

MONITORING INTERNATIONAL LABOR STANDARDS

TECHNIQUES AND SOURCES OF INFORMATION

Executive Summary

Committee on Monitoring International Labor Standards

Center for Education
Division of Behavioral and Social Sciences and Education

and

Policy and Global Affairs Division

NATIONAL RESEARCH COUNCIL
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Preface

The past half century has witnessed growing attention to the treatment of workers around the world. The U.S. Department of Labor is committed to helping improve working conditions and ensuring compliance with international labor standards. The Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor has contracted with the National Academies to create a system to monitor international labor standards. The contract states:

The international labor standards that information will be collected on are those included in the 1998 ILO [International Labour Organization] Declaration of Fundamental Principles and Rights at Work, with the additional of “acceptable conditions of work.” These are: Freedom of Association and the Right to Collective Bargaining, Forced or Compulsory Labor, Child Labor, and Discrimination.

To carry out this contract, the National Research Council (NRC) of the National Academies convened the Committee on Monitoring International Labor Standards to provide expert advice on how best to assess compliance with international labor standards. The committee has prepared a report and the structure for a web-based database that identify indicators of compliance or noncompliance, providing a framework for carrying out the assessment.

To carry out its task, the committee commissioned papers, held workshops, convened domestic and international forums, and consulted with experts from international, governmental, and nongovernmental organiza-

tions. The report and the database system it proposes examine existing sources of information on country-level compliance with labor standards, discuss their strengths and weaknesses, and integrate them into a system to serve the needs of ILAB's day-to-day work. Further information about the committee's activities may be found on the committee's website at www.nas.edu/internationallabor.

The report is the result of the committee's discussions at the public workshops and its deliberations in closed meetings. Such work is inevitably collaborative and the committee is deeply indebted to and appreciative of the participation of attendees at the workshops and forums. We would like to thank International Labour Organization (ILO) staff for sharing their knowledge and expertise on these important issues with us.

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

We thank the following individuals for their participation in the review of this report: Jere Behrman, Population Studies Center, University of Pennsylvania; Leon Gordenker, Center of International Studies, Princeton University; Eivind Hoffmann, International Labor Organization, Geneva, Switzerland; Evance Kalula, Kramer Law School, University of Cape Town, South Africa; Phyllis Kritek, School of Nursing, Virginia Commonwealth University; Richard M. Locke, Sloan School of Management, Massachusetts Institute of Technology; Elliot J. Schrage, Columbia University School of Business and Council on Foreign Relations; Prakash Sethi, Zicklin School of Business, Baruch College; Rudra Sil, Department of Political Science, University of Pennsylvania; Robert M. Stern, Gerald Ford School of Public School, University of Michigan; and J. Edward Taylor, Department of Agricultural Economics, University of California at Davis.

Although the reviewers listed above have provided many constructive comments and suggestions, they were not asked to endorse the conclusions or recommendations nor did they see the final draft of the report before its release. The review of this report was overseen by Douglas S. Massey, Department of Sociology and Public Policy, Princeton University, and Samuel

H. Preston, School of Arts and Sciences, University of Pennsylvania. Appointed by the National Research Council, they were 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 content of this report rests entirely with the authoring committee and the institution.

We also thank Anne Zollner and Robert Bednarzik of ILAB for providing us with critical information that contributed to our understanding of relevant policies. Finally, we thank the staff for their hard work, and we particularly thank Crispin Rigby, Monica Ulewicz, and Margaret Hilton for their outstanding contribution to the study.

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Committee on Monitoring
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Executive Summary

From the beginning of the industrial revolution, there have been concerns about conditions and standards in the workplace. The adoption of the United Nation's Universal Declaration of Human Rights in 1948 and two International Labour Organization (ILO) conventions concerning freedom of association and collective bargaining in 1948 and 1949 gave recognition to the protection of basic human rights, including the rights of workers.

In the past decade, the appreciation of the importance of ensuring compliance with core labor standards around the world has risen dramatically. From the world summit for social development in Copenhagen in 1995, through the World Trade Organization's ministerial meeting in Singapore in 1996, to the ILO's Declaration on Fundamental Principles and Rights at Work in 1998, the endorsement of a need to ensure core rights for workers has gained strength.

The 1998 ILO Declaration defines four core labor standards:

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

U.S. trade law adds “acceptable conditions of work with respect to minimum wages, hours of work, occupational safety and health” to its definition of “internationally recognized” worker rights, despite the lack of an international consensus on what these are or how to define them globally.

