues of concern relating to freedom of association and collective bargaining. These include legal restrictions on the bargaining and union rights of employees in the public sector, the banking sector, and the Free Trade Area of Colon, which employs 20,000 people. Mr. León also noted that Panama’s private-sector regulation requiring at least 40 workers in order to form a union exceeds the ILO recommendation of 20.

Mr. León concluded by presenting several statistics on child labor in Panama, citing research carried out in 2000 by the Women’s Foundation. The study was conducted in several provinces and revealed the following:

- 47,692 children participate in Panama’s labor force;
- 80 percent of working children between the ages of 10 and 14 drop out of school; and
- the average monthly income of child workers is \$86, less than half the minimum wage.

**MAURICIO CASTRO MENDEZ—NATIONAL ASSOCIATION OF  
PUBLIC AND PRIVATE EMPLOYEES, COSTA RICA**

Mr. Mendez offered three reasons why monitoring compliance with labor standards in Costa Rica is so important:



1. the large gap between declarations of rights and the effective exercise of those rights;
2. the insufficiencies of control mechanisms, such as labor inspection and the judicial system;<sup>5</sup> and
3. the divergence between economic policies and labor, environmental, and social policies.

According to Mr. Mendez, these economic policies—“adopted many years ago and based on the promotion of exports, opening markets, and the attraction of foreign investment”—have had a direct impact on compliance with labor standards, creating “fertile grounds for social and environmental dumping that is leading national productive units toward informality.” Mr. Mendez said that a new policy that promotes “cleaner” production—adhering to fundamental ILO rights as well as standards relating to social security contributions—is required. This policy, he said, should include a process of certifying companies, and it should be based on a reward and sanction program, offering financial incentives, such as reductions of insurance costs, credit from development banks, and services such as training.

Mr. Mendez said that several pilot projects have been developed in Costa Rica, and “the business sector has shown a great deal of interest because of the type of system we are proposing in terms of gradual certification and institutional support.” This system, he said, should be incorporated into the regional free trade agreement and be recognized as social, labor, and environmental investments, rather than as subsidies.

#### **JABU NGCOBO—INTERNATIONAL TEXTILE, GARMENT AND LEATHER WORKERS’ FEDERATION, SOUTH AFRICA**

Mr. Ngcobo began by discussing regional trade and in particular the impact of the African Growth and Opportunity Act (AGOA). As an example, he cited Lesotho, which is apparently increasing its level of trade because of AGOA but also “[seems] to be the worst area in terms of complying with labor standards.” In 1998 two workers were killed during a

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<sup>5</sup>As one example of the inability of Costa Rican institutions to efficiently guarantee labor rights, Mr. Mendez said that “an ordinary labor trial lasts no less than two years, and usually, when violations against freedom of association, discrimination, or other complex problems are argued, trials last no less than three or four years.”

factory protest after 2,000 employees were fired, and all initial attempts to use the legal system for reinstatement had little impact. As a result, the International Textile, Garment and Leather Workers' Federation (ITGLWF) "discovered a new method of pressurizing these employers" by dealing directly with the customers of the factory, informing them of the violations and referring to breaches of the customers' own codes of good practice. The ITGLWF then started an international campaign with the AFL-CIO, UNITE (Union of Needletrades, Industrial and Textile Employees), and others, and within six months all of the 2,000 workers were reinstated.

Because of the success of that campaign, the ITGLWF has called on all the employers in the sector to negotiate with the union. While there has not been much written commitment from the employers, several negotiations have been concluded, and Mr. Ngcobo described the use of the corporate codes as a "new weapon that one can use in achieving compliance with workers' rights." Efforts are currently underway in other countries, and the customers being targeted include those of The Gap, Adidas, and Reebok. While this approach of directly pressuring the customers has been promising, he acknowledged that there have been some problems. For example, one customer—Hudson Bay—decided to cancel its orders, causing people to lose their jobs.

Mr. Ngcobo discussed one of the negative impacts of the globalized economy, as governments court factory owners by offering them tax breaks, infrastructure, and equipment. If employers have no investment in equipment and structures, he said, their freedom to relocate creates additional vulnerability for workers. "If [employers] get too much pressure, they can just walk out because the infrastructure was developed by the government."

### **CUNNINGHAM NGCUKANA—NATIONAL COUNCIL OF TRADE UNIONS, SOUTH AFRICA**

Mr. Ngcukana provided an overview of compliance issues confronting countries in the Southern African Development Community (SADC).<sup>6</sup> These countries have a high level of ratification of the core Conventions, but as most presenters pointed out, application in practice is not consis-

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<sup>6</sup>The SADC countries are Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe.

tent. Mr. Ngcukana discussed the region's economic, social, and political context, which must be considered in any examination of labor standards in the region. First, he said, many of these countries are "heavily indebted poor countries" that have undergone structural adjustment since the 1980s. Additionally, there is the "huge social problem" of HIV/AIDS and AIDS orphans that heightens concerns about vulnerability to child labor. Third, there are a number of political crises to consider, such as the conflicts in Angola and the Democratic Republic of the Congo.

Mr. Ngcukana discussed specific cases. For example, in Botswana and Angola the formation of unions is prohibited in certain sectors that fall under overly broad definitions of "essential services." Also, despite the end of one-party states in the region, there continue to be significant restrictions on civil liberties like freedom of expression, covered in Convention 87; in Malawi, for example, criticizing the president can be a penal offense. In Lesotho, the right to strike is highly restricted, and "workers are open to victimization and attack without protection by law." In Namibia and Mauritius, he said, the relationships between unions and governments have become strained as a result of the "crushing of unions in the Economic Processing Zones."

Mr. Ngcukana described several growing problems in South Africa, including the undermining of collective bargaining in the public service and the increase of child labor, particularly on farms. Last, in Zimbabwe, attacks on members of the Zimbabwe Congress of Trade Unions (ZCTU) have increased as a result of its role in forming the Movement for Democratic Change, which opposes the governance of President Mugabe. As noted above by Mr. Boshielo, ZCTU meetings are either banned or rendered ineffective by the presence of members of the Central Intelligence Office, which serves to stifle any debate.

#### **SAHRA RYKLIJEF—LABOUR RESEARCH SERVICE, SOUTH AFRICA**

Ms. Ryklijef discussed the role of the Labour Research Service. LRS is a "trade union-controlled nonprofit organization" that provides empirical research to trade unions with the aim of improving their capacity for collective bargaining. Ms. Ryklijef acknowledged that South Africa places a high value on core standards, promoting social dialogue and giving considerable attention to passing national legislation that facilitates compliance. However, she added, "we can never lose sight of the fact that these progressive initiatives attempt to regulate one of the most unequal labor markets in the

**Box 4-1**  
**Selected Labor Market Figures from South Africa**  
**(2002)**

- Decline (in real terms) of minimum wages for unskilled, semi-skilled, skilled workers: 9.93%
- Increase in total wages/benefits of executives in top-earning companies: 41.07%
- Number of years required for unskilled worker to equal annual earnings of top executives: 150
- Unemployment rate of the economically active population: 29.4%
- Unemployment rate of those no longer registering as job-seekers: 40.9%

SOURCES: Labour Research Service and Statistics South Africa

world in terms of income and in relation to a steadily declining rate of employment.” To illustrate this, Ms. Ryklief provided a few “shock figures” (Box 4-1).

Ms. Ryklief described the data collected by the LRS. LRS’s Actual Wage Rates Database (AWARD) has been active since 1987, enabling LRS to provide historical information on wages and basic employment conditions dating back to the apartheid years. AWARD provides information on wages, hours of work, and non-wage benefits, such as leave and bonuses. Additionally, the incorporation of inflation statistics and poverty data, such as the Household Subsistence Level and Minimum Living Level, allows LRS to produce comparative reviews. In 2001 the South African Department of Labor supported the upgrade of AWARD to expand its scope and to make it available to subscribers via the Internet by July 2003.<sup>7</sup>

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<sup>7</sup>The AWARD website can be accessed through the LRS website, <http://www.lrs.org.za>.

The LRS also conducts a Directors' Fee Survey, which examines the wages of executives from the 200 top-performing companies on the Johannesburg Stock Exchange in South Africa. The sample size of the survey—usually between 35 and 50 companies—varies from year to year, depending on how many companies cooperate. Companies are often unwilling to cooperate because the results of these surveys are always “highly embarrassing,” Ms. Ryklief said. The LRS also performs preliminary audits of companies that are under consideration by the Community Growth Fund, a trade union investment fund. This research measures corporate compliance with best practices across eight criteria:

1. job creation,
2. workplace training,
3. empowerment of workers in decision-making relating to their interests,
4. affirmative action,
5. conditions of employment (including wages),
6. occupational safety and health,
7. environmental policies, and
8. corporate governance.

Each year, approximately 45 to 50 companies are audited, and Ms. Ryklief noted that cooperation has improved over the last decade. In 2002, 51 percent of the companies cooperated fully, 36 percent asked for a deferment of the audit for “operational reasons” or to allow for current restructuring, and 11 percent refused the audit.

Corporate responsibility is also measured through the LRS Review of Social Benchmarks. This review is mainly quantitative and is based on information provided by the companies in compliance with the Companies Act and the Employment Equity Act. First, Ms. Ryklief said, the review examines the number of blacks and women in management within the top companies. Second, workplace training and corporate social spending are measured as a percentage of the payroll; these numbers have been steadily declining over the past four years and currently stand at 1.7 percent.

The final research tool discussed by Ms. Ryklief is the Audit of Cape Wine Farms. This audit includes many variables on the working and living conditions of farm workers, particularly women. The results were published in June 2003, and follow-up reports are planned for the next two years.

In conclusion, Ms. Ryklief said that although the LRS research activities “reflect a clear bias [toward] the needs of labor, the results are valuable to all stakeholders in the labor market.” In the 1980s the LRS had a policy not to provide reports or data to employers, but that policy has changed, and the LRS is now “eager to provide our reports to all.”

**JAN SITHOLE—  
SWAZILAND FEDERATION OF TRADE UNIONS, SWAZILAND**

Mr. Sithole provided background information on the “current crisis” in Swaziland. By the time Swaziland joined the ILO in 1976, it was a “regime that had no constitution.” Three years earlier, the constitution had been suspended and political opposition banned, leaving the labor movement as the only “voice of the people.” Mr. Sithole said that even though Swaziland has ratified numerous Conventions since joining the ILO, it is “one of the worst violators of those same Conventions.” In each of the last seven years, Swaziland has appeared before the Committee on the Application of Standards to “answer for gross violations” of Conventions relating to freedom of association, collective bargaining, and forced labor. The country has been cited twice in “special paragraphs” of the committee for continued failure to comply, and an ILO Commission of Inquiry was sent to investigate allegations of abduction, intimidation, and the killing of a 16-year-old girl at a peaceful demonstration called by the Swaziland Federation of Trade Unions (SFTU). The Commission of Inquiry, Mr. Sithole said, confirmed the allegations against the government.

For its part, the SFTU tried to respond by mobilizing workers for industrial actions. SFTU leaders, including Mr. Sithole, were arrested and given prison sentences. This generated a great deal of support from the global union movement, and a combined mission of international, national, and regional workers’ organizations went to Swaziland to scrutinize the SFTU leaders’ prison conditions and demand their unconditional release. There were also national strike activities, including a cross-border economic blockade from South Africa and Mozambique. These activities and others, Mr. Sithole said, are a clear exhibition of the benefits of international solidarity in addressing grievous violations.

Mr. Sithole discussed the positive effects of the GSP. In 2000 Swaziland nearly lost its eligibility for trade benefits because of the government’s resistance to enacting a labor law that had already been passed by Parliament and the Tripartite Consultation Forum. Even now that this improved labor

legislation has been passed, Mr. Sithole said, violations continue, particularly in the emerging textile and garment industry. Many of the companies in this sector, he said, are “rejects” that left South Africa after the end of apartheid because they were not willing to abide by the dictates of the new labor-friendly South African Constitution. Other factory owners left Lesotho after the incident described by Mr. Ngcobo in which two workers were killed during a protest. “So you can see,” Mr. Sithole said, “that we have a collection of the bad guys in terms of textiles and garments.”

Mr. Sithole described the situation of the textile sector as one in which labor standards violations are committed with impunity, as the government “bends forwards and backwards to ensure that [factory owners] are untouchable.” With that in mind, Mr. Sithole said that the continuous threat of GSP is required because it has been “the only tooth that brought about the improved labor law.” In addition, he said, the current U.S. Ambassador in Swaziland is applying pressure on the government to respect the rule of law, and there have been some positive results as the government has become “more moderate in its attack on the people.”

As for specific core standards, Mr. Sithole said that forced labor is “institutionalized” through the Swazi Administration Order, which allows village chiefs to order the performance of labor in the fields. Fines can be issued to those refusing to work, and a failure to pay the fine can result in eviction.

In terms of child labor, the ILO’s International Programme on the Elimination of Child Labour (IPEC) has begun to offer some technical assistance, but Mr. Sithole said that the “situation on the ground is going to be difficult. First and foremost, the traditionalists don’t see the difference between child work and child labor.” Also, the high prevalence rate of HIV/AIDS—38.6 percent of the population of one million—presents a serious problem as the number of AIDS orphans is expected to reach 150,000 in the next seven years.

