



Monitoring International Labor Standards: Quality of Information, Summary of a Workshop

Margaret Hilton, Editor, National Research Council

ISBN: 0-309-50794-4, 98 pages, 6 x 9, (2003)

This free PDF was downloaded from:

<http://www.nap.edu/catalog/10660.html>

Visit the [National Academies Press](#) online, the authoritative source for all books from the [National Academy of Sciences](#), the [National Academy of Engineering](#), the [Institute of Medicine](#), and the [National Research Council](#):

- Download hundreds of free books in PDF
- Read thousands of books online for free
- Purchase printed books and PDF files
- Explore our innovative research tools – try the [Research Dashboard](#) now
- [Sign up](#) to be notified when new books are published

Thank you for downloading this free PDF. If you have comments, questions or want more information about the books published by the National Academies Press, you may contact our customer service department toll-free at 888-624-8373, [visit us online](#), or send an email to comments@nap.edu.

This book plus thousands more are available at www.nap.edu.

Copyright © National Academy of Sciences. All rights reserved.

Unless otherwise indicated, all materials in this PDF file are copyrighted by the National Academy of Sciences. Distribution or copying is strictly prohibited without permission of the National Academies Press [<http://www.nap.edu/permissions/>](http://www.nap.edu/permissions/). Permission is granted for this material to be posted on a secure password-protected Web site. The content may not be posted on a public Web site.

MONITORING INTERNATIONAL LABOR STANDARDS

QUALITY OF INFORMATION

Summary of a Workshop

Margaret Hilton, Editor

Division of Behavioral and Social Sciences and Education

Policy and Global Affairs Division

NATIONAL RESEARCH COUNCIL
OF THE NATIONAL ACADEMIES

THE NATIONAL ACADEMIES PRESS
Washington, DC
www.nap.edu

THE NATIONAL ACADEMIES PRESS • 500 Fifth Street, NW • Washington, DC 20001

NOTICE: The project that is the subject of this report was approved by the Governing Board of the National Research Council, whose members are drawn from the councils of the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. The members of the committee responsible for the report were chosen for their special competences and with regard for appropriate balance.

This study was supported by Contract/Grant No. DOL-4653 between the National Academy of Sciences and U.S. Department of Labor. Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the U.S. Department of Labor.

International Standard Book Number 0-309-08858-5 (book)

International Standard Book Number 0-309-50794-4 (PDF)

Additional copies of this report are available from the National Academies Press, 500 Fifth Street, N.W., Lockbox 285, Washington, DC 20055; (800) 624-6242 or (202) 334-3313 (in the Washington metropolitan area); Internet, <http://www.nap.edu>

Printed in the United States of America.

Copyright 2003 by the National Academy of Sciences. All rights reserved.

Cover photo credits: The four cover photos are courtesy of the International Labour Organization, with individual credit as follows: upper left corner, P. DeLoche; upper right corner, A. Khemka; the two remaining photos—left mid-page and bottom left, J. Maillard.

Suggested citation: National Research Council. (2003). *Monitoring International Labor Standards: Quality of Information, Summary of a Workshop*. Margaret Hilton, editor. Division of Behavioral and Social Sciences and Education and Policy and Global Affairs Division. Washington, DC: The National Academies Press.

THE NATIONAL ACADEMIES

Advisers to the Nation on Science, Engineering, and Medicine

The **National Academy of Sciences** is a private, nonprofit, self-perpetuating society of distinguished scholars engaged in scientific and engineering research, dedicated to the furtherance of science and technology and to their use for the general welfare. Upon the authority of the charter granted to it by the Congress in 1863, the Academy has a mandate that requires it to advise the federal government on scientific and technical matters. Dr. Bruce M. Alberts is president of the National Academy of Sciences.

The **National Academy of Engineering** was established in 1964, under the charter of the National Academy of Sciences, as a parallel organization of outstanding engineers. It is autonomous in its administration and in the selection of its members, sharing with the National Academy of Sciences the responsibility for advising the federal government. The National Academy of Engineering also sponsors engineering programs aimed at meeting national needs, encourages education and research, and recognizes the superior achievements of engineers. Dr. Wm. A. Wulf is president of the National Academy of Engineering.

The **Institute of Medicine** was established in 1970 by the National Academy of Sciences to secure the services of eminent members of appropriate professions in the examination of policy matters pertaining to the health of the public. The Institute acts under the responsibility given to the National Academy of Sciences by its congressional charter to be an adviser to the federal government and, upon its own initiative, to identify issues of medical care, research, and education. Dr. Harvey V. Fineberg is president of the Institute of Medicine.

The **National Research Council** was organized by the National Academy of Sciences in 1916 to associate the broad community of science and technology with the Academy's purposes of furthering knowledge and advising the federal government. Functioning in accordance with general policies determined by the Academy, the Council has become the principal operating agency of both the National Academy of Sciences and the National Academy of Engineering in providing services to the government, the public, and the scientific and engineering communities. The Council is administered jointly by both Academies and the Institute of Medicine. Dr. Bruce M. Alberts and Dr. Wm. A. Wulf are chair and vice chair, respectively, of the National Research Council

www.national-academies.org

Acknowledgments

This workshop 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.

We thank the following individuals for their review of this report: Ronald G. Ehrenberg, Higher Education Research Institute, Cornell University; Gregory F. Maggio, Overseas Private Investment Corporation; Michael J. Piore, Massachusetts Institute of Technology; and Anil Verma, Centre for Industrial Relations, University of Toronto.

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 content of this report rests entirely with the author and the institution.

Contents

1	Introduction	1
2	Challenges in Measuring Labor Market Conditions Across Countries	8
3	Assessing Compliance with Freedom of Association Standards	17
4	Information and Indicators of Forced Labor	30
5	Information and Indicators of Discrimination	37
6	Measuring Child Labor	46
7	Nongovernmental Labor Regulation and Information Disclosure	54
	References	65
	List of Acronyms	69

Appendixes

A	Workshop Speaker Biosketches	71
B	Audience List	79
C	The Committee on Monitoring International Labor Standards	83
D	The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work	85

1

Introduction

Over the past half century, the international flow of goods, services, and capital has grown rapidly. Globalization creates new economic, cultural, and social opportunities, but also poses the challenge of ensuring that workers throughout the world share in these opportunities. Responding to this challenge, the U.S. Government carries out a variety of policies and programs aimed at encouraging greater recognition of worker rights around the globe.¹ The U.S. Department of State monitors worker rights abroad and reports on the status of those rights as part of its annual report to Congress in the *Country Reports on Human Rights Practices*. Building on this history of monitoring and encouraging worker rights around the world, the Trade Act of 2002 includes on the list of overall trade negotiating objectives of the United States, “promote respect for worker rights.”²

¹For example, U.S. laws governing the Generalized System of Preferences (GSP) and the Overseas Private Investment Corporation (OPIC) include provisions promoting worker rights. The GSP program is designed to boost the economies of some of the least developed nations by providing preferential, duty-free entry for more than 4,650 products from approximately 140 designated countries and territories. OPIC, a government agency, issues political risk insurance and loans to help U.S. businesses invest and compete in emerging markets and developing nations. By law, countries or companies that fail to provide workers with internationally recognized worker rights may be ineligible for GSP and/or OPIC benefits. More information on the GSP and OPIC programs can be found at <www.ustr.gov/gsp/general.shtml> and <www.opic.gov>[1/27/2003].

²H.R. 3009, the Trade Act of 2002, Subtitle B, Section 2102.

Carrying out this commitment to worker rights requires an understanding of labor conditions and country-level compliance with international labor standards. The DOL has contracted with the NRC of the National Academies to enhance its understanding of these issues. (A list of acronyms used throughout this workshop summary can be found on page 69.)

THE NATIONAL ACADEMIES PROJECT

The NRC has convened the Committee on Monitoring International Labor Standards to provide expert, science-based advice on monitoring compliance with international labor standards. The committee has undertaken 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 the DOL's Bureau of International Labor Affairs;
- 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 NRC will examine compliance with the international labor standards in the ILO's 1998 Declaration on Fundamental Principles and Rights at work (see Appendix D), and also *acceptable conditions of work*, as defined in U.S. trade law.

Workshop on Quality of Information

The committee is charged with assembling data on international labor standards and compliance and organizing these data into an easily acces-

sible, web-based format for use by the DOL. As one step in this process, the committee held a workshop in July 2002 to assess the quality of information and measures of progress towards compliance with international labor standards.

This document summarizes the workshop. Reflecting the workshop agenda, this report focuses primarily on the availability and quality of information to measure compliance with four core international labor standards that were identified in 1998 by the ILO. The 1998 Declaration of Fundamental Principles and Rights at Work called on the member nations of the ILO to promote the following four core principles (see Appendix D):

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.

Before the workshop, experts wrote papers on information and indicators related to each of these four labor standards, as well as papers on general labor market data and information available from voluntary monitoring and reporting. In workshop sessions organized around these six topics, the experts presented their papers, which are available at the project website (<http://www7.nationalacademies.org/internationallabor/>).