Increased attention to the role of labor standards in a more integrated global economy has led to a growing demand for information on compliance with core labor standards. In response, traditional institutions and procedures have acquired new vigor, and innovative new processes have grown up along side the old. The ILO has shown fresh vitality in its efforts to promote observance of core labor standards. There has also been a burgeoning number of voluntary monitoring and reporting procedures in the private sector. The result has been a proliferation of sources for information and data on compliance with core labor standards.

What to make of this proliferation of sources is by no means clear. There are still large gaps in the information available, and the quality of much of the available data is unknown. Most of the data sources reflect conditions only in the formal sector and ignore what are often far worse conditions in rural areas and the informal sector of developing economies. Many sources also do not provide comparable information across time or across countries. Some of the sources—both quantitative and qualitative—are biased or not fully reliable for other reasons.

There are also problems in adapting this information to the job of assessing compliance. In some cases, precise definitions of specific elements of the core labor standards are lacking, making it difficult to create operational indicators so that an assessor can determine compliance or noncompliance. Some potential indicators require careful interpretation because they can equally well be taken to show compliance or lack of compliance. None shows a complete picture. Assessing compliance is a serious undertaking: it cannot be accomplished in a quick, easy, or haphazard way.

With this increasing attention to monitoring labor standards, there is a growing need for rigor in the assessment of compliance and whether conditions are improving or deteriorating. This assessment requires careful analysis of what the core labor standards mean and imply, how to determine when a country is or is not in compliance, what indicators of compliance and which sources of information to use, and limitations of the sources of information.

REPORT AND DATABASE

The result of the committee's work is in two parts: this report and a database structure. Together, they offer a first step toward the goal of providing an empirical foundation to monitor compliance with core labor standards. The report provides a comprehensive review of extant data sources, with emphasis on their relevance to defined labor standards, their utility to decision makers in charge of assessing or monitoring compliance, and the cautions necessary to understand and use the quantitative information. Given the overwhelming range and quantity of data—both quantitative and qualitative—the committee was not expected to evaluate the accuracy of each data point for hundreds of countries; rather, it was expected to provide a macrolevel assessment of the overall merits—and caveats—of including diverse sources of information.

Aligned closely with the descriptions and caveats of data contained in the report, the database structure provides a tool for systematic and informed assessment of compliance. Its intent is to enable users to focus on the complexities of compliance from multiple perspectives—by country, by labor standard, and by data source. The committee intends the database methodology and contents to provide improved empirical information for assessing compliance. Users of the database are cautioned against drawing inferences that are not necessarily supported by the data, given the caveats and threats to validity described in the report.

As specified in the request from the U.S. Department of Labor, the committee focused on “acceptable conditions of work” as well as on the four internationally recognized core labor standards. Also in response to the department's request, the committee considered the relationship between compliance with labor standards and human capital formation, which is an essential element in improving workers' standard of living over time.

The report and the database structure together respond to the committee's charge to identify relevant and useful sources of country-level data, assess the quality of such data, identify innovative measures to monitor compliance, explore the relationship between labor standards and human capital, and recommend reporting procedures to monitor compliance. With respect to “quality,” we could not and did not attempt to validate the accuracy of all the data that are or might become available for all the indicators for all countries. Rather, such quality assessment must be part of the ongoing monitoring process, and this report offers guidance for that task.

The characterization of this report as providing a first step is offered deliberately. Improvements will follow—must follow—immediately, from the day this report is issued, and continuing far into the future. Indeed, this report will prove successful to the extent it provokes debate; stimulates more intensive dialogue among workers, employers, governments, and civil society about workers' rights; and moves governments and international institutions to provide more resources for data collection and research to address the weaknesses identified in our report.

Indeed, much of this report is cautionary. Not only are the sources of information often problematic, but there are continuing controversies about the precise definitions of some elements of the core labor standards, and what specific obligations governmental authorities assume in trying to comply with the core labor standards as opposed to endorsing aspirations whose realization lies in the future. The disputes that surround acceptable conditions of work, for which no international consensus exists, are even more contentious.

How to operationalize compliance so that observers “know it when they see it” is certainly not straightforward. A central issue is how to separately judge a government's intention and its capability in compliance and what weight to give to resource constraints and alternative pressing needs for those resources in the evaluation of government effort and outcome. There are also many controversies associated with evaluating the somewhat idiosyncratic historical evolution of any country's experience with labor regulation, as well as with comparing that evolution with any other country's experience with labor regulation. Yet the committee believes that this report and database provide the first step towards improvement in the system of assessing and monitoring compliance with international labor standards.