Mr. Sithole concluded by saying that the political, economic, and social crises in Swaziland have caused investors to lose confidence and consider relocation. Additionally, several donors have suspended assistance in the wake of the Swazi king’s stated intention of purchasing a \$72-million luxury jet. This energized civil society to organize protests, and Parliament reaffirmed that the jet will not be bought. However, Mr. Sithole said, the government still stands opposed to observing the rule of law. This “unprecedented crisis” has led to the resignation *en masse* of the judges of the Court of Appeals and, as noted above, brought about the formation of a civil

society coalition of business, students, the Law Society, workers, and churches. The protest actions will continue, Mr. Sithole said, “until democratic changes in Swaziland are realized and are irreversible, and for this we need all the solidarity we can get, and we believe we can count on everyone in this room as an advocate for democracy.”

### **FISSEHA TEKIE—SOLIDARITY CENTER, SOUTH AFRICA**

Mr. Tekie described the history and mission of the Solidarity Center. It was started in 1997 as an international institute of the AFL-CIO with the aims of advancing and strengthening the rights of workers around the world and fostering the development of independent unions. Currently, the Solidarity Center has offices in 27 countries, including 5 in Africa. A new office is being opened in Durban, South Africa, to provide services to the “fastest growing unions as a result of [AGOA].”

Mr. Tekie discussed several tools the Solidarity Center has used to assist in the enforcement of international labor standards. First, the center has used the petition mechanisms of the GSP and AGOA, which condition eligibility for trade benefits, in part, on the observance of “internationally recognized workers’ rights.” However, while the Bush Administration’s 2001–2002 AGOA report indicates that African governments have introduced reforms to their political, economic, and social systems to increase the possibility of trade, unions in the region have expressed frustration at the procedures required to seek protection under the rules of AGOA.

Mr. Tekie said that another valuable tool is international trade union solidarity, which increases the pressure that can be applied to global corporations, as demonstrated by what happened in Lesotho (described earlier by Mr. Ngcobo) and by Mr. Sithole’s experience in Swaziland.

The third—and perhaps most important—approach, Mr. Tekie said, is to strengthen unions because there is “almost a direct relationship between the strength of a union and the extent of employer compliance with international labor standards.” In contrast, the fourth tool, the Codes of Conduct, has produced limited results. A related tool, initiated by the Solidarity Center’s Indonesian office, is a novel agreement with Taiwanese employers, unions, and government. This agreement authorizes the Solidarity Center to monitor compliance with international labor standards by Taiwanese companies operating in other countries. While it is too early to assess the implementation of this agreement, it has at least provided an



opportunity to talk to the Taiwanese companies who, Mr. Tekie said, “have been very difficult to engage with trade unions.”

The fifth tool involves the use of workers’ capital, such as pension and provident funds, to promote compliance by investing only in companies exhibiting socially responsible behavior. The AFL-CIO’s Center for Working Capital has been working with its South African counterpart, the Community Growth Fund (discussed earlier by Ms. Ryklief), to formulate policies to realize the “immense potential” of this approach. In both the United States and South Africa, retirement assets are “huge,” he said. In the United States these assets total \$7 trillion. In South Africa these assets total approximately \$90 billion and account for 60 percent of the market capital on the Johannesburg Stock Exchange.

Mr. Tekie concluded with one of the key themes from the Africa forum: “Unless there is a massive national, regional, and international mobilization to combat HIV/AIDS, all the work we do in promoting workers’ rights in Africa will fall by the wayside.” The ILO has called the HIV/AIDS epidemic the most serious social, labor, and humanitarian challenge of our time, he said, as it is depriving the African continent of its most valuable resource. Accordingly, programs addressing HIV/AIDS issues have become the most imperative for the South African union movement.

### **MARIO ROJAS VILCHEZ—LABOUR CONFEDERATION RERUM NOVARUM, COSTA RICA**

Mr. Vilchez said that the possibility of incorporating labor standards into a regional free trade agreement has prompted several questions and concerns within Costa Rica. “Due to the asymmetries and inequalities in several areas that exist in Central American countries, we were scared because we thought that if they wanted to standardize us, it was important to know which direction would standardization take: upward or downward?”

Mr. Vilchez discussed the current state of labor standards compliance in the region, and he described the routine violations of core standards as a “devastating panorama.” In rare cases when justice is served in response to these violations, he said, it is served quite slowly. For example, “Reinstating a union leader discharged or a labor complaint filed by a worker before the labor court takes, for its final resolution, an average of five years.”

In discussing child labor, Mr. Vilchez illustrated the interplay between various standards and the degree to which other workers’ rights, such as freedom of association and fair wages, are critical to sustainable solutions.

“Although children have rights, they can only be guaranteed when their parents have a decent, well-paying job in which they are free to affiliate themselves to a union.”

Mr. Vilchez concluded by saying that “creative formulas” and the engagement of all social partners will be required in order to promote the effective implementation of labor standards. This process, he said, will require “information, formation, and assistance” and, above all, the political will of the government to respect and enforce the principles of the Conventions. In Costa Rica, Mr. Vilchez said, 47 percent of employee denunciations are made against the state rather than private employers. “The state,” he said, “as an employer in this country has become the worst violator of human rights and workers’ fundamental rights. Then what moral standing does [the state] have to demand from private employers the respect for international standards?”

#### **KELLY ZIDANA—INTERNATIONAL CONFEDERATION OF FREE TRADE UNIONS-AFRO, KENYA**

While the international media often depict Africa as a “hopeless place,” Mr. Zidana suggested that in the particular area of international labor standards, Africa “started on a promising note.” As newly independent African nations emerged in the 1960s, their constitutions included the key elements of the international standards. He added that this should not come as a surprise because these issues constituted the ideals that were fought for during independence struggles. “Therefore, they were not simply academic: They were the things we aspired to achieve on this continent.”

While these fundamental rights were expressed in the constitutions and legislation of emerging independent states in Africa, Mr. Zidana said, this progress is tempered with the realities in practice, as there are many serious gaps in implementation that must be filled. And while principles of freedom of association have been the subject of many discussions at the forum, he said, “it is by no means the only area where we have serious problems.” And in some cases, the problems are growing because of the dire economic situation. Mr. Zidana said that an analysis of the labor market in African countries must also recognize the role of the International Monetary Fund (IMF) and the World Bank, “which have made things more difficult.” This was seen recently in Senegal and Uganda, he said, where there has been legislative reform “in the name of commercial law, but in

fact they are reforming labor law” and downgrading ministries that deal with employment and labor.

Mr. Zidana said that when the Africa office of the International Confederation of Free Trade Unions (ICFTU-Afro) examines working conditions and compliance with international standards, the primary sources of information are the international networks of local, national, and global unions. Additionally, Mr. Zidana said, the media should also be considered a valuable resource to provide notice of potential violations. As an example, he said that while he was in South Africa for this meeting, he read in the newspaper about 11 bakery workers who barely escaped death when a fire broke out after the employer had locked them inside the premises.

When problems have been identified, it is important to recognize that these are often political issues that attract varying degrees of attention from the media and the authorities. Mr. Zidana offered an example from Nairobi, Kenya, where ICFTU-Afro efforts to work with street children have gone unnoticed. In contrast, he said, when 10,000 workers from the Economic Processing Zones took to the streets, it made international news and prompted the minister of labor to “jump up and down to see what could be done to deal with this problem.”

Mr. Zidana discussed the importance of training union members to assist in the protection of their own rights. Since 1996 the ICFTU has been conducting training for members of the national unions to assist in reporting on labor standards compliance and noncompliance “because,” he said, “it is one thing to have a violation; it is another thing to have a person recognize that a violation has taken place.”

Mr. Zidana concluded by discussing future steps to improve compliance with and enforcement of international labor standards. These include

- reforming outdated labor laws;
- strengthening the institutions, such as trade unions, employer organizations, and ministries of labor;
- supporting subregional and regional groupings, based on the notion that it is “easier to convince Tanzania about changing a situation in favor of international labor standards if they see that it is happening in Kenya or Uganda,” Mr. Zidana said, “much easier in many respects than if they see it happening in South America or Southeast Asia”; and
- strengthening the regulatory framework of international institutions, such as the ILO, to counterbalance the negative impact of the IMF and the World Bank.

## 5

# Employers

### **T. DAMU—INDIAN HOTELS COMPANY, INDIA**

Mr. Damu began his presentation by questioning whether the development of international labor standards (ILS) takes into account the vast differences between countries in their socioeconomic, demographic, and political systems:

Unlike developed nations, where technological advancement is an advantage over labor, which is limited or unavailable and costly as well, one of the biggest strengths of developing countries is the abundant availability of cheap labor. However, there are some issues such as surplus, unskilled, and low-productive labor; unbridled employment guarantees; minimum wages not linked to productivity; the onus of providing health, welfare, and social security; too much freedom of association and collective bargaining, which have come to stay like the legendary holy cow in Hindu society.

In addition to these differences within countries, Mr. Damu said that there are also variations in the way that multinational corporations behave when operating within the global economy:

Unfortunately some of the industries in the developed nations, including the United States, which are to be a model for the developing nations in regard to compliance with ILS, are themselves often found flouting the standards. These corporations, while adhering to ILS in their own countries, follow double standards dishonestly and surreptitiously in their environmental, labor, and human rights practices abroad, especially in the third world countries where they put up their factories and industries.

After questioning the relevancy of ILS in the developing world and the difficulties of applying the standards fairly, Mr. Damu spoke about some of the obstacles to successful monitoring and improved compliance, particularly within the informal economy. While organized industry in India “by and large complies with the core and substantive labor standards, in the unorganized industry, compliance and monitoring of compliance [are] lacking.” For example, Mr. Damu said that because of poverty, child labor exists in almost all informal industries.

When there are lapses in compliance within the formal sectors, Mr. Damu attributes this to “a failure of the monitoring machinery of the government since it is more a rule than an exception in these cases where there is predictably a secret collusion between the employer and the trade union and/or invariably between the employer and the power corridors of government.” Mr. Damu suggested that reliance on information from government, employer, and worker organizations—such as that received by the International Labour Organization’s (ILO) regular supervisory mechanisms—is not sufficient to adequately monitor the “ground reality.” Saying that there is, in particular, “too much reliance on reports from each Member State on the position of its law and practice,” Mr. Damu called for change in the form of “direct supervision and intervention.” He proposed that a mechanism be formed in each formal industrial sector, perhaps under the guidance of an ILO representative, which would involve the tripartite partners in monitoring. Mr. Damu also suggested that improved compliance might result from an ILS certification program, offering some form of “substantial incentives or internationally recognized merit points” to motivate industries and individual representatives to implement or monitor labor standards.

### **SIFISO DLAMINI—FEDERATION OF SWAZILAND EMPLOYERS, SWAZILAND**

Mr. Dlamini said that Swaziland has a “very bad history” in regard to compliance with labor standards, and the current situation indicates that these problems may be at their peak. It is important to consider the constitutional crisis, discussed by Mr. Sithole in Chapter 4, which has resulted in a further breakdown in the rule of law, as seen in the government’s recent refusal to recognize decisions of the highest courts in the country.

Although Swaziland has ratified numerous ILO Conventions, implementation—in both the formal and informal economies—has been diffi-

cult to achieve. There have been “serious compliance problems,” and Swaziland has appeared before the CEACR (Committee of Experts on the Application of Conventions and Recommendations) numerous times, Mr. Dlamini said. There are also problems in the emerging garment and apparel sectors of the country. Benefits of the African Growth and Opportunity Act and the European Union’s Generalized System of Preferences have also drawn investors, including many from China and India, who hope to take advantage of duty-free incentives. The compliance problems of these industries, Mr. Dlamini said, are “polluting the business environment” in Swaziland.

In terms of social dialogue within Swaziland, the Industrial Relations Act of 2000 created the Labor Advisory Board. The major problem of the board is that, although it is tasked with advising the minister of labor, the government representatives appointed by the minister control the agenda. As Mr. Dlamini said, this arrangement does not work because “you can’t have the minister actually telling the board how to advise him.”

Despite all of the problems in Swaziland, the Federation of Swaziland Employers (FSE) has tried to remain neutral and mediate disputes between the workers and the government. However, because the government has refused to recognize the need for corrective action, the FSE is beginning to withdraw from its mediation role, and currently the only meaningful social dialogue is of a bipartite nature between the workers and employers. Together with other civil society groups, such as teachers, churches, and activists, workers and employer groups have created the Coalition for Concerned Civic Organizations. This has had the effect of damaging the FSE’s relationship with the government. However, he said, the FSE has accepted the fact that the only way to improve the situation in the country is to join the workers and others in their challenges to the government.