The goal of this workshop summary is to communicate the key ideas and themes that emerged from the workshop presentations and discussions. Because current research on international labor standards and compliance is exploratory in nature, those discussions did not lead to definitive conclusions and policy recommendations. However, we hope that this summary will contribute to the ongoing public debate and discussions about monitoring and reporting on labor rights.

Although members of the Committee on Monitoring International Labor Standards identified speakers and developed the agenda of the workshop, they did not participate in writing this summary. This summary does not contain any deliberations, conclusions, or recommendations of the committee.

WORKSHOP AGENDA

In July, 2002, the National Academies' Committee on Monitoring International Labor Standards held a workshop on information quality and measures of progress towards compliance with international labor standards. The agenda of the two-day workshop follows:

WEDNESDAY, JULY 10, 2002

- 8:00 a.m. *Continental Breakfast*
- 8:30 a.m. Opening Remarks: **Theodore Moran**, Chair, Committee on Monitoring International Labor Standards, and Professor, Georgetown University School of Foreign Service
- 8:45 a.m. **Building a Database of Labor Market Indicators Across Countries**
- Moderator: **Howard Pack**, Professor, The Wharton School, University of Pennsylvania
- Presentation: **Martín Rama**, Lead Economist, Development Research Group, The World Bank, and **Raquel Artecona**, United Nations Economic Commission for Latin America and the Caribbean, "A Database of Labor Market Indicators across Countries"
- 9:20 a.m. Discussant: **T.N. Srinivasan**, Professor, Yale University
- 9:35 a.m. Questions from the Committee and the Audience
- 10:15 a.m. *Break*
- 10:30 a.m. *Information and Measures of Progress, Session 1: Freedom of Association and the Right to Collective Bargaining*
- Moderator: **Theodore Moran**
- Presentation: **Anthony Giles**, Research Director, Commission for Labor Cooperation, presenting a paper by **Lance Compa**, Cornell University, "Data and Indicators to Measure Progress Toward Implementing Freedom of Association and the Right to Collective Bargaining"

-
- 11:05 a.m. Discussant: **Sandra Polaski**, The Carnegie Endowment for International Peace
- 11:20 a.m. Presentation: **Dwight Justice**, International Confederation of Free Trade Unions
- 11:50 a.m. Questions from the Committee and the Audience
- 12:30 p.m. *Lunch*
- 1:30 p.m. *Information and Measures, Session 2: **The Elimination of All Forms of Forced or Compulsory Labor***
- Moderator: **Heather White**, Executive Director, Verité
- Presentation: **Kevin Bales**, Director, Free the Slaves, and Professor, University of Surrey Roehampton, London, "Information and Measures of Forced Labor"
- 2:05 p.m. Discussant: **Ann Jordan**, Director, Initiative Against Trafficking in Persons, International Human Rights Law Group
- 2:20 p.m. Questions from the Committee and the Audience
- 3:00 p.m. *Break*
- 3:15 p.m. *Information and Measures, Session 3: **The Elimination of Discrimination in Respect of Employment and Occupation***
- Moderator: **Kimberly Ann Elliott**, Research Fellow, Institute for International Economics
- Presentation: **Constance Thomas**, Section Chief, Equality and Employment Branch, International Labour Office, "Information and Measures of Progress towards the Elimination of Discrimination"
- 3:50 p.m. Discussant: **Bama Athreya**, Deputy Director, International Labor Rights Fund
- 4:05 p.m. Questions from the Committee and the Audience
- 4:45 p.m. *Adjourn Day 1*

continued

THURSDAY, JULY 11, 2002

- 8:00 a.m. *Continental Breakfast*
- 8:30 a.m. *Information and Measures of Progress, Session 4: **The Effective Abolition of Child Labor***
- Moderator: **Thea Lee**, Assistant Director, Public Policy Department, AFL-CIO
- Presentation: **Amy Ritualo**, Data Analyst, International Labour Office, "Measuring Child Labor"
- 9:05 a.m. Discussant: **Harry Patrinos**, The World Bank
- 9:20 a.m. Questions from the Committee and the Audience
- 9:50 a.m. *Break*
- 10:00 a.m. **Voluntary Labor Monitoring and Reporting**
- Moderator: **Edward E. Potter**, International Labor Counsel, U.S. Council for International Business
- Presentation: **Dara O'Rourke**, Assistant Professor, Massachusetts Institute of Technology, "Voluntary Labor Regulation: Information from Non-Governmental Labor Monitoring Systems"
- 10:35 a.m. Discussant: **Dusty Kidd**, Vice President for Compliance, Nike, Inc.
- 10:45 a.m. Discussant: **David Roe**, Lawyers Committee for Human Rights
- 10:55 a.m. Discussant: **Alice Tepper Marlin**, President, Social Accountability International
- 11:05 a.m. Questions from the Committee and the Audience
- 11:30 a.m. *Plenary Discussion:*
- What criteria might the committee use in assessing data and information on labor rights and labor conditions around the world?

-
- What benchmarks or indicators might the committee use for measuring countries' progress toward implementation of the fundamental rights and principles at work?

12:05 p.m. Concluding Remarks: **Theodore Moran**

12:15 p.m. *Lunch and Adjourn*

2

Challenges in Measuring Labor Market Conditions Across Countries

PRESENTATION

Economists Martín Rama and Raquel Artecona clearly highlighted the difficulty they encountered in obtaining, evaluating, and organizing accurate, timely information on labor markets around the world. Summarizing their paper (Rama and Artecona, 2002), they noted that people hold strong views on the effects of globalization and the impacts of labor market regulations, but these views are generally based on limited evidence. Some data are available (from censuses, household surveys, etc.), they said, but these data are plagued with problems. Rama and Artecona's goal was to gather existing data for developing countries, analyze it, select what was internationally comparable, and make it available to researchers in a ready-to-use format.

Rama presented their results—a database of labor market information on 121 countries, classified into seven broad groups.¹ The database includes information on most “larger” countries, as well as countries with relatively good data and those with which Rama and Artecona were personally familiar. Because the boundaries of many nations have changed over

¹The seven groups include the industrial or developed countries and six geographic regions defined by The World Bank: Sub-Saharan Africa; East Asia and the Pacific Islands; Eastern Europe and Central Asia; Latin America and the Caribbean; the Middle East and North Africa; and the South Asian region.

the past 50 years, the data were selected, and adjusted, to reflect national boundaries in 1999. Labor market information was averaged for 11 five-year time periods, from 1945–1949 to 1995–1999.

Describing the database variables, Artecona said that they sought to include information on labor market outcomes, as well as to “provide, hopefully, some light on the debate about [whether] labor market interventions are good or bad.” The variables included 44 indicators in seven broad groups: (1) labor force; (2) employment and unemployment; (3) wages and productivity; (4) conditions of work and benefits; (5) trade unions and collective bargaining; (6) public sector employment; and (7) labor standards (see Table 2-1). Artecona said that when they were selecting indicators, they chose those with clear definitions. The database does not include information on the share of the informal sector in the total labor force because there was no clear definition of what constitutes informal employment. Artecona said they drew on a wide variety of cross-country and country-specific sources, including unpublished statistical information gathered during their research for the World Bank.

Confronted with many different, and sometimes conflicting, data sources, Artecona and Rama considered three alternative strategies:

1. to document every break, discrepancy, and change in definition;
2. to recalibrate the data in order to make it fully consistent; or
3. to exercise judgment in selecting data that appear comparable and to report these data without comments.

Artecona argued that the first strategy is self-defeating because no one uses labor market data that are extensively documented to conduct research. The second strategy is not practical, she said, except for a few indicators, such as wages. This left the third strategy. Carrying out this strategy, Artecona and Rama first constructed a raw database, with all relevant labor market information from all sources. Second, they organized the data into 121 country files, including those variables from the “raw” database that were related to the 44 labor market indicators. When sources conflicted, they selected the “better” source, based on what they stated was their expert knowledge of countries and data sources. They also dropped variables, observations, and sources that were clearly out of line with other sources. Finally, they summarized the information in each country file in the form of five-year period averages, from 1945–1949 to 1995–1999.

Rama noted that, although he and Artecona were still adding to the

TABLE 2-1 Variables in the Database of Labor Market Indicators
Across Countries

1. Labor force

LFTALL	Total labor force, in thousands of persons.
LFTAGR	Labor force in agriculture, in thousands of persons.
LFTIND	Labor force in manufacturing, in thousands of persons.
LFRALL	Labor force participation rate, in percentage of the population aged 15 to 64.
LFRMLE	Male participation rate, in percentage of the male population aged 15 to 64.
LFRFEM	Female participation rate, in percentage of the female population aged 15 to 64.

2. Employment and unemployment

EMTALL	Total employment, in thousands of persons.
EMTIND	Employment in manufacturing activities, in thousands of persons.
UNRALL	Total unemployment, in percent of the labor force.
UNRMLE	Male unemployment, in percent of male labor force.
UNRFEM	Female unemployment, in percent of female labor force.
UNTFST	Unemployed seeking their first job, in thousands of persons.
HRSWRK	Hours of work per week, in nonagricultural activities.