The Database

The database structure is, in the first instance, a way of organizing and presenting all available information that is relevant to the core labor standards. It will enable assessors—all interested parties throughout the world—to have access to what information exists and to use that information as best suits their needs. The database structure is known as WebMILS and exists as a website. At this time, the database structure is populated with data for only one country; it is the committee's intention that the U.S.

Department of Labor will continually add to and update the information in it.

The database structure reflects four sets of indicators the committee developed for the four core labor standards and acceptable conditions of work: legal framework, government performance, and overall outcomes. The database also contains measures of human capital investment recognizing that the linkages between human capital and labor standards compliance are critical. The committee also included associated factors that might either provide contextual information or serve as useful signals that there may be problems with compliance. For each indicator, there are from 4 to 21 items. This report presents and discusses those indicators and measures. The design of WebMILS consists of a data cell for every combination of variable and political jurisdiction.

The database structure is designed to include all relevant information, along with comments on anything that is known about the data or their source (such as frequency or range of coverage). Thus, the database will provide a way for assessors to have access to all available data and information about those data. In this way, we have tried to devise a system that encourages dialogue among all parties and that stimulates a continuous flow of ideas about how the process of promoting and ensuring compliance can be improved.

We have tried to provide a roadmap for how to use the information that is available and for how to assess compliance with appropriate care and caution. That is, we have attempted to create a useful structure within which different assessors—who will make judgments about the extent of compliance and the direction of change—can undertake “due diligence,” with transparency for others to observe their evaluations, in the midst of imprecision and contention. Those assessors will include, among others, government officials, elected representatives, international organizations, socially responsible corporations and investors, board members, stockholders, labor organizations, and a wide range of nongovernmental organizations.

It is important to note that what the committee has devised is not an ideal, but a reflection of what is known and available as the report was being written. Ideally, quantitative data for inclusion in such a database should meet a number of criteria:

- The data were collected in a reliable census or survey and are not estimates that extrapolate from data collected in earlier surveys.
- Survey recipients in the survey sample are drawn from an actual

census, which permits issues of representation, selection bias, and nonresponse to be assessed and reported, which is important in judging the validity and reliability of data that emerge from the survey.

- The data are national in coverage. In some countries, labor data may be collected only for urban areas or only for limited industries. As a consequence, the data are usually biased because not all parts of the labor force are represented.
- Survey questions are consistent over time, in order to allow assessments of trends. Any necessary changes in data definitions, survey questions, or collection methods should be fully documented.

It was not possible, within the real-world constraints of time and resources, to take this ideal approach. The committee could not assess the quality of the various surveys or censuses that National Statistical Offices (NSOs) in different countries use to collect primary national data on wages, hours, and working conditions. Instead, the committee chose to draw on aggregate data sources to develop our set of compliance indicators. Most national-level data (including those related to acceptable conditions of work) are applicable only to a specific country, using a country-specific definition. The data may or may not be comparable within countries over time and they are often not comparable across countries. In developing the database structure, the committee envisions a strategy of including the information on the relevant variables provided by international agencies. Rather than excluding data that do not meet a strict set of quality criteria, it is important to document each indicator and record the drawbacks as fully as possible, allowing assessors to judge the quality for themselves.

To guide the performance of due diligence, and to help avert any potential rush to indefensible conclusions, the database structure provides direct links to the committee's cautions about definitions, information sources, and appropriate inferences along with access to data. These cautions also appear within the chapters of the report.

Compliance

There are both positive and negative aspects of compliance. The negative aspect focuses on the degree to which governments permit citizens to exercise these rights without interfering. The positive aspect focuses on whether governments provide a legal and administrative framework that ensures citizens are able to exercise these rights in practice.

The positive role of government, in turn, has reactive and proactive aspects. The reactive aspect deals with enforcement mechanisms and determining whether there are prompt and adequate penalties for violations. The proactive aspect emphasizes educating workers, employers, and government officials about the importance of labor rights and to the productivity gains and human satisfaction from successful worker-management relations, and it encourages the spread of best practices through a given economy and a given country. We endorse the provision of new resources to strengthen enforcement, to educate the participants, and to reward improved performance.

We recognize, at the same time, that improvement in the lives of workers, and in the treatment of workers, relies on many economic, political, and social factors besides the enforcement of labor standards. In particular, economic growth is essential to stimulate job creation and rising wages.