### **ROLANDO FIGUEROA—THE NON TRADITIONAL PRODUCTS EXPORTERS ASSOCIATION, GUATEMALA**

Mr. Figueroa gave an overview of the textile and garment export industry in Guatemala, which employs nearly 140,000 persons. The textile sector, he said, has been important in absorbing many from the agricultural sector who lost work during Guatemala’s coffee crisis. However, the industry faces severe competition from Asia, Africa, and those countries covered by the Andean Trade Pact, and this has resulted in employment reductions. As a response, Mr. Figueroa said, “the sector’s vision is to consolidate the

garment and textile sector's competitiveness in order to compete worldwide by positioning Guatemala as the regional center for the garment and textile industry and by turning it into one of the main generators of gross domestic product, foreign currency attraction, and employment generation." In a country with a high rate of illiteracy, it is important, he said, that the textile industry is one that "generates employment at all levels."

Industry standards on the environment and labor, Mr. Figueroa said, are promoted through a Code of Ethics established in 1996. Compliance with the code is verified through external audits, which are financed by an employers' association rather than by the companies themselves. "This is done," he said, "with the purpose of supporting small and medium enterprises so they can export and grow and improve their conditions."

Mr. Figueroa concluded by discussing the idea that "complying with the law is the starting point for corporate citizenship." This compliance, he said, improves investor confidence because "no customer abroad is going to risk placing work in companies in Guatemala or in the region if [the companies] do not comply at least with the basic or minimum domestic labor legislation."

**JENEFA K. JABBAR—BANGLADESH GARMENT  
MANUFACTURERS AND EXPORTERS ASSOCIATION,  
BANGLADESH**

Ms. Jabbar focused on the role of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) in addressing labor standards issues in the garment sector of Bangladesh. The BGMEA is the largest trade association in Bangladesh, representing nearly 2,800 garment factories with 1.8 million workers. Overall, she said, exports from the garment sector of Bangladesh account for 76 percent of foreign exchange earnings. With the cooperation of the ILO and United Nations Children's Fund, the BGMEA has undertaken several projects to eliminate child labor, offering vocational training programs and stipends for school attendance. The BGMEA has also been active in promoting health and safety measures in factories, but there are still challenges in implementing codes of conduct within the garment sector. She attributed this in part to the content of the codes and their applicability in Bangladesh: "The codes have been formulated in the U.S., and sometimes [they] have not incorporated the perspectives of third world countries."

Ms. Jabbar added that sometimes the codes of conduct take prece-

dence over national law when disputes arise “and that’s where you see some of the harshness because some standards may be adaptable to western standards but may not be compatible at this time for third world countries.” The different standards imposed by various buyers also complicate implementation for factory owners, she said; consequently the BGMEA has proposed a partnership with the ILO to develop a unified code of conduct for the entire industry.

Ms. Jabbar also discussed the delays in adopting labor law reform in Bangladesh. Starting in 1992, efforts were undertaken to consolidate all of the country’s labor laws, and in 1994 a draft labor code was completed. Despite the involvement of the ILO and the agreement of unions, employers, and the government, this labor code has not yet been able to pass through Parliament.

Ms. Jabbar concluded by noting that difficulties also arise in the monitoring of garment industry codes of conduct. The quality of monitors can vary widely, leading to inconsistencies in the enforcement of the codes. In an earlier session, Ms. Jabbar gave the example of monitors mistakenly identifying child laborers in factories, sometimes leading to the closure of the facility. Because Bangladesh does not have a birth registration system, identifying underage workers is a “judgment call,” and Ms. Jabbar attributes misidentification to several factors: “First of all, workers in our country are malnourished. Second, the person monitoring may have no perception of the law. Third, the person monitoring may not be trained or have that expertise in monitoring.”

### **JANIA IBARRA MÁRQUEZ—NATIONAL ASSOCIATION OF PRIVATE ENTERPRISES, EL SALVADOR**

Ms. Márquez focused on child labor in El Salvador. Although “most Latin American countries present a series of common social and economic problems,” she said, “their conditions and magnitude vary from country to country according to the context.” In El Salvador, the end of armed conflict, the democratization process, and the stabilization of the economy at the beginning of the 1990s allowed for a rapid recovery of the economy. Although economic growth has slowed since 1996 because of “internal and external situations and natural disasters,” Ms. Márquez pointed out that the country has made strides in reducing poverty: The rate of extreme poverty declined from 29.3 percent to 16.8 percent between 1993 and 1999.

Despite this macroeconomic progress, there are still issues, such as child



**Box 5-1**  
**Child Labor in El Salvador**

**Multipurpose Household Survey (2001)**

Participation of working children (ages 10 to 14) by sector:

- |               |     |
|---------------|-----|
| • Agriculture | 53% |
| • Commerce    | 26% |
| • Industry    | 15% |
| • Other       | 6%  |

**ILO-IPEC (2001)**

Characteristics of child workers (ages 5 to 17)

- |                              |              |
|------------------------------|--------------|
| • Child laborers, total      | 222,479      |
| • Gender of working children |              |
| Boys: 70%                    | Girls: 30%   |
| • Location of work           |              |
| Urban: 35.3%                 | Rural: 64.7% |

labor, that demand attention in El Salvador. Ms. Márquez said that there are two main sources of information on child labor in the country: the Multipurpose Household Survey and the ILO's International Programme on the Elimination of Child Labour (IPEC). Information on the scope and nature of child labor in El Salvador from both of these sources is shown in Box 5-1.

In addition to supporting surveys in El Salvador, Ms. Márquez said, IPEC has implemented intervention programs in several key sectors, removing approximately 5,000 children from work. This includes 2,000 children working in the coffee sector and 2,500 in the fireworks industry. Priority sectors for future programs include commercial sexual exploitation, fishing, landfills, and sugarcane.

The IPEC programs have been supplemented by private-sector and nongovernmental organizations' activities. In November 2002 the Ministry of Labor, IPEC, the Sugarcane Association, and the Sugar Foundation (*Fundazúcar*) signed a memorandum of understanding concerning the eradication of child labor in the sugarcane industry. *Fundazúcar* has under-

taken several projects in the growing areas, offering aid to schools to make education more attractive to children. Because of the link between parental poverty and child labor, Ms. Márquez said, the organization has also promoted alternative income strategies for adults—such as working in orchards or animal husbandry—and has started an adult literacy program in the cutting centers, with the intention of making parents aware of the importance of sending their children to school.

### **JORGE D. GARDUÑO MORALES—EMPLOYERS' UNION OF THE REPUBLIC OF MEXICO, MEXICO**

Mr. Morales offered an overview of four major statistical instruments available in Mexico that may be useful in monitoring the labor market. First, the National Institute of Geography and Computer Sciences (INEGI) manages censuses and surveys, gathering a range of information on families and companies. Much of this information—as well as notes on methodology—is available through the INEGI website.<sup>1</sup> Second, the Mexican Institute of Social Security (IMSS) provides valuable information through its administrative records. The IMSS gathers information on that portion of the population (approximately 78 percent) who are covered by social security in Mexico. The remaining population is covered by the State Workers' Service (14 percent), other public institutions (5 percent), and private medical services (3 percent). The records of the IMSS “are used as a reference to learn about diverse employment indicators and salaries in the formal sector of the economy.”

Mr. Morales noted that the Mexican Secretariat of Labor—discussed in Chapter 3 by Mr. Segovia—also collects data on the composition and conditions of employment, compensation, and “the evolution of employer–worker relationships—what we call ‘labor justice.’” The fourth source of information is the Bank of Mexico, which generates data relevant to the labor market, including the consumer price index and the variation in products that fill the family shopping-basket. Mr. Morales said that this National Consumer Price Index, which is published every two weeks, is important to the decision-making process on setting the minimum wage.

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<sup>1</sup>INEGI's website is located at [www.inegi.gob.mx](http://www.inegi.gob.mx).

**BINOD BAHADUR SHRESTHA—FEDERATION OF NEPALESE  
CHAMBERS OF COMMERCE AND INDUSTRY, NEPAL**

Mr. Shrestha presented an overview of Nepal's experience with the core labor standards. More than 40 percent of all children are classified as economically active. This includes 500,000 children between the ages of 5 and 9 and 1.5 million children between the ages of 10 and 14; these children work mostly in the informal economy. He added that an estimated 127,000 of these children are involved in the "worst forms" of child labor. As a response, Nepal has been cooperating with ILO-IPEC since 1995, and Nepal—along with Tanzania and El Salvador—has been selected for a Time-bound Programme, which aims to eliminate the worst forms of child labor by 2005 and all forms of prohibited child labor by 2010.<sup>2</sup>

Mr. Shrestha said that the problem of forced labor is linked to the country's traditional agricultural system, rural indebtedness, and the "occupationally segregated caste system." While the *Kamaiya* system of bonded labor—practiced mostly in western Nepal—was declared illegal as of June 2000, it still exists, and the government has launched several rehabilitation programs.<sup>3</sup> Mr. Shrestha added that there has been an increasing threat of trafficking, particularly for sexual exploitation, with an estimated 7,000 girls being smuggled out of the country each year.

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<sup>2</sup>According to the ILO, "A Time-bound Programme (TBP) is essentially a set of tightly integrated and coordinated policies and programmes to prevent and eliminate a country's worst forms of child labour within a defined period of time. It is a comprehensive approach that operates at many levels, including international, national, provincial, community, and individual or family. TBPs emphasize the need to address the root causes of child labour, linking action against child labour to the national development effort, with particular emphasis on economic and social policies to combat poverty and to promote universal basic education and social mobilization." See the ILO-IPEC website, <http://www.ilo.org/public/english/standards/ipec/timebound/index.htm>, for more information.

<sup>3</sup>Under the *Kamaiya* system, a labourer agrees to work for a landlord on the basis of an oral contract for one year, for a wage that is generally paid in kind. Typically, a *Kamaiya* would receive a share of the produce from the land cultivated by him. But as the land is monocropped, the *Kamaiyas* barely eke out a living. They are often forced to take loans from the landlord and the family must work for the landlord until the loan is repaid. Children over five often serve the landlord as cowherds. *Kamaiyas* often end in a vicious circle of debt and bondage, passed down from one generation to the next." ILO-IPEC website, [www.ilo.org/public/english/standards/ipec/about/factsheet/facts11.htm](http://www.ilo.org/public/english/standards/ipec/about/factsheet/facts11.htm).

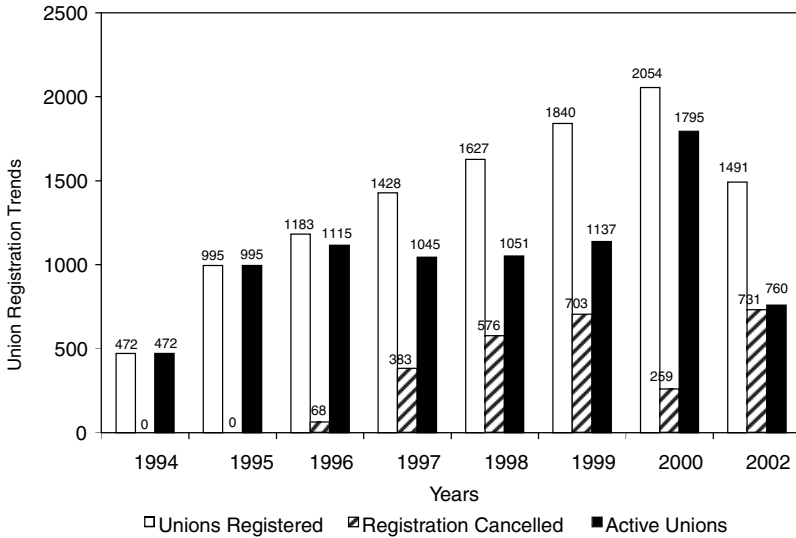


FIGURE 5-1 Trade union trends in Nepal, 1994–2002.

As for freedom of association and collective bargaining, Mr. Shrestha said that “with the reinstatement of multi-party democracy in 1990, full freedom has been provided for the operation of trade union activities.” Figure 5-1 shows a “dramatic rise” in the registration of unions between 1994 and 2002.

Mr. Shrestha concluded with a brief description of the “labor market mismatch” in Nepal. The demand for labor in the formal sectors has been shrinking, with 90 percent of workers now found in the informal economy of Nepal. With a population growth rate of 3 percent, the labor supply is growing, but these potential workers are unskilled and illiterate, he said. The results have been low wages and productivity, high unemployment, increased searches for overseas work—resulting in “brain drain”—and the displacement of Nepalese workers by foreign workers. Mr. Shrestha noted that the severity of the problems of unemployment and underemployment has been revealed in a recent study of the conflict situation in Nepal, showing that 27 percent of the people joining the Maoist insurgency cited unemployment and poverty as their primary reasons for taking up the fight against the government.

**F.K. SIDDIQUI—  
EMPLOYERS' FEDERATION OF PAKISTAN, PAKISTAN**

Mr. Siddiqui discussed several areas of concern and progress relating to labor standards compliance in Pakistan. Noting that his country has been “struggling very hard to come out of the economic trap befallen on it by the vicious cycle of population, poverty, and pollution,” Mr. Siddiqui stated that “all is not well” with Pakistan’s implementation of labor standards. For example, minimum wage laws are not applied evenly throughout the country, certain labor regulations are not applicable in the Export Processing Zones, and there has been an “extensive use” of the Essential Services Maintenance Act to deny certain rights to public utility service workers.