3. Wages and productivity

WGEAGR	Wage per worker in agriculture, in current U.S. dollars per year.
WGEIND	Labor cost per worker in manufacturing, in current U.S. dollars per year.
PRDIND	Value added per worker in manufacturing, in current U.S. dollars per year.
WGEGOV	Wage of government employees, in current U.S. dollars per year.
WGEMIN	Minimum wage, in current U.S. dollars per year.

4. Conditions of work and benefits

MATLVE	Duration of maternity leave, in equivalent days with 100 percent earnings.
ANNLVE	Minimum annual leave with pay after one year of work, in working days.
ACCDNT	Number of workers injured at work, in thousands of persons per year.
SSTYPE	Mandatory coverage of the statutory pension scheme.
SSCONT	Social security contributions by employer and employee, in percent of salaries.
SSCVGE	Active contributors to old-age pension schemes, in percent of the labor force.

SSREVN	Social security contributions by employers and workers, in percent of GDP.
UNBRPL	Initial unemployment benefit, in percent of earnings before job loss.
UNBDUR	Maximum duration of continuous unemployment benefits.
SVCPAY	Mandatory severance pay after three years of employment, in months of salary.

5. Trade unions and collective bargaining

TUMMBR	Total trade union membership, in percent of the total labor force.
TUCVGE	Coverage of collective bargaining agreements, in percent of salaried workers.
STKNBR	Number of strikes and lockouts per year.
STKWKR	Annual number of workers involved in strikes and lockouts, in thousands.
STKHRS	Annual work-days lost to strikes and lockouts, in thousands.

6. Public sector employment

EMPCGT	Employment in the central government, in thousands of persons.
EMPGGT	Employment in the general government, in thousands of persons.
EMPPSR	Employment in the public sector, in thousands of persons.

7. Labor standards

ILOCNV	Cumulative number of ILO conventions ratified by the country.
CHDLDB	Ratification of ILO Convention 138, on child labor.
FORCLB	Ratification of ILO Convention 29, on forced or compulsory labor.
ABOLFL	Ratification of ILO Convention 105, on the abolition of forced labor.
EQLREM	Ratification of ILO Convention 100, on equal remuneration.
DISCRM	Ratification of ILO Convention 111, on discrimination.
ORGNZE	Ratification of ILO Convention 87, on the right to organize.
BRGAIN	Ratification of ILO Convention 98, on the right to bargain collectively.

database, it already had very good coverage for indicators on labor force, employment, and labor standards (see Table 2-2). For example, it included more than 700 observations for employment in agriculture and industry and labor force participation rates. On the other hand, coverage was weaker for indicators on trade union activities and conditions of work. For example, Rama said that one variable for which it was difficult to find data was severance pay after two years of uninterrupted private employment. Across world regions, the database provided good coverage for Latin America and South Asia, but “much worse” coverage of labor market information for Sub-Saharan Africa, the Middle East, and North Africa. Using

TABLE 2-2 Coverage by Variable and Region in the Draft Database of Labor Market Indicators Across Countries (as of July 2002)

Region	Countries	LFTALL	LFTAGR	LFTIND	LFRALL	LFRMLE
AFR	23	212	164	162	140	140
EAP	12	114	77	74	74	65
ECA	18	99	74	59	105	105
INL	23	223	175	153	153	138
LAC	21	196	147	144	126	126
MNA	19	174	131	126	102	102
SAS	5	49	35	35	30	31
ALL	121	1067	803	753	730	707
		UNTFST	HRSWRK	WGEAGR	WGEIND	PRDIND
AFR	23	10	17	15	97	87
EAP	12	13	26	13	71	59
ECA	18	13	25	51	66	34
INL	23	48	91	16	150	155
LAC	21	33	38	15	119	118
MNA	19	13	7	7	84	83
SAS	5	3	8	26	27	28
ALL	121	133	212	143	614	564
		SSCONT	SSCVGE	SSREVN	UNBRPL	UNBDUR
AFR	23	38	24	34	4	4
EAP	12	27	19	17	4	8
ECA	18	24	14	37	13	17
INL	23	46	9	107	49	56
LAC	21	56	58	81	8	20
MNA	19	43	23	25	7	14
SAS	5	9	8	0	1	1
ALL	121	243	155	301	86	120
		EMPGGT	EMPPSR	ILOCNV	CHLDLB	FORCLB
AFR	23	41	24	105	253	253
EAP	12	27	15	85	126	126
ECA	18	19	25	98	178	159
INL	23	42	26	252	253	253
LAC	21	35	17	150	231	231
MNA	19	26	17	106	208	208
SAS	5	10	8	46	55	55
ALL	121	200	132	842	1304	1285

LFRFEM	EMTALL	EMTIND	UNRALL	UNRMLE	UNRFEM
140	15	31	16	5	5
74	51	59	55	31	31
105	59	58	28	16	16
138	187	183	155	193	157
126	53	56	78	61	61
105	36	21	31	14	14
30	21	18	25	18	18
718	422	426	388	338	302
WGEGOV	WGEMIN	MATLVE	ANNLVE	ACCDNT	SSTYPE
37	41	52	28	30	34
22	26	22	10	35	19
20	33	32	14	21	18
33	102	69	43	56	46
25	64	75	29	50	42
17	30	37	18	23	29
13	5	14	9	6	8
167	301	301	151	221	196
SVCPAY	TUMMBR	TUCVGE	STKNBR	STKWVK	STKHRS
13	67	7	30	28	30
3	56	5	40	33	31
3	43	4	18	17	18
0	181	50	63	66	88
12	75	10	46	46	39
17	42	0	11	11	11
22	23	0	27	27	27
70	487	76	235	228	244
ABOLFL	EQLREM	DISCRM	ORGNZE	BRGAIN	
253	253	253	253	253	
126	126	126	126	126	
178	160	160	178	178	
253	253	253	253	253	
231	231	231	231	231	
208	208	208	208	208	
55	55	55	55	55	
1304	1286	1286	1304	1304	

Chile as an example, Rama explained how a country file is organized in the final database. Although analysis and comparison of variables in the larger “raw database” sometimes led easily to selection of the best source, this was not always the case. Fortunately, in Chile a study already existed in which researchers had tried to reconcile the figures. This study provided the information Rama and Artecona needed to select the best estimate of unemployment to include in the Chile country file in the final database.

In conclusion, Rama noted that “only their use” will tell whether the data included in the database are helpful for research, and he added, “We want to report some encouraging results.” He cited several published and completed studies (Forteza and Rama, 2001; Rodrik, 1999; Freeman, 1994) that have drawn on preliminary versions of the data and have yielded meaningful results. Rama said his research with Forteza indicates that countries with relatively rigid labor markets adjust more slowly to economic reforms than those with more flexible labor markets. However, he said, “We found it is not minimum wages and mandatory benefits” that cause these rigidities, but rather the size of organized labor, which represents those who stand to lose as a result of economic reforms.

DISCUSSION

Responding to Rama and Artecona’s presentation, Yale economist T.N. Srinivasan commended “their valiant effort in putting together a data set.” However, he was not persuaded that the database would allow researchers to analyze the interaction between labor market policies and institutions on the one hand and economic growth, poverty, and inequality on the other hand. He was not convinced that the database would allow evaluation of the relationship between labor market conditions and openness to trade and foreign direct investment.

Srinivasan said he was glad that Rama and Artecona’s data set has not yet fallen into the hands of cross-country regression analysts. He was unenthusiastic about such regressions because they are based on a common regression of data of varying quality from disparate economies. Therefore, he said, it would be inappropriate to make inferences about growth from such regressions unless they allow for both measurement errors and biases in some of the explanatory variables and for the possibility that there might be a two-way relationship between growth and some of the explanatory variables. For example, higher educational attainment of the labor force might lead to faster economic growth, while faster growth would enable the soci-

ety to provide more education to its workers. Although in principle these econometric issues could be addressed, in practice it is either not possible to do so (for example, appropriate instruments are not available), or it is simply not done.

Although he acknowledged that most countries have population censuses and household surveys, Srinivasan disagreed with the authors' claim that they were able to derive employment and unemployment data from these sources. In India, he said, the census definition of "worker" has changed over time. It is difficult to adjust for such changes and for undercounts. As for data from establishment surveys, Srinivasan said it is "not a simple exercise" to put together a sample frame for drawing random samples. He said that economic censuses for the developing countries with which he is familiar do not survey all establishments and do not "provide a sensible base from which to put together a sample frame."

Srinivasan also noted problems with the approach of selecting the best source for each labor market variable in the database. First, for some countries, only one source may be available; by definition that source is the best, regardless of its accuracy. Second, choosing the best source "creates a selection bias" because more developed countries are likely to have more sources of data and data of better quality. As a result, selecting the best sources may affect in a nonrandom way the number of cells filled in the final data set. Srinivasan highlighted another problem: The data set does not include the informal sector, which accounts for the major share of employment in many developing countries. Without the informal sector, he said, "the data set is . . . not representative of the labor market conditions in developing countries."

Srinivasan also said that the strategy of not providing complete documentation of breaks, discrepancies, and changes of definition in the data was inappropriate. Economists who ignore problems such as changes in definition and breaks in the data "are not interested in the data, they are interested in an observation to throw into the regression." Their deplorable practice should not be the reason for excluding footnotes and documentation and expecting other serious users to rely only on Rama and Artecona's expert judgments. Srinivasan said it would be better to "hang it all out there and let the user decide what is appropriate."