Taking into consideration the more detailed treatment of the above considerations in the body of the report, the committee has recommended against precise scoring or ranking of countries against each other. Instead, the U.S. Department of Labor—or other assessors—may find it helpful to use a matrix structure to organize the information provided in the database for each country and each standard. This framework has the advantage of allowing assessors to simultaneously analyze both current levels of compliance and the direction of change. The committee believes that it is particularly important to keep the dynamic element in mind when assessing the compliance of poorer developing countries with high levels of poverty and limited resources. In addition, the matrix framework discussed in Chapter 1 is designed to make explicit how alternative assessments differ in value weighting and empirical inference, and to bring greater transparency to a process that is currently opaque and arbitrary.

RECOMMENDATIONS

Our most ardent hope is that this report and WebMILS will soon be overtaken and surpassed by yet more detailed efforts that try to achieve the common objective of advancing observance of core labor standards for workers around the world. To assist in this process, the committee offers 5 general recommendations and 11 specific recommendations:

General

1-1 The committee recommends that the U.S. Department of Labor improve, maintain, and update the committee's website database.

1-2 The committee recommends that this improved website database be publicly accessible with a mechanism that allows public comment.

1-3 The committee recommends that the U.S. Department of Labor, working with other federal agencies and international institutions, support programs designed to strengthen reporting and information through capacity building in particular countries.

1-4 The committee recommends that the U.S. Department of State and the U.S. Department of Labor devote higher priority to monitoring labor standards, to developing greater expertise in this area, and to improving coordination between the two departments.

1-5 The committee recommends that the U.S. government, using agencies such as the National Science Foundation, fund research and development on methodologies for monitoring labor standards.

Information from Nongovernmental Labor Monitoring Systems

3-1 The committee recommends that nongovernmental monitoring organizations—including internal corporate systems and external systems operated by NGOs or other organizations—work together to develop transparent methodologies and measures of performance that allow comparison.

3-2 The committee recommends that external monitoring organizations make their data, auditing methods, and findings public.

Freedom of Association and the Right to Collective Bargaining

4-1 The committee recommends that the U.S. Department of Labor, and the ILO, support systematic data collection by providing technical assistance to developing country governments to add questions to household surveys relating to freedom of association and effective recognition of the right to bargain collectively.

4-2 The committee recommends that all the principal reporting bodies in the U.S. government, particularly the U.S. Department of Labor and the U.S. Department of State, gather data related to the full list of indicators of freedom of association and the right to collective bargaining identified in this report and database system.

Forced or Compulsory Labor

5-1 The committee recommends that systematic in-depth national studies of the kind that the ILO has conducted with respect to child labor be conducted on forced labor by the ILO, with support by the U.S. government, as a priority, taking into account a variety of labor market factors that bear on the economic environment in which forced labor takes place.

Child Labor

6-1 The committee recommends that national and international agencies cooperate in creating a system of data generation focused primarily on child labor, such as the ILO's SIMPOC surveys.

6-2 The committee recommends that research be done on the scalability and cost-effectiveness of successful pilot programs (e.g., RUGMARK Foundation in Nepal, the Bangladesh Garment Manufacturers and Exporters Association, and PROGRESA in Mexico) that have removed children from work, rehabilitating and educating them and involving their parents.

Discrimination

7-1 The committee recommends that national and international agencies cooperate in either modifying household surveys or creating a new system of data generation that better captures informal sector or household work that women do and that current methods often miss.

7-2 The committee recommends that the ILO, with support from the U.S. Department of Labor, assist national statistical agencies in gathering labor market information on ethnic, religious, migrant worker, or other groups that may be vulnerable to discrimination and post that information, along with other labor market information, on a public website.

Acceptable Conditions of Work

8-1 The committee recommends, based on its development of indicators for the database, that the U.S. government develop and use a common definition of acceptable conditions of work. At a minimum, this definition should identify a nation's working conditions as fulfilling the "acceptable conditions of work" clause in U.S. trade law if that nation has:

- a mechanism to establish minimum wages;
- a regular workweek of 48 hours or less;
- a specific number of paid holidays each year for covered workers;
- provision that all workers receive a full day of rest every 7 days; and
- a mechanism for setting health and safety standards.

Human Capital and International Labor Standards Compliance

9-1 The committee recommends research at the micro and macro levels to explore the mutually reinforcing links between the investments in education and training and labor standards compliance.