On the other hand, Mr. Siddiqui said, tripartite committees have been constituted to combat bonded and child labor, and they are working on a “long-term agenda of completely eliminating child labor through a national program of rehabilitation and youth training. Considerable success, in fact, has been achieved in this field which is visible in certain sectors such as [the production of] footballs and surgical instruments.”

Mr. Siddiqui added that, from a “purely employers’ perspective, the biggest impediment in standards compliance has something to do with the very nomenclature of what we call ‘international labor standards. By its very name, these standards show a major tilt toward labor or workers and the protection of their rights.” In suggesting the term “international *employment* standards,” he said that protection of the “rights of employers to manage enterprises effectively” is needed in order to help social partners work together to create job opportunities in the country.

Mr. Siddiqui concluded by describing a “new dimension of social dialogue” following the formation of the Workers-Employers Bilateral Council of Pakistan. Established in 2000, WEBCOP is intended to provide a forum for workers and employers to collaborate on certain initiatives, including

- recognizing enterprises at the regional or national level with strong records of compliance;
- introducing a system of compliance certification for enterprises observing core standards in order to produce role models for other businesses; and
- developing training programs for managers, union leaders, and workers “with a view to sensitize them to the needs of standards compli-

ance and its positive impact on enterprise growth and the quality of work life.”

**ANDRE VAN NIEKERK—BUSINESS SOUTH AFRICA,  
SOUTH AFRICA**

Mr. van Niekerk presented the business perspective on international labor standards and their enforcement, focusing on three broad observations. The first is that there are different forms in which ILS can be expressed, implemented, and monitored. Second, irrespective of the regulatory form, it is meaningless to talk about labor standards unless they are effectively and efficiently monitored. And finally, in the context of trade and trade agreements, while labor standards have an obvious social value, they should not be used for protectionist purposes or to call into question the comparative advantage of developing countries.

In South Africa, as in most countries, labor standards are primarily expressed through domestic legislation. What may be unique about South Africa, Mr. van Niekerk said, is the recognition afforded to international obligations, both in the constitution and the principal statutes. The South African Constitution, he said, may be the only one that establishes fair labor practices as a constitutional right. And this incorporation of international standards into domestic instruments gives rise to a number of sources for indicators of compliance, including judgments in the Constitutional Court, the Labor Court, and civil courts.

Aside from inclusion within the statutory framework of South Africa, labor standards are being addressed through private standard-setting initiatives. International framework agreements—such as the recent agreement between Anglo Gold (a South African mining multinational) and the ICEM (International Federation of Chemical, Energy, Mine and General Workers’ Unions)—have addressed core ILO standards through bargaining. Corporate codes of conduct have also become increasingly popular, although they have been criticized for providing for self-regulation.

Although most countries seem to have the legislative environment for the standards, Mr. van Niekerk said, many of them lack effective enforcement mechanisms. He emphasized that enforcement is a matter for the state. While businesses should comply with the laws, they should have no role in policing those laws and “cannot be held accountable for the failures of governments . . . Corporate social responsibility is not an alternative to proper government, nor is it a mechanism by which government can avoid

its responsibility to its citizens.” That does not mean, he added, that employers and employers’ organizations cannot play a constructive role in shaping the institutions that are responsible for monitoring and enforcing labor standards.

One of the major changes introduced by the 1995 Labor Relations Act was the introduction of statutory institutions, such as the specialized Labor Court and the Commission for Conciliation, Mediation and Arbitration, with a tripartite governing structure. The act requires that all disputes be submitted for conciliation before adjudication or industrial action; this has been a particularly effective means of implementation, Mr. van Niekerk said. Despite case overloads in certain regions of the country and recent difficulties in providing dispute prevention programs, settlement rates have been good.

Mr. van Niekerk concluded by saying that implementing labor standards through South Africa’s new conciliatory approach has been more successful in resolving disputes than the “cumbersome and inefficient” approach of using the criminal courts. However, he said, institutional capacity is still a “major obstacle” to the implementation of labor standards, requiring additional resources, particularly with regard to labor inspection.

## 6

# Nongovernmental Organizations and Academics

**EDUARDO RICARDO DONZA—  
UNIVERSITY OF BUENOS AIRES, ARGENTINA**

Mr. Donza described the difficulties encountered by Argentina and its workers over the past decade. Between 1992 and 2002, salaries dropped 8 percent in real terms for registered workers and almost 40 percent for non-registered workers. The percentage of people working 36 to 48 hours per week—"the ideal number of hours"—has decreased, and income inequality has reached such an extent that the highest-earning quintile is paid 13 times the earnings of the lowest quintile.

As Emilia Roca of Argentina's Directorate of Statistics and Censuses pointed out earlier (Chapter 3), the decline in pension contributions as more workers are excluded from the social security system has been a fundamental factor in the recent economic crisis in Argentina. Mr. Donza said, "These levels of exclusion bring about future problems as these people are not part of the system and, therefore, they will not have any protection when they reach their retirement age."

Another issue that Mr. Donza identified as a growing problem in Argentina is child labor. While child labor is currently "not a serious problem, we have to be alert because all this poverty is creating a new sector: children who are working to help their families or to have some pocket money." Increasingly, children are found begging or providing services such as shining shoes or washing car windows. However, the Permanent Household



Survey does not adequately identify child labor—“especially because sometimes people in the family do not consider these activities as a job”—and Mr. Donza called for specific surveys to be developed to monitor child labor.

**HOMERO FUENTES—COMMISSION FOR THE  
VERIFICATION OF CORPORATE CODES OF CONDUCT,  
GUATEMALA**

Mr. Fuentes described the evolution of new contract modalities in the labor market. “First, the market was ruled by price, then by price and quality, then by price, quality, and protection of the environment, and now by price, quality, environmental protection, and protection of social and labor rights.” Each of these factors, he said, applies pressure in one way or another and is important to an analysis of the labor market. Other important factors include the growth of subcontracting and other impacts of the new international division of labor. For example, Mr. Fuentes said, in 2001 the top-selling item of a large American toy company was assembled in China with raw materials and manufactured components from 19 countries.

Given this context, Mr. Fuentes said, enforcing international labor standards (ILS) is a great challenge and has prompted a range of responses. For its part, the International Labour Organization (ILO) has responded with the Declaration, the promotion of “decent work,” and the continuation of its regular supervisory mechanisms for ratified Conventions. The private sector has proposed Corporate Social Responsibility initiatives, he said, while trade unions and other members of civil society are proposing a “social clause” to be introduced into trade agreements.

As for the measurement of compliance and the work of the Commission for the Verification of Corporate Codes of Conduct (COVERCO) in researching working conditions in Guatemala, Mr. Fuentes said that statistical sources can be complex and unreliable and should be used only as a tool. COVERCO also analyzes national legislation and performs a sociological analysis, adapted to the different sectors. “It is not the same to do the analysis in the agriculture sector about coffee or bananas or flowers or vegetables,” he said. “They are completely different labor markets.”

Mr. Fuentes said that case studies are also used to provide additional information on particular sectors, and investigation and follow-up of worker complaints have led to the identification of systematic violations of core labor standards and occupational safety and health standards in Guatemala. Mr. Fuentes concluded by stating that it is necessary for labor stan-

dards to be included in trade agreements, and he identified key areas for improvement including increased training for judges and inspectors, education about workers' and employers' rights and duties, and updating of statistical information.

**JOSÉ GÓMEZ—INSTITUTE OF NATIONAL STUDIES,  
UNIVERSITY OF PANAMA, PANAMA**

After a brief description of the Institute of National Studies, Mr. Gómez addressed several key issues relating to compliance with core labor standards in Panama. Regarding freedom of association, he said that several sectors have been explicitly prohibited from unionizing, and seeking judicial remedies has not guaranteed a timely resolution of the dispute. For instance, he said, the case filed by the banking sector more than a decade ago concerning that sector's right to organize is still unresolved. Similarly, unions have been discouraged in the Canal Zone.

Mr. Gómez discussed the compliance problems related to the treatment of the country's estimated 35,000 domestic workers. Although these workers are covered by a specific law, he said, there is no obligation to pay the minimum wage. However, "neither the unions, nor the trade associations, nor civil society as a whole has addressed this problem as seriously and attentively as they should."

Other issues of concern identified by Mr. Gómez include increased labor flexibility—allowing "interrupted" or "trial" contracts that can be manipulated to avoid paying employee benefits—and unfair dismissals in the public sector.

Mr. Gómez concluded by reiterating a point made earlier by Justice van der Laet in relation to Costa Rica: Including education about the standards in the curricula of schools of law, business, economics, and industrial engineering is essential if effective implementation is to be achieved.

**ARNE GROENNINGSAETER—FAFO SOUTH AFRICA,  
SOUTH AFRICA**

Mr. Groenningaeter described Fafo, which consists of several international research institutes and was founded by the Norwegian Federation of Trade Unions.<sup>1</sup> Fafo South Africa has carried out research in several Afri-

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<sup>1</sup>Additional information on Fafo is available at [www.fafo.no/english/](http://www.fafo.no/english/).

**Box 6-1**  
**Fafo Agenda to Eradicate Child Labor**

- Put pressure on national governments to provide education for all.
- Use the education system for redistribution, e.g., free school meals.
- Provide international aid and debt relief to the poorest countries.
- Establish stronger labor market regulation.
- Increase the opportunities for adult workers to take home a living wage by improving labor market regulation, e.g., freedom of association, collective bargaining, and protection from discrimination.
- Link micro-level interventions to the overall development agenda so that they do not undermine the introduction of education systems or the position of adult laborers in the labor market.
- Establish stronger links between the fight against the worst forms of child labor and the general eradication of child labor.

can countries and has published reports on domestic child labor in Morocco, tobacco tenants in Malawi, and poverty and institutional failures in Egypt and Zimbabwe.

Mr. Groenningsaeter noted that the main causes of child labor in southern Africa are poverty and lack of access to education. There are three kinds of child labor: parent-controlled labor (household work), employment of children who live with their parents but work outside the household, and employment of children who have moved out of the household. Mr. Groenningsaeter said that Africa has the highest incidence of child labor in the world and that it is increasing, in large part because of the AIDS epidemic and armed conflicts. Responding to this growing problem, Fafo has attempted to develop a new agenda for eradicating child labor. These strategies are outlined in Box 6-1.

Mr. Groenningsaeter discussed a Fafo labor force survey, which identified a higher rate of unemployment—at 32 percent—than previous statistics from South African household surveys. This rate, he said, jumps to 45

percent if the “expanded definition” is used; this definition includes people who are available for the labor market but may not be actively looking for work. In terms of health and safety, 54 percent of the respondents reported regular risks, but the availability of safety equipment varied widely by sector. Mr. Groenningsaeter said that the relatively better sectors are manufacturing, electricity, gas, water, and mining, while agriculture, construction, and fishing are the worst.

### **OLUKUNLE IYANDA—UNIVERSITY OF BOTSWANA, BOTSWANA**

Professor Iyanda examined the extent to which ILO standards have been implemented in Botswana. The country has ratified all eight fundamental Conventions, and these are monitored and enforced through several key pieces of national legislation, including the Employment Act (1984), the Trade Unions and Employers Organizations Act (1992), and the Trade Disputes Act (2000).

Professor Iyanda gave an overview of these pieces of legislation, pointing out several significant points. By authorizing the commissioner of labor or any other labor officer to enter and inspect any premise where individuals are employed or where it is reasonably believed that they are employed or housed, the Employment Act extends coverage even into the informal sector. The Trade Disputes Act, he said, sets out procedures for settling disputes and establishes an Industrial Court but, significantly, denies the use of strikes, making it a “barking not biting dog.”

Turning to assessments of compliance with the core standards, Professor Iyanda said that there are 22 unions in Botswana, and they are affiliated with the Botswana Federation of Trade Unions (BFTU). While offering an estimate of 25,000 union members in the country, he added that determining the number of unionized workers is difficult as unions underreport their membership in order to reduce fees to the BFTU.

Professor Iyanda cited several gaps between law and practice, as many employers prohibit unions and discourage collective bargaining. Tactics to weaken collective bargaining have included “poaching” in which capable union officers are recruited into management positions in order to remove them from union operations.

He offered data from the Botswana Central Office of Statistics on working hours and equality of treatment. Studies of working hours between 1993 and 1996 showed that overall average hours of work declined from 45.4 to 41.7 hours. Professor Iyanda said that the data showed signifi-

cant differences in the monthly earnings within a range of occupations, and the differences were based on gender and citizenship, which may be an indicator of discrimination on these grounds. It is interesting to note that the wages of noncitizens are much higher than those of citizens.

According to Professor Iyanda, the health and safety standards have the highest rate of noncompliance: “Fatalities, violations of hygiene standards, exposure to dangerous materials abound in many of the African countries.” In Botswana, for example, the number of fatalities on construction sites exceeds those resulting from road accidents. Contributing to these problems are the infrequency of inspections caused by a shortage of personnel (10 inspectors for nearly 7,000 establishments) and the lack of standards for repairs and maintenance (ill-maintained equipment poses “grave dangers”). Additionally, he said, applications for licensing worksites are not thoroughly examined, and there is an abundance of premises unsuitable for their stated business purpose. Professor Iyanda discussed the role of multinationals, stating that they exhibit a positive effect on the enforcement of ILS. Even though there are violations, these larger enterprises are “much more compliant” than the smaller enterprises.