Responding to Srinivasan's comments, Rama explained why he and Artecona chose the approach they used. First, he said, he agreed with Srinivasan's criticisms of cross-country regressions, and he said the database was not created to encourage economists to conduct more of these studies. Second, he agreed with Srinivasan that there are many problems with mea-

surement error. However, he and Artecona found that the bias introduced as a result of measurement error in the data selected for each variable was not so large that the user would learn nothing from the variable. In addition, he said, there are so many different sources of measurement error, in so many different directions, that “our sense is that it can be treated as random error.” Although the database does not provide an indicator of the relative shares of employment in the formal and informal sectors for each country, Rama noted that some of the variables in the database do provide information on informal employment, such as labor force levels, labor force participation rates, unemployment rates, and work hours. In addition, one of the variables—the average wage of casual agricultural workers—refers exclusively to the informal sector.

In further discussion, a committee member noted that the committee is charged with creating “an ongoing, living database.” He asked Rama what resources would be required to respond to the comments offered and to continue compiling and updating the database. Rama replied that a small team of experts could visit countries and arrange systematic meetings with labor lawyers, statistical officers, and others to identify and obtain the most accurate data sources. He suggested it might be appropriate to begin by visiting a core of about 30 countries. Another committee member described Rama’s response as “enormously optimistic,” because “a huge commitment of resources is usually necessary” to obtain reliable labor market data over time for just one country. Even an expert on a particular country may take a long time to fully understand such complex issues as the role of labor unions in that country’s economic growth. Developing an understanding of these complex issues internationally, in many different countries around the world, is “exceptionally difficult,” requiring much more time, funding, and expertise, he argued.

3

Assessing Compliance with Freedom of Association Standards

PRESENTATION

Anthony Giles, Research Director of the Secretariat of the CLC—created as part of the NAFTA—presented a paper written by Cornell University lecturer Lance Compa (Compa, 2002). Giles said he would begin by defining freedom of association and then talk about measuring freedom of association, emphasizing “the crucial difference between indirect measures and direct measures.” He would summarize Compa’s “thorough review of existing reporting mechanisms and sources of information” and then conclude with some suggestions for further research.

Defining Freedom of Association

Freedom of association, as defined by Compa, includes four components:

1. freedom of association in general (including the freedom of workers to form and join any kind of association);
2. the right to organize unions;
3. the right to engage in collective bargaining; and
4. the right to strike.

Giles explained that each of these four rights has both a “negative” and a “positive” face (Donnelly, 1995; Steiner and Alston, 1996). As *negative*

rights, they require that the state and its agents not interfere with workers who choose to exercise them. In other words, state authorities shouldn't do anything that prohibits or even dissuades workers from forming or joining independent organizations of their choosing, from seeking to negotiate their terms and conditions of employment with their employers through those organizations, or from withdrawing their labor as a means of putting pressure on employers.

But, Giles said, even if a state refrains from intervening, this will not ensure that workers will genuinely enjoy these rights because employers and business associations may try to prevent workers from organizing, bargaining, or striking. In a free market society, he said, "It's usually the case that employers will seek to do precisely this." Therefore, the rights have to be *positive*, that is, the state must protect workers who wish to exercise their right to organize, bargain, and strike.

Giles said that this definition of freedom of association suggests two criteria for evaluating the quality of data and indicators used to assess compliance:

1. The four key components must be covered—the right to associate, to organize unions, to engage in collective bargaining, and to strike.
2. Both the negative and the positive faces of these rights must be addressed. This entails measuring whether the state is refraining from interfering with the exercise of those rights *and* providing positive protections to workers who choose to exercise those rights.

Giles warned that assessing freedom of association rights is "enormously complex" because it is difficult or impossible to design absolute measures of any one of the four components. As Compa stressed in his paper, "Ultimately a judgment call has to be made." For example, although many governments allow workers to strike, most of them also limit that right by such measures as prohibiting certain groups of workers from striking and limiting strikes to certain time periods. Consequently, measuring compliance requires that a judgment be made about which kinds of limits are reasonable and which constitute an effective denial of the right to strike. Moreover, Giles asked, how do we compare or weigh these different limits? Because subjectivity is unavoidable, Giles said, "it is crucial to ensure that judgment is exercised in a consistent and transparent way."

Giles identified a second reason for the complexity of assessment: Legal texts, regulations, and official statements are not always implemented,

leading to “yawning gaps” between workers’ theoretical rights and actual practice. For this reason, he said, it is important to underline one of Compa’s key points: Data have to be gathered from the field through interviews and questionnaires aimed at those who have actual daily experience with a country’s system. This led Giles to identify a third criterion for evaluating data on freedom of association and collective bargaining:

3. Are these data based on research into the context in which workers try to exercise their freedom of association rights, and does that research use consistent methods (questionnaires, interviews, on-the-ground investigations)?

Measuring Freedom of Association

Giles distinguished between two distinct groups of data and information to measure freedom of association—indirect measures and direct measures. Indirect measures include whether or not a country has ratified ILO Convention 87 on Freedom of Association (ILO, 1948) and/or ILO Convention 98 on Organizing and Collective Bargaining (ILO, 1949). Other indirect measures include the number of complaints the ILO receives about that country, the nation’s union density, the existence of multiple unions and union confederations, collective bargaining coverage, and data on strikes. Indirect measures also include data on a government’s potential enforcement capacity, such as labor ministry budgets, numbers of workplace inspectors, and caseloads of administrative bodies.

These indirect measures are proxies, based on assumptions about what the results of genuine freedom of association will be, Giles said. For example, some researchers assume that, all other things being equal, freedom of association will lead to—or at least be associated with—ratification of ILO Conventions 87 and 98 and higher rates of union density. However, neither of these is a good proxy. For example, several nations that have ratified ILO Conventions 87 and 98 are widely viewed as among the worst violators of labor rights.¹ In addition, high union density might be accompanied by a complete absence of freedom of association in an authoritarian regime that effectively controls official unions and essentially requires union membership. Conversely, as is the case in France, low union density may

¹See Compa (2002) for a discussion of several studies of the relationship between ratification of ILO conventions and other factors, including national compliance with international labor standards.

simply reflect the free choice of workers not to unionize because they have other avenues in which to pursue their goals.

As a result of these problems, Giles warned that these indirect measures are not a substitute for direct measures, although they can play a role if interpreted carefully and used together within composite indexes.

When researchers use direct measures, most begin by scrutinizing a country's legal texts, structures, and enforcement measures. Although this method can identify infringements of both the positive and negative faces of workers' freedom of association rights, it does not reveal whether these legal mechanisms are adequate or administered properly. Identifying the actual practices in a country requires one or both of two methods—the analysis of secondary sources and fieldwork (examining the actual records of agencies and organizations and interviewing a wide range of participants in the system). Direct measurement “is unavoidable if you want an accurate picture of the extent to which workers can actually exercise the right to associate, organize, bargain, and strike,” Giles said.

Existing Data Sources

Giles organized Compa's assessment of existing data sources into three broad groups. The first group included the “huge number” of occasional studies issued by government and nongovernmental institutions. U.S. agencies, such as the Trade Policy Staff Committee, the Overseas Private Investment Corporation, the Department of State, and the DOL's Bureau of International Labor Affairs, issue reports in this category. Foreign governments and international agencies, including the ILO, the World Bank, and the CLC Secretariat, also occasionally assess and report on workers' rights to freedom of association. In addition, this group includes numerous country-specific reports by such NGOs as Human Rights Watch, the Asia Monitor Resource Centre in Hong Kong, and the International Centre for Trade Union Rights in London, and by monitoring organizations such as the Fair Labor Association, the Ethical Trading Initiative, and the Clean Clothes Campaign. Finally, the group includes important studies by researchers from a range of disciplines who publish hundreds of academic articles and books addressing freedom of association.

Giles identified several reasons why none of the reports in this group “offers a ready-to-use model for assessing freedom of association at the international level.” First, most are occasional, conducted either in response to a specific complaint or as a one-time initiative, and this limits their

timeliness. Second, because most focus on a single country, an industry, or even just one particular plant, their findings cannot be generalized. Finally, the authors of these reports are not always independent, so the results may be flawed.

But Giles cautioned against dismissing these one-time reports. Although weak in terms of the goal of developing a broad and systematic assessment methodology, they provide detailed information and assessment that could inform broader global evaluation systems.

In the second broad group of reports, Giles placed those that generally apply the same methods across many countries to describe aspects of freedom of association. He said reports in this group “lay descriptive accounts of country experiences side by side and leave it to you, the reader, to make the comparison.” Many of the same organizations that produce occasional reports included in the first group also produce these broader comparisons. They include

1. the CLC Secretariat;
2. human Rights Watch;
3. ILO committee reports;
4. the ICFTU, *Annual Survey of Violations of Trade Union Rights*; and
5. the U.S. State Department annual *Country Reports on Human Rights Practices*.