He concluded with several observations on conditions that are conducive to the effective recognition and implementation of labor standards. First, good governance in the form of democratic and transparent systems is essential, and he cited the differences between Botswana and Zimbabwe as evidence of this. Second, there is a need for a strong union movement and building the capacity of enforcement officers, such as labor inspectors. Last, he said, there is a need to encourage the flow of foreign direct investment and promote economic growth to “foster a good environment for the maintenance of standards.”

#### **EVANCE KALULA—UNIVERSITY OF CAPE TOWN, SOUTH AFRICA**

On behalf of Ann-Marie van Zyl from the South African Department of Labour, Professor Kalula gave a presentation on labor relations in South Africa and the role of the Employment Conditions Commission (ECC), of which he is a member. The main focus of the ECC is the setting of standards within the regulatory environment of South Africa, which consists primarily of the following legislation:

- Labour Relations Act, 1997;
- Basic Conditions of Employment Act (BCEA), 1997;

- Employment Equity Act, 1998;
- Skills Development Act, 1999;
- Occupational Health and Safety Act, 1992;
- Employment Insurance Act, 1996; and
- Compensation of Injuries at Work Act, 1992.

In addition to this legislation, he said, the South African Constitution is also “emphatic” in guaranteeing fair labor practices, freedom of association, collective bargaining, the right to strike, and nondiscrimination.

The regulation at the heart of the ECC’s work—the BCEA—authorizes the minister of labor to establish employment conditions for a particular sector, area, or class of employees. These sectoral determinations supplement the legal framework and are “the main vehicle for putting the minimum labor standards into effect” because they focus on a wide range of issues, as shown in Box 6-2.

The ECC consists of three independent experts appointed by the minister of labor and two representatives from organized business and labor. It has been given the charge of developing labor market policies—paying particular attention to the most vulnerable workers—and making recommendations to the minister for sectoral determinations. As South Africa does not have a national minimum wage, one of the main roles of the ECC is to

**Box 6-2**  
**Scope of Sectoral Determinations in South Africa**

- Minimum wage rates and adjustments
- Administrative obligations
- Task-based work, piecework, homework, and contract work
- Minimum standards for housing and sanitation
- Minimum terms and conditions
- Payment of traveling and other work-related allowances
- Minimum conditions for persons other than employees
- Training and education schemes
- Pension, provident, medical aid, sick pay, holiday pay, and unemployment schemes and funds
- Any other matter concerning remuneration or other terms or conditions of employment
- Minimum conditions for trainees

help establish minimum standards for each sector and to address wage differentials and inequality between different sectors of the population. The ECC has been asked to monitor those gaps and develop policies to progressively reduce the differentials, taking into account the impact of these policies on employment levels and other issues such as safety and health. The ECC conducts public hearings, often coinciding with investigations by the director general of the Department of Labor. Recent investigations and standard-setting have covered domestic workers, agricultural workers, and small businesses.

An important task that remains, Professor Kalula said, is the development of a link between standard-setting and the monitoring and enforcement of those standards. The ECC has set minimum standards for 10 sectors, which has been “a good start.” But there has been criticism of the ECC’s lack of concern about monitoring and implementation. However, Professor Kalula said, this is not within the ECC’s scope, and implementation is a matter for the Department of Labor. And to its credit, he said, the department has taken a much more integrated approach, providing services to employers and workers in a “one-stop shop” rather than through separate offices. While the results of this system are not yet in, he said, with appropriate modifications for country conditions, it may serve as a model within the region.

#### **AJAY SINGH KARKI—RUGMARK FOUNDATION, NEPAL**

Mr. Karki described RUGMARK and its work to end illegal child labor in the carpet industry in Nepal. This industry began in Nepal in the mid-1960s as part of a resettlement program for Tibetan refugees in the Kathmandu Valley. By the beginning of the 1990s, carpets had become the top export from Nepal in terms of foreign exchange earnings and employment generation, attracting thousands of rural adult and child workers. In 1993–94 these exports were greatly reduced because of the negative publicity resulting from the airing of a European documentary on the presence of child laborers in the industry. Government figures at the time showed that children made up 9 percent of the workforce, while NGO estimates of child laborers were as high as 50 percent. As the industry tried to clean up its image, Mr. Karki said, many children were removed from the industry, “forcing them to end up in the streets or in other sectors.”

Since its founding in 1994, RUGMARK has put in place the following initiatives:

- RUGMARK licensing and workplace inspection, monitoring, and certification;
- rehabilitation of removed/displaced children from the carpet industry;
- awareness-raising and advocacy; and
- preventive social programs.

Mr. Karki explained that carpet manufacturers become RUGMARK licensees after initial inspections and signing of the RUGMARK license agreement, which commit them not to use illegal child labor. RUGMARK carries out regular inspections of licensed facilities, and although there are only four inspectors, their work is simplified by the fact that 95 percent of the carpet industries are located in the Kathmandu Valley. Licensees are eligible to certify their carpets with RUGMARK labels, which are coded to indicate the date and location of production.

In cases of noncompliance, RUGMARK issues a verbal notice for the first offense (issued to 212 factories). A written notice, issued for additional offenses within the same year, asks for a written commitment from the factory stating that it will end the use of child labor (183 factories have received this notice). If the written reply is not received within 15 days, the matter is referred to the Executive Committee of RUGMARK for a final warning. For subcontractors, this may result in the factory being “out-listed.” This means that the name and address of that factory will be circulated to all licensees within Nepal. Licensees are informed that if they place any orders with these subcontractors, their license may be revoked. To date, six subcontractors have been out-listed, and two licensees have had their licenses revoked.

To provide some details of the general characteristics of child labor in the carpet industry in Nepal, Mr. Karki presented the results from a 2002 ILO Rapid Assessment (Box 6-3).

When RUGMARK inspectors identify and remove children from labor, programs and support, based on the child’s age and needs, are made available for formal education and vocational training, as well as for family reunification. In its monitoring of 470 licensed factories to date, RUGMARK has identified 979 child laborers, removing nearly 470 of those children. Rehabilitation programs have been offered to 367 children, and 83 of them are still receiving educational support from RUGMARK.

Mr. Karki listed some of the continuing challenges faced by RUGMARK, which include the declining export situation for Nepalese



**Box 6-3**  
**Results from the Draft Report of the Rapid Assessment**  
**Done for the Carpet Industry by ILO-Nepal (2002)**

• Estimated total number of laborers	67,728
• Estimated total number of child laborers	8,096
• Percent of total child labor	11.95
• Less than 14 years (567 children – 7%)	0.84
• Between 14 and 16 years (5,020 children – 62%)	7.41
• Between 17 and 18 years (2,510 children – 31%)	3.70
• Ratio of male/female child laborers	57/43
• Migrant child labor (%)	96.30
• Average working hours per day	15
• Average monthly income (piecemeal basis) NRs. 1,690/(US\$22)	
• Average family size	6.3
• Mean age at which children left home	13

carpets, the high cost of rehabilitation programs (nearly \$500 per year per child), and the fact that RUGMARK monitoring does not extend into the informal economy, where children removed from the formal carpet industry often end up.

**ALEX KAUFMAN—KENAN INSTITUTE ASIA, THAILAND**

Mr. Kaufman gave a brief introduction to the Kenan Institute, where he is the deputy manager of the Labor Standards Advisory Service. The LSAS has been concerned primarily with the implementation of voluntary labor standards and codes of conduct in the Thai garment industry. Mr. Kaufman explained that the codes of conduct used in Thailand have the following characteristics:

- The codes are a response to negative publicity regarding working conditions in developing countries.
- The codes represent multinationals' attempts to prove compliance with core ILO Conventions.
- The codes are created by multinationals and monitored by internal or external auditors.

- The codes typically cover little more than the Thai Labor Law (Labor Protection Act of 1998).

Mr. Kaufman noted some of the key obstacles to labor standards compliance in Thailand (Box 6-4).

Mr. Kaufman noted that working hours are a particular challenge within the voluntary standards because reducing hours without raising the wages can result in workers falling short of earning a living wage. The minimum wage in Thailand is the equivalent of \$4, which represents only 60–70 percent of what is required to earn a living wage. Many workers can reach that level only “by putting in lots of overtime, so most of the standards—in requesting a reduction of overtime hours—are not coming up with a solution to the problem.”

In terms of health and safety—another key area of concern in Thai factories—Mr. Kaufman said that there should be a greater emphasis on

#### **Box 6-4 Obstacles to Compliance in Thailand**

##### **Common Abuses**

- Pay deductions
- Unclear pay stubs
- Union busting
- Excessive overtime
- Exposure to hazardous chemicals
- Pregnancy issues
- Inadequate protective equipment
- Fire hazards

##### **Enforcement Concerns**

- Lack of well-trained consultants
- Shortage of government inspectors
- Misunderstanding of local laws
- Workers' lack of awareness of legal rights and grievance procedures
- Fear of worker movements, unions
- Lack of human resource policy
- Lack of worker involvement

the prevention of accidents. This might be accomplished in part through stricter application of building codes; many Thai factories are old and fail to meet current standards. Training of workers, employers, and inspectors is also needed, he said.

To address the various compliance problems in Thailand, Mr. Kaufman recommends a “holistic approach” involving several stakeholders. At the center of this approach is the national government, which has the responsibility for enforcing the laws and providing regular inspections. These inspections may be done in conjunction with the work of external auditors hired by multinationals. Mr. Kaufman also suggested the development of “internal monitoring teams,” which could include members of the union and other employees “because the workers are the ones who really know and understand what’s happening in the factory.”

Mr. Kaufman said one of the overall aims of implementing voluntary standards and codes of conduct is to raise the competitiveness of Thai industry. This is of particular concern as the Multi-Fiber Arrangement Regarding International Trade in Textiles—which allows importing countries to apply quantitative restrictions on textile products—is scheduled to end in 2005. In light of this, Mr. Kaufman’s recommendations for improving the competitiveness of Thai industry included

- increasing direct foreign investment through transparency—demonstrating not only the quality of products but the conditions in which they are produced;
- implementing management systems that create better communication between workers and supervisors; and
- ensuring workers’ health and safety to provide a long-term workforce, resulting in less turnover and absenteeism and a reduction in defective products and property damage.

#### **ERNESTO KRITZ—SOCIETY FOR LABOR STUDIES, ARGENTINA**

Mr. Kritz began by identifying ILS—and, perhaps more important, compliance with those standards—as a prerequisite for an “efficient and egalitarian” labor market. “Specifically, in a globalization scenario, compliance with the international standards and protection of workers’ basic rights are an unavoidable condition for workers to benefit from the integration and increase of trade flows.” Considering some of the topics addressed throughout this forum, such as the escalation of unregistered and informal

employment, Mr. Kritz noted that the protection of workers is an increasingly difficult task.

Despite the many problems associated with the burgeoning unregulated labor market, Mr. Kritz said that noncompliance is not found only in the informal economy. He cited the increase in the number of working hours without overtime pay, for example; this is a labor-cost reduction that violates standards on wages and endangers the health of the workers. Exploitative labor practices such as this are “an expression of institutional weakness, especially of the ministries of labor and, in particular, of the labor inspectorate to enforce the law.” With severe resource constraints, outdated equipment, and inadequate technical training, inspection departments are unprepared to fulfill their mandates effectively, he said.

Mr. Kritz suggested that labor administrations should focus their attentions on monitoring the basic rights and improving their capacity to deliver quality services. At the core of this, he said, is the need for improved information. “The availability of adequate, timely, and reliable information on labor standards compliance is ... a condition for the labor market to operate well. But it can also be an instrument to improve competitiveness, to take advantage of opportunities, and, of course, to achieve the goal of transforming these opportunities into benefits shared by all workers.”

Mr. Kritz said that the quality and reliability of information suffer in part because there is no mechanism for feedback from the ministries after they collect the data from private agents, such as companies. When the information system is seen “only as a flow from the private sector toward the public administration, an opportunity to provide agents and operators with guidelines to make their decisions is lost.” Mr. Kritz concluded by saying that this information would include those sources discussed by other presenters—household surveys, social security systems, company surveys, and administrative records—but should also incorporate private sources. For example, the organization he directs, the Society for Labor Studies, conducts a monthly survey of 200 leading enterprises; these surveys gather information on salary policies, working hours, contracts, and bargaining practices.

**PRANAV KUMAR—  
CONSUMER UNITY AND TRUST SOCIETY, INDIA**

Mr. Kumar focused on India’s experience with the core ILO standards, especially child labor. He noted that India has ratified four of the eight

fundamental Conventions,<sup>2</sup> and he discussed some of the reasons for nonratification of the remaining Conventions—87 (freedom of association), 98 (collective bargaining), and 138 and 182 (child labor).

Mr. Kumar attributed the nonratification of Conventions 87 and 98 to the “inability of the government to promote unionization of government servants in the highly politicized trade union system of the country.” However, he added that the Indian Constitution guarantees freedom of association and expression for all citizens. As for child labor, he stated that fulfilling the requirements of the relevant Conventions—establishing minimum ages of 14 for work in general and 18 for “work, which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children”<sup>3</sup>—would entail creating the machinery to ensure compliance. “But at present for developing countries like India,” he said, “it is not feasible to stop child laborers from coming into work.” To demonstrate the extent of the child labor problem in India and the “poor enforcement” of applicable legislation, Mr. Kumar provided several statistics (Box 6-5). He added that major exporting industries employing child labor include hand-knotted carpets, gemstone polishing, brass and base metal articles, and fireworks.

Mr. Kumar added that India’s labor laws do not apply to the informal economy in India’s rural areas—where the vast majority of child laborers are found—and that “the issue of child labor does not receive much political attention.” While there are a “handful of NGOs” working against child labor, Mr. Kumar said that political parties, trade unions, and the government have neglected the issue. Of particular importance, he said, is the “total failure of the government in the area of compulsory education of children up to the age of 14.”

Mr. Kumar discussed key conditions for eliminating child labor in India. First, he recommends a time-bound program, with reasonable target dates for government action to combat child labor. Second, “as long as families face the cruel and stark choice between remaining hungry and putting their children to work, no amount of moral persuasion and threat of enforcement by the state can prevent these families from exercising the child labor option.” Because child labor in India “is rooted in social tradi-

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<sup>2</sup>India has ratified Conventions 29 (forced labor), 105 (abolition of forced labor), 100 (equal remuneration), and 111 (discrimination [employment and occupation]).

<sup>3</sup>Worst Forms of Child Labour Convention (No. 182), Article 3(d).

### **Box 6-5 Child Labor in India**

#### **Scope and Nature of Child Labor in India**

- Global child labor: 250 million
- Child labor in India: 40–44 million
- Agriculture-related activities account for more than 90% of child labor in India.

#### **Indian Enforcement Efforts (1990–1993)**

- Central inspections, carried out based on 1986 Child Labour Act: 537
- Number of violations observed: 1,203
- Prosecutions: 7
- State-level violations observed: 5,060
- Prosecutions: 772

tion and economic compulsion,” Mr. Kumar said, “coercive measures” cannot solve the problem. “Given a reasonable target date, [child labor] can be eliminated progressively by consciousness-raising and the provision of socioeconomic infrastructure for the poor in the villages and rural areas.”

#### **COLETTE MULLER—UNIVERSITY OF NATAL, SOUTH AFRICA**

Ms. Muller reviewed the challenges of identifying and measuring informal employment in South Africa. In her research, she examined nationally representative household data, identifying particular problems in collecting data on informal employment. The two main problems, she said, are capturing irregular work and distinguishing between informal and formal employment.

She said, “The problem [with capturing irregular work] arises due to the fact that the meanings of work and employment are open to interpretation by the respondents.” Challenges of capturing irregular work with household data include

- Survivalist activities: “Individuals involved in survivalist activities where job security is poor and very little (if any) income is generated may not regard themselves as employed,” she said.

- **Seasonal employment:** Household surveys use a seven-day reference period when asking about employment activities, possibly excluding certain temporary, casual, or seasonal activities. A one-year reference period, she said, may be more appropriate for capturing these activities.
- **Child labor:** Official employment data cover only those individuals of working age, defined as people between the ages of 15 and 65, thus excluding child labor from official statistics. A recent survey, she said, suggests that 26 percent of South Africa's 13.4 million children are economically active.
- **Secondary employment:** While the South African household surveys may indicate whether persons hold a second job, details on that job are not collected, making it impossible to determine whether the secondary employment is formal or informal.
- **Illegal activities:** It is unlikely that these individuals will be reported as gainfully employed.

In addition to these challenges of identifying irregular employment, Ms. Muller said, distinguishing between informal and formal employment poses another set of problems. A 1993 resolution of the ILO's 15th Annual Conference of Labour Statisticians recommended that informal enterprises be identified by one or more of the following criteria:

- nonregistration of the enterprise,
- nonregistration of employees, or
- small size of the enterprise.

Ms. Muller pointed out, however, that asking questions about registration may be subject to a high degree of reporting errors. First, she said, employees may not know whether the enterprise is registered or not. And second, employers and the self-employed may knowingly give false information about registration status, concealing their failure to register in order to avoid taxation or other institutional regulations. Finally, even if the enterprise is registered, there may be employees working at the business who exhibit other characteristics of informality. For example, she said, approximately one-third of the employees of registered enterprises do not have a written contract or receive pension contributions.

Because using a single criterion such as registration presents these challenges, Ms. Muller said that additional questions must be posed in order to

examine labor standards. In addition to questions on earnings and work hours, the South African household surveys have asked respondents about the following items that may be useful for monitoring both formal and informal employment:

- number of regular workers in the enterprise;
- location of the business;
- availability of electricity at the workplace;
- source of water and toilet facilities for the enterprise;
- type of working conditions (e.g., is it hot, cold, dusty, noisy, smelly? are there dangerous conditions, such as poisonous substances, etc.); and
- number of workers injured at the workplace in the past year and the cause of the injuries.

Questions about these items may expand the range of information on working conditions, but unfortunately, according to Ms. Muller, they have not been used since the February 2001 survey.

Ms. Muller concluded by stating that the household surveys (in particular the Labor Force Surveys) have been improved in their ability to obtain detailed employment information and are “likely to provide the best estimates of the extent of informal activities in our economy.” However, there is still room for improvement in capturing information about child labor and illegal employment.

#### **V.P. TORUL—UNIVERSITY OF MAURITIUS, MAURITIUS**

Like other countries in the region, Mauritius has ratified most of the ILO’s fundamental Conventions. After an overview of the labor rights provisions found in the Constitution and national legislation of Mauritius, Professor Torul discussed the “proliferation of unions” in the country. The requirement of a minimum of seven members to register a union, he said, has allowed the formation of many small unions, and Mauritius now has 350 unions for a workforce of 400,000.

Professor Torul said that a survey of the role and image of unions, conducted by the University of Mauritius, found that the main reasons respondents gave for wanting to join a union were defense of wage increases and benefits, support during disputes, improvement of working conditions, and provision of welfare facilities, such as provident funds and low-rate



loans. However, he said, responses also indicated a perception of unions as weak, lacking in seriousness, and corrupt.

Professor Torul said that Mauritius faces several challenges if it wishes to develop more harmonious labor relations. First, there must be increased education and training for workers and the building of institutional capacity within the unions. Second, more inspectors need to be hired so that inspections can be carried out more frequently, particularly in the Economic Processing Zones (EPZs) where unions are prohibited. An increasing number of migrant workers from China and Sri Lanka are working in the EPZs, and serious attention is required to ensure that they are not being subjected to discrimination in their employment.

Professor Torul turned to the “sore issue” of strike provisions in Mauritius. The EPZ Act has been a point of contention because it denies the right to strike. While there is a provision allowing strike activity outside the EPZs, “it is of no use” because the ultimate decision to permit or disallow the planned strike rests with the prime minister, who will deny permission if the strike “may imperil the economy of the country.” Professor Torul did not recall any strikes in Mauritius since 1972. Unfair dismissals have also been a problem as many employers fail to follow the appropriate procedures for firing workers. He attributed this primarily to “ignorance,” with more frequent unfair dismissals occurring in smaller companies that are not as familiar with the details of the legislation.

Professor Torul stressed the importance of proper enforcement of labor laws. Also, he said, “Mauritius needs to review the Industrial Relations Act and revise the Remuneration Orders and amend important provisions of the Labour Relations Act and perhaps update and empower the National Research Bureau and the Pay Research Bureau.”

During the discussion that followed his presentation, Professor Torul responded to several comments concerning the multiplicity of unions and unlawful dismissals in Mauritius. Mr. Ngcobo of the ITGLWF questioned Professor Torul as to whether the existing legislation allowing unions to form with so few members—or perhaps the failure to effectively implement the law—“encourages ineffective unions to exist.” Professor Torul responded by noting that the Industrial Relations Act allows for unions to be deregistered if they do not comply with all aspects of the regulations. Professor Kalula joined this discussion by citing a study that he conducted several years ago that seemed to show that, despite the multiplicity of unions, they have been able to develop uniform positions and encourage

social dialogue in Mauritius. In contrast, Professor Kalula added, in Lesotho where there are only three or four trade union centers, the discord and problems seem to be worse than elsewhere in the SADC (Southern African Development Community) region.

On the issue of unlawful dismissals, Mr. Ngcobo commented that while employers may abide by the law in offering compensation, they are less likely to reinstate trade union activists. "That kills the organizations because the moment you dismiss the activist, then no one will be active anymore. That is the reason why the labor movement is not growing. The employers are willing to pay the price as long as they get rid of the long-term troublemaker." Professor Torul responded by saying that if proper compensation is given, the firing of "troublemakers" is legitimate and justified because there has been an "irretrievable breakdown of the relationship" between the employer and the worker.

**EDWARD WEBSTER—UNIVERSITY OF THE  
WITWATERSRAND, SOUTH AFRICA**

Professor Webster discussed his recent research on the impact of globalization on work and employment in South Africa. In the city of Durban, for example, "new forms of work are emerging," including waste collection, guarding parked cars at the beach, and operating telephones on the street for a small fee. Professor Webster said that there is "quite a transformation of what we understand by work and employment." Within the SADC region, the large size of the informal economy and the population—perhaps 50 percent—who live in former "homelands" in South Africa and on communal land in Zimbabwe means that labor standards focus on only a "small slice of the cake." This prompted Professor Webster to raise the fundamental question, "Do labor standards really matter in a developing country?"

There are three positions on this question, he said. First, there are those who feel that standards make no difference, arguing that ratification of Conventions is merely rhetoric as evinced by the many violations that have been discussed over the course of this forum [in South Africa]. "It is interesting," he said, that "Kenya has signed all the [core] ILO Conventions, and the United States has not. But the wages in the United States, on average, are 184 times higher than in Kenya."

The second position is one of hostility to labor standards. This is a result of the additional labor costs and the idea that "all you are doing [by

complying with labor standards] is giving your competitors down the road an advantage.” Those opposed to the standards argue that the lack of standards—or low standards—allows developing countries to enter world markets with cheap labor costs, he said, and “bad jobs at bad wages are better than no job.”

The third position, support for the campaign to universalize core labor standards, is often based on social reasons—the standards consist of basic human rights—but it can also be based on economic reasons. The standards can create economic stability, and that encourages investment in the country. In addition, a standard such as anti-discrimination “removes barriers to the full development of the skills and potential of people of color and women,” and eradicating child labor facilitates the education of children, improving their ability to become productive adults and contribute to the economic health of the country.

Professor Webster discussed the potential impact of socially responsible investing, as discussed above by Mr. Tekie and Ms. Ryklief. In addition to the leverage gained through auditing for socially responsible behavior, the positive performance of these companies—with higher than average returns on the Johannesburg Stock Exchange—sends a signal that “labor standards are good for business.” Another fundamental reason that labor standards are important, he said, is their ability to reduce potential costs, such as those incurred by litigation arising from health and safety claims.

Professor Webster noted that much of the literature on globalization focuses on the constraints and negative effects, but he added that globalization also presents opportunities. For example, technology and connectivity via the Internet and other means allow the conditions of workers and the nature of their problems to be cheaply and instantly communicated around the globe. This has facilitated efforts such as the global anti-sweatshop movement and, locally, the impact of European consumer groups in changing the “feudal-type relations” on Zimbabwe’s cut-flower farms to a more conventional system of contractual employment.

Professor Webster concluded by discussing the tension between the idea of universal labor standards and national sovereignty, as countries struggle to develop policies that can both generate employment and protect workers’ rights. The uneven global economy and the widening of the “North–South divide” in terms of income exacerbate this tension. Universalizing standards, Professor Webster said, must be tailored to the specific context of the countries concerned. For example, he said, “in many communities, child work is at the center of economic activities, and imposing a

set of standards could have unintended consequences.” In the development and implementation of these standards, Professor Webster said, workers—including those in the growing informal economy—must have a voice. Organized labor must make inroads into the informal economy, he said, or it will face a loss of legitimacy.

## 7

# Open Forums

The regional forums in Sri Lanka and South Africa included an open forum in which presenters and audience members were encouraged to share their perspectives on labor standards monitoring and compliance issues. This chapter includes a brief summary of these perspectives.

### SRI LANKA

**Basil Ilangakoon** of the Marga Institute in Sri Lanka opened the session by asking participants to elaborate on several issues discussed in the Sri Lanka forum. On the applicability of labor standards, Mr. Ilangakoon asked whether there are “universal standards” or standards that vary according to particular circumstances. “Are there different classes of human beings? Some who must have all the rights, others who need not have all the rights because they are born and work in the so-called developing world?” In addition to discrepancies in application between various countries, Mr. Ilangakoon addressed the inconsistencies that may exist *within* countries. “Do labor standards apply to all workers in our countries? Or is there a set of rules that apply to a privileged class of workers, which by itself may allow that block of people to exploit the rest of the workforce in the country?” Last, he asked, does the concern with labor standards “interfere with our thinking to the point where we forget the larger picture—the need for growth and the need to eliminate poverty, or is the concern with labor standards part of this main concern of eliminating poverty?”