Commenting on the sources in the second group, Giles said that, in Compa’s view, the State Department reports (U.S. Department of State, 2002) provide “the most universal and systematic reporting on workers’ freedom of association.” The ICFTU annual survey, Giles said, contains “carefully documented and reasonably systematic country level descriptions of labor law and recent attacks on workers’ rights” (ICFTU, 2001). Reports from the ILO Committee of Experts on the Application of Conventions and Recommendations (International Labour Office, 2002) and the ILO Committee on Freedom of Association (2002b) also provide a wealth of information, although they are sometimes couched in diplomatic jargon.

According to Giles, these three information sources in the second group have several important attributes. First, they provide broad coverage of all or most of the world. Second, they address most of the key components of freedom of association. Most important, they “all seek to apply . . . a standard formula in a systematic way to all countries.”

Reports in the third group studied by Compa, Giles said, “actually seek

to compare or rank in an explicit way the degree of compliance with . . . freedom of association.” This group includes a study of labor standards and trade by the OECD (1996), a study by International Institute for Labor Studies economist David Kucera (2001a, 2001b), and an analysis conducted by Verité, a U.S. labor monitoring organization (no date). The three studies are similar in many ways. They all cover many countries, ranging from 27 in Verité’s study, to 75 in the OECD study, and 127 in Kucera’s work. All three studies examine most of the components of freedom of association outlined above, including the right to organize, to bargain, and to strike. In addition, they all use detailed lists of criteria (Verité uses 14, the OECD uses 20, and Kucera uses 37) to evaluate the extent to which countries provide workers with the right to freedom of association.

According to Giles, the three studies draw on multiple data sources, including both direct and indirect measures, transforming the information “into some sort of weighted index of compliance.” In addition, each study acknowledges that subjective judgments were made at some point in the process. Finally, “Although all three are very useful models upon which to build, none is perfect.”

Suggestions for Further Research

In conclusion, Giles said that the best existing data sources on freedom of association are those that “combine select quantitative measures with careful qualitative data in a systematic way.” These include the three studies discussed above (Kucera, 2001a, 2001b; OECD, 1996; Verité, no date). Giles also said that the best examples of detailed descriptive assessment of many countries are the ILO committee reports and the ICFTU and State Department annual reports.

Giles outlined a number of Compa’s suggestions for further research and analysis that build on these model assessments. First, a group of experts might construct a detailed template of questions that probe *all* aspects of freedom of association, including government noninterference with rights and government action to protect those rights. Second, he suggested combining such measures as union density, collective agreement coverage, and strike incidence to create “a composite measure of industrial relations indicators.” A third step would involve developing quantitative measures of reprisals against workers who attempt to organize, bargain, or strike. Such measures could begin with records of enforcement bodies, supplemented with in-depth field interviews. Fourth, it would be useful to construct quantita-

tive measures of institutional and enforcement capacity, using data such as the budgets, personnel, caseloads, and available remedies of those bodies that are responsible for enforcing workers' rights. Fifth, rather than relying solely on the three best documentary sources (the ILO, ICFTU, and State Department reports), Giles said, expert assessments should systematically draw on information from a wider range of reports and studies, including scholarly studies of particular countries. He also suggested using a standard questionnaire to conduct in-depth interviews with workers and other actors in the field; respected labor law scholars or industrial relations scholars might be the best people to conduct such interviews.

Although it is impossible to avoid subjective judgment, Giles said, it is important to acknowledge this and to use staff experts who apply their judgment as dispassionately and consistently as possible in order to minimize discrepancies. To achieve international credibility, the United States should be included in any systematic, country-by-country assessment of workers' freedom of association rights. Finally, he suggested creating two expert advisory groups to oversee these research and development activities. The first group, comprising representatives of labor, management, NGOs, and other groups, would review and discuss draft country reports on freedom of association prior to publication. The second group, including experts in economics, political science, sociology, industrial relations, law, and other relevant disciplines, would provide guidance in developing and applying the best methods to assess freedom of association.

DISCUSSION

Former U.S. State Department official Sandra Polaski began her response by saying that the Compa paper provided "an excellent basic checklist of the issues to look at." Because she felt that the author had done a thorough and balanced job of evaluating existing information sources, Polaski did not provide detailed comments on the paper. Instead, she addressed five "macro" issues, which she defined as broad questions the committee should consider in building a database of information.

First, she suggested that the committee consider "who is the customer" for the freedom of association information that will be included in the database. She said that the key customers will include the U.S. State and Labor Departments, the U.S. Trade Representative, and other agencies charged with carrying out national laws and trade agreements that require respect for core labor standards. She also would "strongly encourage" the

database to be made public, as an aid for those seeking government redress of labor rights violations and to help consumers and investors make socially responsible purchasing and investment decisions.

Second, Polaski suggested designing the database in a way that will allow it to present “a dynamic picture, not a static picture, of respect for freedom of association.” She argued that countries’ varying levels of economic development, political histories, and other factors mean that there can be great variation in the actual respect for core labor standards. She said that the U.S. would want to encourage, not sanction, a country that has imperfect institutions but whose government is making a “substantial credible effort . . . to improve.” However, the database should also clearly indicate those countries “where rights are deteriorating sharply.”

Third, Polaski cautioned against aggregating information on compliance with core labor standards into a single index or ranking for a country, as was done in some of the studies Compa reviewed. She said that the rights guaranteed in the ILO 1998 Declaration of Fundamental Principles and Rights at Work “are not substitutable.” Each is a “fundamental human right,” and ranking a country based on a combined measure is “profoundly flawed.” For practical reasons, it also does not make sense to aggregate measures of compliance because U.S. and international organizations have different policy instruments for different rights. For example, U.S. trade laws ban the importation of products made with forced or prison labor, a constraint that does not apply to other core labor rights.

In her fourth point, Polaski urged the committee to consider the negative and positive aspects of freedom of association rights. For public sector workers, governments need to not only “stay out of the way” by including these workers in laws protecting the right to organize (a negative right) but also take a positive action by bargaining with public sector employees. In the private sector, the government role in securing positive rights is critical because employers as well as workers are involved. She said that most reporting on freedom of association assumes that “the main responsibility lies on the government.” Although the government bears ultimate responsibility for guaranteeing these rights, the first line of responsibility rests with the employer. She recommended that the committee focus much more on the responsibility of private sector employers in allowing workers the right to organize, to bargain, and to strike.

While acknowledging that governments in very poor countries lack resources to monitor employers and enforce freedom of association laws, Polaski urged the committee to look “very closely” at the actions of employ-

ers. She suggested that the committee's database include the "slowly increasing" number of reports generated by voluntary private sector labor monitoring. She said that monitoring is "just starting to take place on the ground to a significant extent" and will provide an important source of information in the future.

Fifth, Polaski strongly suggested that the committee create a quantitative index for each core labor right for each country and present the index in the database with a strong caveat against using it in isolation. The database should also present a range of qualitative sources. The reason to create a quantitative index, despite the difficulties, is that there are "huge amounts of information" on the web, and more is becoming available every day. "What we have today," Polaski said, "can frankly be overwhelming," even for a full-time official.

Because "quantification can provide a rough sorting function and a point of entry into the more detailed information," Polaski suggested assigning countries a rank of 4 to 0, as follows:

4: countries provide generally acceptable protection for all aspects of freedom of association, both in law and in practice;

3: countries where some problems exist, "but significant efforts are underway with visible, demonstrable" improvement;

2: countries with serious problems and no significant effort at reform;

1: countries where protection of the right of freedom of association is deteriorating;

0: countries where workers lack these rights, both in law and in practice.

Polaski suggested accompanying the index with a "very tightly organized" base of qualitative information sources for each country. The database should present the qualitative sources roughly in descending order of importance, depth, reliability, and precision. The most credible and useful reference sources should appear first, to maximize the usefulness of the database. The less credible sources could appear further down in the database, and sources that are "clearly either hearsay . . . or libel" should be left out.

In response to a question, Polaski expanded on her proposal, suggesting that the committee take four steps to create the ranking for each country:

1. Read the relevant labor laws and any evaluations that have been done of these laws in the major reference sources, and assign a numerical

indicator of quality. A 4 would be awarded to a country whose laws fully protect freedom of association; 3 would indicate some problems; 2 would indicate more serious deficiencies in legal protection for freedom of association; 1 would indicate extreme legal restrictions; and 0 would indicate no protection of freedom of association. The points based on this legal analysis would be weighted at about 30 percent of the overall ranking.

2. Evaluate the country's capacity and performance in implementing its freedom of association laws. Implementation would include both proactive enforcement and widely available judicial methods to deal with cases where unions or individual workers claim that their rights were denied. Again, this would require a review of the relevant available reporting, including ILO, State Department, and ICFTU reports. This evaluation would produce a 4 for a country where the rule of law prevails consistently, and a 3 for a country where either proactive enforcement or adjudication works well, but not both. A 2 would be assigned where there are serious deficiencies in both proactive enforcement and adjudication mechanisms, and a 1 would be assigned to countries where there is a complete failure of either proactive enforcement or adjudication. Finally, a 0 would be assigned where both fail completely. The points assigned for this analysis would also constitute about 30 percent of the overall ranking.

3. Obtain and analyze available outcomes measures. This step would take into account any available data that shed light on the actual enjoyment of the right of freedom of association by the citizens of the country, including union density, collective bargaining coverage, and statistics on what happens to workers who attempt to enjoy their rights to freedom of association (in all of its aspects). To the extent that good data are available, this information approaches "silver bullet" status as an indicator of freedom of association. For example, if only one worker in 10,000 attempting to organize faces punitive action as a result, that would indicate an extremely high respect for freedom of association by both government and employers. On the other hand, if one worker in 100 attempting to organize suffers adverse consequences, that would indicate very low respect for freedom of association because the frequency of such an action has a chilling effect, signalling to all workers that organizing is a high-risk endeavor in the country or sector involved. Each country would be assigned a 4 to 0 rating, based on an analysis of all available outcomes data. Although this indicator would be based on the "hardest" information, Polaski said, it is also an area where the judgment of the database builders would be critical. This rating, too, would be weighted at 30 percent of the overall ranking.

4. Determine whether the country has ratified ILO Conventions 87 and 98. Although this indicator has limited usefulness, it is “not meaningless” and should be included. To make it more meaningful, Polaski suggested giving credit only to those countries that have ratified the conventions and then followed up by approving domestic laws that provide the rights called for in the conventions; ILO reports would be a key source of this information. A country that meets these criteria for both conventions would be assigned a 4; for only one, a 2; and for neither, a 0. This measure would only constitute 10 percent of the overall ranking.

Following Polaski’s remarks, Dwight Justice of the ICFTU offered a second response. He said that freedom of association is both more complex and more complicated than the other core labor standards. Freedom of association, as narrowly defined in ILO standards, rests on the “rock” of broader civil liberties and human rights, he argued. He suggested that the committee examine this broader context, including the question of whether a particular nation is a democracy or not, when measuring compliance with freedom of association standards. He said that, where freedom of association exists, trade unions bring political, economic, and social benefits. In particular, he said, trade unions can help advance broader civil liberties. In contrast to unions, which can help build civil society, he said, NGOs are simply “occupying a vacuum.”

Justice indicated that unions’ role in building a civil society is particularly important in light of the link between the informal economy and governance. He said that the problem of vulnerable people, working outside of the legally recognized system and unable to change their circumstances, is due to both a failure of governance and a lack of freedom of association. He said that some parts of the basic legal framework providing freedom of association have been made irrelevant by changes in employment relationships, including the growth in use of temporary workers.

Justice said that the ILO has clearly defined the many aspects of freedom of association through its conventions, recommendations, and decisions. In particular, ILO committees over the years have examined many specific situations and provided written opinions about whether those situations provide for, or violate, freedom of association rights. He urged the committee to examine the ILO definitions and decisions in order to thoroughly understand what is to be measured.

Justice argued that the most important measure of freedom of association is the existence of unions. He would not take the absence of unions as

an indication that workers were simply not choosing to exercise their rights, because an absence of unions is likely due to intimidation, and we lack “instruments that can measure intimidation.” Because unions change the “power relationship” in the workplace, they can help improve compliance with other core labor standards, reducing the use of child labor and forced labor, he said. Unions play a critical role because elected representatives speak for individual workers who might otherwise remain silent. Justice argued that there is no substitute for this “very powerful notion.” Interviews, surveys, and other methods of obtaining employee opinions do not give individual workers the same feeling that they are protected and may speak freely about workplace conditions, including possible violations of international labor standards. He said that the very best way to both monitor workplaces and increase compliance with international labor standards was through “a unionized workforce.”

Commenting on the ICFTU’s *Annual Survey of Violations of Trade Union Rights*, Justice acknowledged that it is not completely systematic, partly because of a lack of resources. However, the survey’s strength is that it draws on information from unions around the world that are affiliated with the ICFTU and willing to freely share information with the ICFTU.

Justice expressed his concern that business codes of conduct and monitoring systems were leading to a “dumbing down” of freedom of association rights and principles. For example, the Global Sullivan Principles provide the right to freedom of association but do not mention the right to collective bargaining. He said that the voluntary monitoring industry has made some mistakes, and that it is time to think about business responsibility for respecting freedom of association. In some European countries, he said, businesses do not really have a choice about respecting these rights, but in the United States and other countries, companies have the option of fully respecting these rights or not doing so. He pointed to the OECD Guidelines on Multinational Enterprises as a positive development. These guidelines, he said, direct companies to respect the labor laws and regulations of the host nation and to have a positive and open attitude toward unions and collective bargaining. He argued that voluntary codes of conduct “can’t be substitutes for law” and “shouldn’t be substitutes for unions.”

In further discussion, members of the committee and audience offered a number of comments and suggestions related to workers’ freedom of association rights. Dwight Justice said that, as part of their “positive” role, governments should use national education systems to inform young people and workers about their freedom of association rights. Ruth Rosenbaum of

the Center for Reflection, Education and Action disagreed with Giles's suggestion that respected scholars might be the best people to conduct field interviews with workers. She said that workers are more likely to be open and truthful when they can identify with interviewers who look and talk as they do.

4

Information and Indicators of Forced Labor

PRESENTATION

Kevin Bales, Director of Free the Slaves, began his presentation by highlighting the challenges of identifying and measuring slavery (Bales, 2002b). Over the course of the 20th century, most nations made slavery a crime. This forced the problem underground, making it difficult to understand the dramatic changes in the economics of slavery that have taken place since the 1950s. Since that time, rapid population growth has led to “a glut of slaves on the market,” with the result that a slave can be purchased for an average price of \$100. The declining price of a slave also reflects changes in how societies organize and view slavery. Today, slavery is “about the use and control of people,” rather than direct ownership. In some parts of the world, although slavery is legally a crime, it is not really considered to be a crime in the popular mind. This poses a challenge to research and measurement. Further complicating matters is the fact that slavery presents a “moving target,” as large criminal organizations ship slaves across borders to support widely dispersed economic activities.

Changing Definitions of Slavery and Forced Labor

In the past, Bales said, governments had much more control over whether an individual was a slave. For example, in the United States in the 19th century, a slave who left Mississippi and crossed the border into Illi-

nois became free. But today governments have little influence, and slavery is based on relationships between people. Bales presented his working definition of slavery—an economic and social relationship that takes many different forms yet retains three core characteristics:

1. loss of the slave's free will;
2. the use of violence, or the threat of violence, to control the slave; and
3. economic exploitation (the slave receives no recompense for his or her labor).

Bales acknowledged that this definition, based on his analysis of slavery over the past 5,000 years, “doesn't necessarily match up with official definitions.” He presented a table illustrating how UN conventions have expanded the definition of slavery over the course of the 20th century (see Table 4-1).

Bales said that, after 1998, within UN organizations and activities, “slavery” has been used to describe a large list of relationships and activities, including incest. Explaining that he had argued against these expansions, Bales showed a second table that compares the three core elements of slavery in his working definition with these expanded definitions of slavery (see Table 4-2). He noted that the relationships and activities at the top of the table correspond most closely to his definition, but he would not consider those closer to the bottom of the table to constitute slavery.

Research on Many Levels

Faced with this lack of agreement on how to define slavery, Bales asked, “Where does that all leave us [in terms of understanding slavery]?” He said it would take some time to answer that question, based on research at many levels. The beginnings of an answer will appear from micro-level research that illuminates the stories of individual slaves and slaveholders. This will provide a basis to understand the “mezzo-level”—how slavery fits into local economies and communities. This is the approach Bales took to his study of slavery in five countries (Bales, 1999). He spoke to individual businessmen who held slaves, and he tried to understand how the community accepted the use of slave labor, how the slaveholders understood slavery, how the people who were enslaved dealt with it, and how slavery fit into the lives of both slaveholders and slaves.

Bales contended that macro-level data, aggregating information at the

TABLE 4-1 UN Conventions and Declarations on Slavery

Slavery Convention	Definition of Slavery
Slavery Convention (1926)	Slavery defined: The “status or condition of a person over whom all of the powers attaching to the right of ownership are exercised.” Forced labor added: States should “prevent compulsory or forced labor from developing into conditions analogous to slavery.”
Universal Declaration (1948)	Servitude added: “No one shall be held in slavery or servitude; slavery and the slave trade should be abolished in all their forms.”
Supplementary Convention (1956)	Servile status added: Practices referred to as servile status should be abolished: (a) debt bondage (b) serfdom (c) unfree marriages (d) the exploitation of young people for their labor.
Economic, Social and Cultural Covenant (1966)	Freedom to choose work added: Recognizes “the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.”
Rome Final Act (1998)	Trafficking added: Slavery defined as “the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”

regional or national level, “are the weakest of all.” To illustrate this, he discussed the “dark figure,” a term from criminology. The dark figure is the distance or gap between the actual number of crimes committed and those that are reported to the authorities. British criminological studies, Bales

TABLE 4-2 Comparative Definitions of Slavery

Practice/Criteria	Loss of Free Will	Appropriation of Labor Power	Violence or Threat of Violence
“White slavery”	√	√	√
Forced labor	√	√	√
Debt bondage	√	√	√
Child prostitution	√	√	√
Forced prostitution	√	√	√
Sexual slavery	√	√	√
Migrant workers	√/×	√/×	√/×
Prostitution	√/×	√/×	√/×
Forced marriage	√/×	√/×	√
Apartheid	√/×	×	√
Incest	√/×	×	√
Organ harvesting	√/×	×	√/×
Caste	×	×	√
Prison labor	×	√/×	√

NOTE: √ = Yes, × = No

said, show that the largest dark figures are for the most frequent and widespread crimes, including theft of milk bottles from the doorstep and theft of bicycles. Because more serious crimes (like murder) are usually reported and investigated, the usual rule is that the more serious the crime, the smaller the dark figure. However, this is not the case with slavery and human trafficking, which have enormous dark figures.