**T.M.R. Rasseedin**, the general secretary of the National Association for Trade Union Research and Education (NATURE) in Sri Lanka, also discussed the difficulty of trying to address labor standards and economic development simultaneously. Facing the pressures of globalization, international competition, and the influence of international financial institutions such as the IMF (International Monetary Fund) and the World Bank, governments in Southeast Asia are “taking the easy way out,” Mr. Rasseedin said. “They think that labor is a burden, a hindrance to development, so therefore there has to be some restructuring in that field, and labor reform is supposed to be the panacea of all ills in this region.” The concern of trade unions, he said, is that these reforms should not jeopardize implementation of the rights found in the core Conventions of the ILO. “We can’t go below the floor. That is the basis on which we could develop, because labor is an important component in development, and workers’ rights will have to be respected, recognized, and guaranteed if any meaningful development is to take place.”

**Adhikari Jayaratna**, the general secretary of the Confederation of Public Service Independent Trade Unions in Sri Lanka, commented that the ratification of ILO conventions is essentially meaningless if there is no implementation. In Sri Lanka, for example, despite the ratification in 1995 of Convention 87 on freedom of association, amendments to the Trade Union Ordinance have not yet been made to bring the legislation in line with the Convention. Referring to the earlier presentation by Mr. Wickremasinghe, Mr. Jayaratna pointed out that governments often use language such as “action will be done,” “[we are] taking steps,” or “steps will be taken very soon.” Despite these commitments, the promised action is not always taken, prompting Mr. Jayaratna to recommend that each country have a specific timetable for implementation of Convention articles.

**William Conklin**, a representative of the Solidarity Center in Sri Lanka, raised the issue of unions and politics. Characterizing all unions as “political” is not only false, he said, but a very loaded statement “because basically it says that [unions] are irresponsible or obstructionist.” This serves as “a very convenient excuse” for governments and employers to justify noncompliance. As an example, he said, the Solidarity Center has “been supporting responsible, independent unions to organize in the Free Trade Zones, but unfortunately—because of the nonenforcement of laws—these unions have been stifled.”

**Ram Thiagarajah**, a consultant on labor standards issues, emphasized

the correlation between a strong union movement and compliance with standards. He noted the efforts within the region to unify various national unions and the potential benefits of such an approach. Within the framework of the ILO, representative unions can join the national tripartite consultative mechanism and “strengthen [their] position as equal partners in social dialogue.” This, he said, is the first step toward making governments take union concerns more seriously. The second step is to codify the commitments between employers and workers in codes of conduct and collective agreements, reflecting a common understanding between the parties involved at the enterprise level. Once this “tripartite code of conduct” is developed, he said, there must be a National Labor Tripartite Council to serve as a forum to review implementation at the enterprise or industry level. However, to monitor compliance at an international level, Mr. Thiagarajah concluded, the ILO is the only organization with the mandate and competence to conduct these assessments.

**Anton Marcus** of the Free Trade Zone Workers Union in Sri Lanka addressed several problems that the union movement has been facing. While a tripartite consultation agreed that trade unions would be recognized in the zones, the Board of Investment (BOI) issued guidelines for Employees’ Councils that were not in conformity with Convention 87 and were rejected by the unions. “Freedom of association,” he said, “means that the workers must have a right to join the union of their choice, not what the organization of employers has decided or introduced.” In order to challenge this, Mr. Marcus’ union has submitted GSP (Generalized System of Preferences) petitions to the United States and the European Union.

**Mohamed Shahul**, a program officer with the Friedrich Ebert Foundation in Sri Lanka, noted several encouraging steps that the BOI and the Sri Lankan government claimed to have taken to ensure that national laws are in conformity with ILO Conventions. However, he said, “it is unfortunate that, in reality, enforcement of [Conventions] 87 and 98 and the access to freedom of association in the Free Trade Zones and also in the enterprises that come under the purview of the BOI is far behind reality.... All these efforts of the BOI, which proudly claims that they have recognized the UN Global Compact initiative, they are behind [in enforcing Conventions] 87 and 98, and all these are just eyewashes to please the U.S. GSP, the EU GSP special incentive scheme, the ethical trading mechanisms, and possibly to clinch another broad trade agreement with the United States.”

**Pranav Kumar**, representing the Consumer Unity and Trust Society of

India, made a brief comment on the ILO's use of "soft law options" in promoting compliance.

As a result of this, the ILO's authority has been challenged, especially after the inception of the WTO [World Trade Organization] in 1995. Some developed countries are trying to bring this issue under the ambit of the WTO, so I think that it is high time for the ILO to contemplate some kind of hard law options—as it has recently done in the case of Burma. Just adding one Convention after another won't be of any use to us.

### SOUTH AFRICA

The open forum in South Africa was moderated by **Thea Lee**, a member of the Committee on Monitoring International Labor Standards (CMILS) and the chief international economist of the AFL-CIO. Ms. Lee reviewed several tools mentioned throughout the forum that might be used to improve compliance with core labor standards. Broadly speaking, the first of these tools includes ILO programs, such as social dialogue, the follow-up to the Declaration, and the supervisory mechanisms, which may pressure nations to comply in order to avoid censure. The second tool is external pressure, such as GSP or AGOA (African Growth and Opportunity Act), where workers' rights have been linked to trade benefits. Regionally, she said, this type of tool may be of particular importance as negotiations are currently underway for a trade agreement between the United States and the Southern African Customs Union. "This [free trade agreement] will eventually override the GSP program," she said, "so if we put in place weaker [workers' rights] provisions, that will have some impact." The third tool is the collection of national institutions that constitute civil society, such as the National Economic Development and Labour Council, which can promote social dialogue on a broad basis.

Ms. Lee then posed several questions related to improving compliance with core labor standards. First, should the approach taken with regard to countries that are willing to make changes, yet lack resources, be completely different from that taken with countries that are "bad actors" making no effort to address labor standards issues in a meaningful way? Second, given the many references to the challenges of increased informality, what approach is best for integrating the formal and informal economies and to what extent can governments improve their abilities to monitor working conditions in the latter? Third, given the important role of each national legal system in defining and protecting workers' rights, how can one assess



the effectiveness of essential institutions, such as inspectorates and the judiciary? Last, Ms. Lee asked how pressing regional questions—in particular the impact of HIV/AIDS—could be integrated into strategies to promote compliance with core labor standards.

**Professor Evance Kalula** of the University of Cape Town addressed Ms. Lee's first question on the strategies for dealing with countries that are "willing, but incapable" of implementing core labor standards and those that are "unwilling and simply disregard" them. While a spectrum of national commitment certainly exists, he said, it is important to note the power that linking trade and labor rights has in both circumstances. Professor Kalula offered his experience in Swaziland as an example, noting that although there are still significant problems in Swaziland, the linkage created by AGOA has pressured the government to reach agreement with the social partners on several contentious compliance issues that it was not willing to address in the years preceding AGOA.

Professor Kalula said that in the Southern African Development Community (SADC) regional context, there has been a commitment to work with the ILO to move toward greater compliance with the core labor standards. "One needs to make the best of that," he said, "and any kind of approach would do well to try to strengthen the hand of the ILO in terms of ensuring that countries strengthen their technical capacities." Additionally, he recommended working with the SADC secretariat toward the harmonization of labor market regulatory approaches. "That way," he concluded, "you are localizing and making the process much more legitimate, rather than being seen as the usual kind of imposition from outside."

**Professor Olukunle Iyanda** from the University of Botswana also commented on the issue of "willing and unwilling" countries. As seen in countries such as Swaziland and Zimbabwe, the issue of labor standards, he said, often transcends the scope of the ILO and its activities, focusing on the world of work. "In spite of all the noise and rhetoric that African leaders are making, they all agree, or connive, or close their eyes to the blatant abuse not only of workers' rights but also of human rights in Zimbabwe." That situation, he said, differs from many countries where there is willingness to address workers' rights, but the governments face extreme resource pressures as other needs—such as investments in health and education—understandably receive priority over efforts to monitor or enforce labor standards. It is these countries, he said, that need to be assisted with material resources, equipment, training, and perhaps even personnel.

Professor Iyanda also suggested several indicators or factors that the

CMILS might consider when assessing compliance with core labor standards. These include case studies of labor disputes, with an examination of the issues and institutions involved, the procedures followed, and the eventual outcomes. Citing earlier discussions about the positive correlation between compliance and a strong union movement, Professor Iyanda also recommended measures related to the number, strength (as a share of the total workforce), and independence of unions. In general, he added, broader issues such as good governance, democracy, and respect for the rule of law must also be considered to the extent possible. Last, he said, “micro-case studies” of corporate human resource practices as well as sectoral studies might reveal particular areas where there are gaps in compliance.

**Jabu Ngcobo** of the ITGLWF (International Textile, Garment and Leather Workers’ Federation) continued the discussion of the challenges of protecting workers’ rights as governments implement policies to generate employment and alleviate poverty. What he has heard from government officials in the region, Mr. Ngcobo said, is that the fear of employers leaving for other countries leaves them with no alternative to being “flexible” in their protection of standards. Some officials, he said, were quite open about the fact that they were not going to enforce existing labor laws. It is therefore important to take into account the various “forces outside,” he concluded, that “make our governments feel that they have to create jobs at all costs and develop the idea of racing to the bottom instead of protecting their own nation.”

**Sahra Ryklief**, representing the Labour Research Service in South Africa, continued the discussion of national will to implement standards, stating that the level of national compliance is always in direct relation to the strength of the labor movement. In particular, the strength of the labor movement is a determinant of the level of social dialogue within a country, and “there is not a single government,” she said, “that has the political will to enforce compliance without this dialogue and this pressure coming from below.”

Turning to the changing nature of the labor market in the region, Ms. Ryklief emphasized that the systemic lack of jobs in the formal sector and the rapid growth of informal employment result in labor legislation that is inapplicable to the vast majority of the working population. Additionally, as the “notions of employment and work are completely redefined” and traditional forms of organization and social dialogue are potentially rendered inappropriate, historical approaches to regulating the labor market must be adapted to the current context. “We can take the ethos of these

labor standards and translate them into new settings and new requirements. And that essentially is the task in the developing countries of the south, and the labor movement has an important role in that," she said, "but so do academics and sociologists who raise the problems that we have to address."

**Jeffrey Wheeler**, a representative of the ILO office in Zambia, addressed Ms. Lee's question on the legal framework and judicial systems in the region. The problems faced in Swaziland, he said, are much more profound than those faced in other countries in the region. Particularly in Lesotho, Malawi, and Zambia, the industrial relations courts "have judges who are very much interested in enforcing the international labor standards." However, he said, "the basic problem is that they lack the fundamental capacity to issue the decisions." This may result from a lack of training but also relates to a lack of resources and technical support, such as case management systems. Therefore, he said, assessments of legal systems must go beyond looking for the existence of institutions and must also probe as to whether these institutions are adequately funded and can actually function.

On the issue of HIV/AIDS, Mr. Wheeler said that empowering workers and managers to address the crisis on their own is an important way of promoting freedom of association and social dialogue. "You can promote labor-management cooperation by doing joint training with managers and union representatives," he said, and this can lead to the development of bipartite committee structures focusing on HIV/AIDS and other issues at work.

**Momar N'Diaye**, a representative of the ILO, discussed the development of international labor standards and the flexibility that exists in the approaches that countries may take to implement them. While there is a bit more rigidity in the application of the fundamental human rights found in the core Conventions, all of the standards derive from the consensus of the tripartite constituents of the ILO. In this sense, he said, these standards are based on realities and should be viewed as a tool. To be able to apply these standards effectively in the African region, Mr. N'Diaye said, it is imperative to strengthen labor administration. Labor inspectors are not adequately trained, and they do not have the necessary resources at their disposal. Additionally, the ministries of labor often have a very weak position within the government. "Under the Declaration program," he said, "a lot of the ministries of labor in Africa were expecting to be supported in order to prove that they are useful and that improving social conditions will have an effect on the improvement of the economy." The weakness of these minis-

tries, he said, is most often accompanied by weakness of the social partners, and capacity building is thus required in order to promote meaningful tripartite debate or dialogue.

**Fisseha Tekie** from the Solidarity Center in South Africa discussed the role of the labor movement in organizing the informal sector. In South Africa, he said, there are several groups that have met recently under the auspices of the ILO to begin the process of establishing linkages between formal and informal workers. Returning to the critical challenge of addressing HIV/AIDS, Mr. Tekie discussed several steps that the labor movement has been taking in South Africa. The three largest federations have launched a massive awareness campaign, hired HIV/AIDS educators, and are seeking to pressure companies to adopt policies to reduce the prevalent stigma of HIV/AIDS, protect the rights of the infected, and promote prevention efforts for those who are not infected.