Admitting that there are no “magic bullets,” Bales suggested “we step back” to qualitative, exploratory research. It may take longer to research slavery than to learn about violations of other international labor standards, because slavery is a “criminalized . . . labor violation.” Citing Robert Yin (1994), he said case study methods would be appropriate for this research.

The next step, Bales said, was to identify themes that emerge from this qualitative research at the individual and community levels. These themes can be used to conceptualize variables. However, he cautioned that the resulting data are loose, inexact, and unclear. Faced with such inexact information, researchers must decide whether to work with it and build on it or to declare “you won’t begin to work with any numbers unless you are absolutely certain that they are absolutely sound.” His choice, he said, is to go ahead with these variables, while making it very clear that they “are not so robust.”

A Modest Test of Predictive Validity

As an example, Bales presented his test of an ordinal variable he had created to illuminate human trafficking from countries. He spoke with experts in the countries to create estimates of trafficking levels. Then he assembled independent data on country-by-country population growth, poverty levels, government corruption, and other factors that might influence the extent of human trafficking. He then tested the strength of the relationship between the independent variables (poverty, population, growth, etc.) and the dependent variable (estimated level of trafficking) for various countries. The test results suggested that government corruption “is one of the prime indicators of whether or not people are going to be trafficked from a country.” The relationship between government corruption and trafficking appeared to be much stronger than the relationship between trafficking and other variables, including the infant mortality rate and the proportion of the population under age 14. Calling the analysis more of a “sketch” than a real empirical test because of the weakness of the data, Bales said he looked forward to Ann Jordan’s reaction (see below), based on her real-world knowledge of trafficking. As a social scientist, Bales felt that in trying to meet the pressure to provide precise measures of slavery and trafficking, “we’ve been caught with our data down.” Although the primary criterion for judging the quality of social science research should be predictive validity, we are trying to test models with variables that may be invalid, and this limits our ability to test the models. Bales sees no clear answer to this problem, which is faced by all exploratory fields of inquiry.

Building a “Protoscience”

Despite the problems and weaknesses in the data, Bales suggested that researchers move forward with research on slavery. He noted that, in publishing his recent article on slavery, the editors of *Scientific American* had coined the term “protoscience” to warn readers of the uncertainties in this field of inquiry (Bales, 2002a). To build this protoscience and increase our understanding of slavery, Bales said, we must first reach agreement on the definitions of key variables, including slavery itself; and we must also centralize information, “which is precisely what is happening in this room today.” In addition, he suggested involving business analysts in the research, because slavery is mostly located within small businesses, “and we

need to understand how those businesses work.” We also need to learn more about “the lived experience of slavery.” Most people, he said, think of slavery in terms of the pre-Civil War southern United States, but slavery takes many different forms today. He also suggested an approach often used by criminologists who want to learn about distribution of a crime—conducting victim surveys.

In conclusion, Bales said that learning about slavery “means we have to go back to first principles.” Researchers need to develop new approaches to advance the field of inquiry. Finally, “We have to think outside the box because I think we are building a new box.”

DISCUSSION

Ann Jordan, of the International Human Rights Law Group, commended Bales and other researchers for making progress in documenting the scope of slavery and trafficking. She said that Bales’s definition of slavery differed “markedly” from the definition found in UN conventions, which was based on forms of state-sanctioned slavery that no longer exist. Bales’s definition is closer to the definition of forced or compulsory labor in ILO Convention 29, which includes his three core elements—loss of free will, use of force or the threat of force, and economic exploitation. Her preference would be to retain the definition of slavery that focuses on the purchase and sale of human beings and a separate definition of forced labor that focuses on the imposition of force to extract labor.

However, Jordan did not agree with Bales’s identification of factors related to human trafficking, including government corruption, population pressure, and social unrest. Arguing that these factors could lead to a person being smuggled out of the country and arriving at his or her destination as a free person, Jordan proposed an alternative list of factors identified by individuals who have worked directly with victims:

1. lack of a means for legal migration;
2. lack of knowledge of conditions in the destination country (creating a need to depend on third parties to migrate); and
3. presence of friends, relatives, or other trusted individuals who are, in fact, criminals.

Jordan said that her research and activism focus on human trafficking. The recent UN Convention on Transnational Organized Crime includes a

definition of human trafficking in a Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. As defined in this convention, human trafficking includes the crimes described in Bales's research, as well as additional forms of forced service and labor. Jordan said she prefers to speak about human trafficking, rather than using a "singular definition of slavery," because it more accurately describes the problem, and it helps ensure that "all persons subjected to these crimes are counted." She argued that it is important to document all the different types of forced labor and slavery. This includes the buying and selling of human beings; government acquiescence to such practices; forced labor in businesses, homes, factories, fields, and elsewhere; and forced or servile marriages, forced pregnancies, and domestic servitude.

Jordan called for continued research into all aspects of human trafficking to ensure that all victims are counted. She agreed with Bales on the need for economic and business analyses of the problems of slavery and trafficking, as well social science research into the social and cultural forces that "make human trafficking possible." Finally, she supported Bales's suggestion that researchers "document the lived experience" of being a victim of human trafficking. She called for "honest and accurate information" in order to "develop effective interventions at all points in the trafficking chain." She concluded by saying data are "desperately needed at every level and in every country." Without more accurate and reliable data, she said, progress in combating trafficking would be slow, and assistance and protection for its victims would be scarce.

5

Information and Indicators of Discrimination

PRESENTATION

In her presentation to the committee, Constance Thomas (2002), Section Chief of the Equality and Employment Branch in the ILO Department of International Labour Standards, cautioned the committee not to reinvent international labor standards. She urged the committee, as well as national governments and international organizations, to use the definitions of core labor standards contained in the relevant ILO conventions. Saying “Let’s use the same definition; let’s create one body of pressure, one voice,” Thomas added that countries that don’t want to comply with international labor standards “love the confusion of lack of definition and clarity.” Referring to Lance Compa’s distinction between negative and positive rights, she said that the ILO emphasizes the positive role of government action to reduce discrimination.

Although each of the previous speakers said his or her topic was the most difficult to analyze, Thomas contended that discrimination was really the most difficult. “The more you know about discrimination, the more difficult it is to identify a few indicators.” She warned the committee that the measurement of human rights is far from being a quantifiable science. For example, she cited a recent survey by Green (2001) showing that the term “indicator” may take on various meanings, from statistics to themes to benchmarks or even quantitative indices. Because this is not an exact science, Thomas asked the committee to be sure to involve subject matter

experts, with knowledge of discrimination and of individual countries, in the selection of indicators and the interpretation of data on discrimination.

Thomas briefly described the ILO system for supervising countries' implementation of conventions they have ratified (ILO, 1998a). In the case of discrimination, she said, the ILO begins with the assumption that there is discrimination in every nation and sets out to identify the problem and encourage government action to counter it. The ILO recognizes that we will never achieve the goal of eliminating discrimination, but Thomas characterized the ILO's goal as "a work in progress, with always another step to take." If a country doesn't recognize discrimination as a problem, this is a red flag—an indicator of noncompliance. In contrast, the ILO views the following as indicators of an important first step towards compliance:

1. the country recognizes the problem (in reports to the ILO);
2. the country does research to identify where discrimination exists and how it is manifested; and
3. the country allows an NGO to study the problem.

Addressing the question "How can we quantify discrimination?" Thomas responded that the ILO focuses on government action. What is the government doing? What is the trend in government action and the resulting increase or decrease in discrimination? She views ratifications of ILO conventions as weak measures. For example, almost all countries (including Saudi Arabia but not the United States) have ratified Convention 111 on Discrimination in Employment and Occupation (ILO, 1958).

For purposes of enforcement of international labor standards, ratification of Convention 111 (C. 111) and/or Convention 100 (Equal Remuneration, ILO, 1951) starts a dialogue between a nation and the ILO. For example, now that Saudi Arabia has ratified C. 111, the government provides reports on discrimination, and national and international unions comment on these reports. The government feels pressure to act and provides more information to the ILO; this results in more extensive ILO comments and questions. Just three weeks before this workshop was held in July 2002, Saudi Arabia invited an ILO mission to look at discrimination. This invitation is the result of a 20-year dialogue between the government and the ILO.

In supervising this international labor standard, the ILO relies on official sources, including reports from governments, unions, employers, and the UN. The quality of reports from governments varies tremendously,

depending in part on whether a nation expects scrutiny from the ILO. Some countries provide surprisingly frank reports because they realize that more disclosure of problems will get them more technical assistance from the ILO. In general, country reports have increasingly recognized discrimination problems.