APPENDIX

A

Forum Agendas



# THE NATIONAL ACADEMIES

*Advisers to the Nation on Science, Engineering, and Medicine*

The National Academy of Sciences  
Committee on Monitoring International Labor Standards

Forum on Monitoring International Labor Standards: The Americas

February 19–20, 2003  
San José, Costa Rica

## AGENDA

### February 19, 2003

8:30 a.m.-9:00 a.m.      **Breakfast**

9:00 a.m.-9:20 a.m.      **Welcome**

Ovidio Pacheco Salazar, Minister of Labor,  
COSTA RICA  
Ted Moran, Committee on Monitoring  
International Labor Standards,  
UNITED STATES

9:20 a.m.-10:10 a.m.      **Session I:** Labor Standards Issues in Regional  
Perspective

Enrique Bru, ILO, COSTA RICA  
Oscar Ermida Uriarte, ILO, URUGUAY  
Humberto Villasmil, ILO, COSTA RICA

10:10 a.m.-10:30 a.m.      **Break**



- 10:30 a.m.-12:30 p.m.    **Session II:** National Perspective on Labor Standards and Issues
- Germán Leitzelar, Minister of Labor,  
HONDURAS  
José Echeandía, Vice-Minister of Labor, PERU  
Eugenio Solano Calderón, Ministry of  
Labor, COSTA RICA  
Emilia Roca, Ministry of Labor, ARGENTINA
- 12:30 p.m.-2:00 p.m.    **Lunch**
- 2:00 p.m.-3:30 p.m.    **Session III:** Monitoring Labor Standards
- Yadira del Carmen Adames, Office of  
Statistics and Censuses, PANAMA  
Gloria Lizzette Velásquez, National Institute  
of Statistics, HONDURAS  
Eduardo Ricardo Donza, University of  
Buenos Aires, ARGENTINA
- 3:30 p.m.-5:00 p.m.    **Session IV:** Monitoring Labor Standards
- Tatiana Velazco, Ministry of Labor and  
Employment, PERU  
Sergio Becerril Segovia, Department of  
Labor and Social Services, MEXICO  
Erick Briones, Ministry of Labor, COSTA RICA

**February 20, 2003**

8:30 a.m.-9:00 a.m.    **Breakfast**

9:00 a.m.-9:20 a.m.    **Welcome**

Ted Moran, Committee on Monitoring  
International Labor Standards,  
UNITED STATES

- 9:20 a.m.-10:35 a.m.      **Session I:** Sources of Information
- Justice Bernardo van der Laet, Supreme Court, COSTA RICA  
Janía Ibarra Márquez, National Association of Private Enterprises, EL SALVADOR  
Luis León, General Independent Worker's Union of Panama, PANAMA  
Jeff Hermanson, Solidarity Center, MEXICO
- 10:35 a.m.-10:45 a.m.      **Break**
- 10:45 a.m.-12:00 noon      **Session II:** Sources of Information
- Jorge D. Garduño Morales, Employers' Union of the Republic of Mexico, MEXICO  
Ernesto Gómez, Center for Labor Studies and Support, EL SALVADOR  
Teresa Casertano, Solidarity Center, COSTA RICA
- 12:00 noon-1:30 p.m.      **Lunch**
- 1:30 p.m.-2:50 p.m.      **Session III:** Sources of Information
- Ernesto Kritz, Society for Labor Studies, ARGENTINA  
Antonio Candray, Director, Center for Labor Studies and Support, EL SALVADOR  
Mauricio Castro Mendez, National Association of Public and Private Employees, COSTA RICA
- 2:50 p.m.-3:00 p.m.      **Break**

3:00 p.m.-4:30 p.m.

**Session IV:** Sources of Information

Homero Fuentes, Commission for the  
Verification of Corporate Codes of  
Conduct, GUATEMALA

Mario Rojas Vilchez, Labour Confederation  
Rerum Novarum, COSTA RICA

José Gómez, University of Panama, PANAMA

Rolando Figueroa, Non Traditional Products  
Exporters Association, GUATEMALA

4:30 p.m.-5:00 p.m.

**Closing Remarks**

# THE NATIONAL ACADEMIES

*Advisers to the Nation on Science, Engineering, and Medicine*

**The National Academy of Sciences  
Committee on Monitoring International Labor Standards**

**Forum on Monitoring International Labor Standards: Asia**

**March 5–6, 2003  
Colombo, Sri Lanka**

## AGENDA

**March 5, 2003**

9:15 a.m.-10:30 a.m.

### **Inaugural Session**

Basil Ilangakoon, Marga Institute, SRI LANKA  
Ram Thiagarajah, Consultant, Employment  
Relations and Labour Standards, Board of  
Investment, SRI LANKA

T.N. Srinivasan, Committee on Monitoring  
International Labor Standards,  
UNITED STATES

Werner Konrad Blenk, ILO South-East Asia  
and the Pacific Multidisciplinary Advisory  
Team, PHILIPPINES

10:30 a.m.-10:45 a.m.

### **Tea Break**

- 10:45 a.m.-12:45 p.m.    **Working Session I**  
Moderator: Mr. Franklyn Amerasinghe
- S.M. (Mo) Rajan, Committee on Monitoring  
International Labor Standards,  
UNITED STATES
- Brigadier General M. Mofizur Rahman,  
Bangladesh Export Processing Zones  
Authority, BANGLADESH
- Editha Rivera, Bureau of Labor and  
Employment Statistics, Department of  
Labor and Employment, PHILIPPINES
- Hans Leo Cacdac, Bureau of Labor Relations,  
Department of Labor and Employment,  
PHILIPPINES
- 12:45 p.m.-2:30 p.m.    **Lunch**
- 2:30 p.m.-3:30 p.m.    **Working Session II**  
Moderator: T.N. Srinivasan
- Alex Kaufman, Labor Standards Advisory  
Service, Kenan Institute Asia, THAILAND
- Ajay Singh Karki, RUGMARK Foundation,  
NEPAL
- 3:30 p.m.-3:45 p.m.    **Tea Break**
- 3:45 p.m.-5:00 p.m.    **Working Session II (cont.)**
- F.K. Siddiqui, Employers' Federation of  
Pakistan, PAKISTAN
- T. Damu, Indian Hotels Company, INDIA
- 5:00 p.m.    **Adjourn Day 1**

**March 6, 2003**

9:30 a.m.-10:45 a.m.

**Working Session III**

Moderator: S.M. (Mo) Rajan

Hon. Ashraf Qureshi, High Commissioner for  
Pakistan, SRI LANKA

Pranav Kumar, Consumer Unity and Trust  
Society, INDIA

Jenefa K. Jabbar, Bangladesh Garment  
Manufacturers and Exporters Association,  
BANGLADESH

Binod Bahadur Shrestha, Federation of  
Nepalese Chambers of Commerce and  
Industry, NEPAL

10:45 a.m.-11:00 a.m.

**Tea Break**

11:00 a.m.-12:00 noon

**Working Session IV**

Moderator: S.M. (Mo) Rajan

A.P. Wickremasinghe, Ministry of  
Employment and Labour, SRI LANKA

Zahoor Awan, All Pakistan Federation of  
Labour, PAKISTAN

Laxman Bahadur Basnet, Nepal Trade Union  
Congress, NEPAL

12:00 noon-1:30 p.m.

**Open Forum**

Moderator: Basil Ilankoon

1:30 p.m.-3:00 p.m.

**Lunch**

3:00 p.m.

**Adjourn**

# **THE NATIONAL ACADEMIES**

*Advisers to the Nation on Science, Engineering, and Medicine*

**The National Academy of Sciences  
Committee on Monitoring International Labor Standards**

**Forum on Monitoring International Labor Standards: Africa**

**March 19–20, 2003  
Pretoria, South Africa**

## **AGENDA**

**March 19, 2003**

9:00 a.m.-9:30 a.m.

**Welcome**

Kenneth Andoh, ILO Pretoria Office,  
SOUTH AFRICA  
S.M. (Mo) Rajan, Committee on Monitoring  
International Labor Standards,  
UNITED STATES

9:30 a.m.-11:00 a.m.

**Session I**

Moderator: S.M. (Mo) Rajan

Ullrich Flechsenhar, ILO Southern Africa  
Multidisciplinary Advisory Team, ZIMBABWE  
Jeffrey Wheeler, ILO, ZAMBIA  
Kelly Zidana, International Confederation of  
Free Trade Unions-Afro, KENYA

11:00 a.m.-11:15 a.m.

**Tea Break**

- 11:15 a.m.-12:45 p.m.     **Session II**  
Moderator: Thea Lee, Committee on  
Monitoring International Labor Standards,  
UNITED STATES
- Anne-Marie van Zyl, Department of Labour,  
SOUTH AFRICA (presentation given by  
Evanca Kalula)  
Momar N'Diaye, ILO Programme on  
Promoting the Declaration, SWITZERLAND
- 12:45 p.m.-2:00 p.m.     **Lunch**
- 2:00 p.m.-3:30 p.m.     **Session III**  
Moderator: Auret van Heerden, Committee  
on Monitoring International Labor Standards,  
UNITED STATES
- Andre van Niekerk, Business South Africa,  
SOUTH AFRICA  
Simon Boshielo, Congress of South African  
Trade Unions, SOUTH AFRICA  
Sifiso Dlamini, Federation of Swaziland  
Employers, SWAZILAND
- 3:30 p.m.-3:45 p.m.     **Tea Break**
- 3:45 p.m.-5:00 p.m.     **Session IV**  
Moderator: S.M. (Mo) Rajan
- Olukunle Iyanda, University of Botswana,  
BOTSWANA  
Charles Nupen, ILO Technical Advisor,  
SOUTH AFRICA
- 7:30 p.m.     **Dinner for Speakers and  
Invited Guests**



**March 20, 2003**

9:00 a.m.-11:00 a.m.

**Session IV**

Moderator: Thea Lee

Jabu Ngcobo, International Textile, Garment  
and Leather Workers' Federation,  
SOUTH AFRICA

Fisseha Tekie, Solidarity Center, SOUTH AFRICA

Jan Sithole, Swaziland Federation of Trade  
Unions, SWAZILAND

Sahra Ryklief, Labour Research Service,  
SOUTH AFRICA

Cunningham Ngcukana, National Council of  
Trade Unions, SOUTH AFRICA

11:00 a.m.-11:15 a.m.

**Tea Break**

11:15 a.m.-12:45 p.m.

**Session V**

Moderator: S.M. (Mo) Rajan

Colette Muller, University of Natal,  
SOUTH AFRICA

Edward Webster, University of the  
Witwatersrand, SOUTH AFRICA

Arne Groenningsaeter, Fafso South Africa,  
South Africa

12:45 p.m.-2:00 p.m.

**Lunch**

2:00 p.m.-3:15 p.m.

**Session VI**

Moderator: Auret van Heerden

V.P. Torul, University of Mauritius, MAURITIUS

Evanca Kalula, University of Cape Town,  
SOUTH AFRICA

3:15 p.m.-3:30 p.m.

**Tea Break**

3:30 p.m.-5:00 p.m.

**Session VII: OPEN FORUM**

Moderators: Thea Lee, Mo Rajan,  
Auret van Heerden

## APPENDIX

### B

# Committee on Monitoring International Labor Standards (2002–2003) and National Resource Council Staff

**THEODORE H. MORAN** (*Chair*), Marcus Wallenberg Chair, School of Foreign Service, Georgetown University, Washington, DC

**JARL BENGTTSSON**, Consultant, Organisation for Economic Co-operation and Development, Paris, France

**MARIA S. EITEL**, Vice President and Senior Advisor for Corporate Responsibility, Nike; President, Nike Foundation, Beaverton, OR

**KIMBERLY ANN ELLIOTT**, Research Fellow, Institute for International Economics, Washington, DC

**GARY FIELDS**, Chairman, Department of International and Comparative Labor, School of Industrial and Labor Relations, Cornell University, Ithaca, NY

**THEA LEE**, Public Policy Department, AFL-CIO, Washington, DC

**LISA M. LYNCH**, Academic Dean and Professor of International Economic Affairs, The Fletcher School of Law and Diplomacy, Tufts University, Medford, MA

**DARA O'ROURKE**, Assistant Professor of Environmental Policy, Department of Urban Studies and Planning, Massachusetts Institute of Technology, Cambridge, MA

**HOWARD PACK**, Professor of Business and Public Policy, The Wharton School of Business, University of Pennsylvania, Philadelphia, PA

**EDWARD POTTER**, International Labor Counsel, U.S. Council for International Business; Attorney-at-Law, McGuiness, Norris & Williams, LLP, Washington, DC

- S.M. (MO) RAJAN**, Former Director, Labor and Human Rights,  
Worldwide Government Affairs and Public Policy Department, Levi  
Strauss & Company, San Francisco, CA
- GARE A. SMITH**, Partner, Foley Hoag LLP, Attorneys at Law,  
Washington, DC
- T.N. SRINIVASAN**,\* Samuel C. Park, Jr. Professor of Economics,  
Department of Economics, Yale University, New Haven, CT
- AURET VAN HEERDEN**, Executive Director, Fair Labor Association,  
Washington, DC
- FAHRETTIN YAGCI**, Lead Economist, Africa Region, The World Bank,  
Washington, DC

*Division of Behavioral and Social Sciences and Education*

Nevzer Stacey, *Study Director*

Linda DePugh

Margaret Hilton

Crispin Rigby

John Shephard

Monica Ulewicz

*Division on Policy and Global Affairs*

Peter Henderson, *Deputy Study Director*

Elizabeth Briggs Huthnance

Stacey Kozlouski

George Reinhart

John Sislín

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\*T.N. Srinivasan resigned from the committee May 2003.