In some countries, Thomas said, free and independent trade unions provide a check on the accuracy of government reports to the ILO on discrimination, but in a lot of countries there are no comments from unions. In these cases, the ILO uses secondary sources to verify and expand on country reports. The ILO would never rely on a single NGO study to determine whether a country is in violation of the antidiscrimination standard, but such a study could be used to direct more pointed questions to the government or to search for more information. Pointed questions send signals to the unions and NGOs, and they start investigating, so that the ILO soon has more information on the subject.

According to Thomas, the ILO also finds very useful information from the UN. The UN's 1979 CEDAW incorporates several ILO conventions on discrimination and equal pay. Governments report regularly to the UN on their implementation of this convention, and these reports are "much more open and forthright" than the same governments' reports to the ILO. This is because knowledgeable experts on those countries write the reports to the UN. The ILO uses both types of report. For example, Thomas noted that the report Greece sent to the ILO indicated that the nation had no problem with discrimination, but the ILO replied that Greece's report to the CEDAW acknowledged eight problems of discrimination against women.

Thomas said that another source that "could be very interesting for the committee" are shadow reports to CEDAW, released by the International Women's Rights Action Watch at the University of Minnesota's Hubert Humphrey Institute of Public Affairs (various dates). This group compiles information from NGOs, trade unions, and other reliable nongovernmental sources into a shadow report released at the same time that the country provides its official report to CEDAW. Taken together, these sources—the shadow report, the official report, and the examination by CEDAW—yield "very good information," according to Thomas. She works closely with the committee and supplies questions that are posed to country representatives. She has found that countries are more responsive to the UN when all agencies, including the ILO, CEDAW, and the Committee on Human Rights, send consistent messages. The different UN organizations convey

the same message, but through different ministries within the government, and this has an impact.

Beginning with government sources allows a dialogue to start, because the ILO creates a relationship with the government. As part of this dialogue, the ILO encourages nations to build institutional capacity, including statistical capabilities and the ability to conduct studies.

Thomas noted that the ILO convention on discrimination (C 111) is very broad: It identifies seven different grounds—race, religion, ethnicity, political opinion, color, social origin, and gender. Although some data on gender-based discrimination are available, the greatest challenge for the ILO is obtaining data on the other types of discrimination. For example, reports from the Asia Development Bank and the Inter-American Development Bank refer only to gender-based discrimination and not to the other types of discrimination. The UN 2002 World Conference against Racism, held in Durban, South Africa, revealed that many nations do not gather employment statistics disaggregated on the basis of race or ethnicity (available at <http://www.unhchr.ch/html/racism/> [August 2002]). Because of the history of persecution of racial minorities during World War II, many European nations are afraid to gather such information. France is an extreme example: The official definition is that there are no minorities in France! About 25 developed nations have the capacity to produce employment data disaggregated by race but choose not to.

Thomas said it is important to consider gender in the application of all of the four core labor standards, not only the standard on elimination of discrimination. On the subject of quantitative indicators, she said that the UN Development Program's Human Development Index was unrealistic, but it became more accurate with the overlay of the gender index.

Thomas cautioned against trying to do a comparative ranking of countries. She suggested using the following key indicators to measure progress toward the fundamental right of nondiscrimination at work.

1. The existence of a national law prohibiting discrimination on the grounds of race, sex, political opinion, national extraction (ethnicity), color, religion, and social origin in employment and occupation (a constitutional right to equal rights before the law is relevant but neither the same nor sufficient by itself); supporting laws such as maternity protection, recognition of part-time work, the right to education, etc., are also considered to be important.

2. Existence of any discriminatory laws or removal of such laws.

3. Labor force statistics, including the percentage of women, men, and specified groups in the labor force and their labor force participation rates. These statistics should include indicators of unemployment or employment growth among vulnerable population groups (racial or religious minorities, females, etc.). Statistics on educational attainment among men, women, and protected groups, including their rates of participation in education and vocational training would be valuable. Employment statistics on the extent to which these groups are employed in different occupations, at different levels, including at the administrative/managerial level would be useful. Statistics should cover public as well as private employment.

4. Job segregation (concentration of women or minorities in a few types of jobs or industry sectors). Most experts consider a concentration of 70 percent to indicate discrimination.

5. Information on the types of job classifications occupied by women or minorities, including their representation in decision-making positions.

6. Remuneration levels (using a wide definition of remuneration and equal value standard where possible).

7. Self-employment: size and type of businesses owned by women or minorities.

8. Productive assets: land, information, technology and financial resources (rights to ownership, access to credit, etc.).

9. Explicit national policy on equality in general or addressing equality for a specific group or gender.

10. Positive/affirmative action programs (these should be aimed at achieving equality and should not be considered to be discriminatory).

11. A national mechanism or agency to promote equality. To be effective, this mechanism should be independent of political influence, composed of knowledgeable individuals, and have a clear mandate.

12. Labor inspection to assess discrimination and equality issues (number of grievances, complaints, resolutions of complaints, training in discrimination areas).

13. Complaints mechanism to handle and remedy discrimination complaints (resources, use, number of complaints on employment discrimination and decisions, training of judges in discrimination areas).

14. Promotion of equality through industrial relations and by and within workers' and employers' organizations. This may include agreements in union contracts, action plans, policies, guidance services on issues of discrimination, workers' education, and/or management training.

15. Sensitivity training and/or public education to reduce discrimination and promote equality.

16. Relevant support measures (i.e., child care or family care services for workers, safe public transportation for poor communities, outreach programs).

17. Requests for and implementation of international technical assistance projects to promote equal opportunity and treatment in employment through legislative drafting assistance, law review, employment creation for minority groups and/or women, training in nondiscrimination and equal rights, etc.

18. Reported or documented discriminatory practices such as negative pregnancy testing.

Thomas said that these indicators were “a pretty solid list” but should be “contextualized.” She approved of Sandra Polaski’s proposal (discussed above) because it would focus on progress within individual countries, rather than comparisons across countries. This is the approach the ILO uses, posing such questions as “Are you moving forward? Are you creating a little bit better enforcement mechanism? Have you amended your law? Have you increased the percentage of women in employment?” Such questions put quantitative measures into the country context. A country with a number that is low in absolute terms may be moving in the right direction compared with previous years. In Thomas’s view, the four factors suggested by Polaski¹ as a basis for assessing compliance with freedom of association would also make a good basis for assessing compliance with the antidiscrimination convention.

Finally, Thomas noted that the ILO’s files are very extensive and publicly available. The ILO lacks the resources to disseminate this information, but researchers are welcome to use it. Large volumes of information on discrimination are available for most ILO member nations. In addition, the ILO’s CEACR produces written observations on the country reports and also makes direct requests for more information. These direct requests provide very good information on the status of discrimination in particular countries.

¹Polaski’s four factors are (1) analysis of labor laws and any evaluations of those laws; (2) evaluation of the capacity and performance in actual implementation of the labor laws; (3) outcomes measures; and (4) ratification of ILO conventions.

DISCUSSION

Bama Athreya, Deputy Director of the ILRF, applauded Thomas's "excellent points" but disagreed with her on the subject of defining international labor standards on discrimination. Athreya views the current ILO standard as a floor that would not exist without the work of advocacy groups. Although agreement on the ILO standard represents "enormous progress, it is important not to rest on this standard," she said. Athreya argued for expanding the existing ILO definition of discrimination to encompass additional government and employer practices that discriminate substantially against groups of workers. She gave the example of China's system of household registrations. As this system has been relaxed in recent years, many rural people have moved to cities to seek work, but they face enormous discrimination problems. Athreya said some of these rural people can only find jobs that are forms of bonded labor, they lack access to housing, they may be detained by police if they lose their jobs, their children may not be allowed to attend public schools, and they lack access to social services.

Athreya said that the problems faced by these rural people in China "fall between the cracks of the ILO definition." This is just one of several examples the ILRF has encountered as it works with women around the world. Another example involves pregnancy testing in Mexican factories. In a complaint under the NAFTA North American Agreement on Labor Cooperation, the ILRF raised the issue of pregnancy testing as a form of discrimination against women, breaking new ground. She said that sexual harassment in the workplace is not specifically encoded as a form of discrimination within the ILO definition, and sexual harassment is mentioned but not clearly defined in the UN's CEDAW.

Athreya supported Thomas's approach to measuring compliance with the elimination of discrimination convention, particularly beginning with government admission of the problem as the first step toward "winning normative change." She also agreed with Thomas on the importance of comparing government reports with reports from other sources, such as academics or advocacy groups. Such comparisons and scrutiny can encourage governments to become even more open in their reporting on discrimination. Advocacy groups can help gather information in sensitive areas such as sexual harassment and violence against women. It is unlikely that women will reveal such problems in surveys by government officials.

Athreya echoed a point made by Kevin Bales in his presentation on

forced labor—that researchers are just beginning to develop systematic survey data on forced labor, relying in the meantime on case studies and ethnographic data. She believes that the situation is the same when it comes to discrimination, and that there is no reason to wait for systematic surveys. She suggested extrapolating from very good case studies. For example, case studies of harassment in the workplace can provide “a very rich kind of context of the sorts of cultural issues faced by women in that particular field of employment or more broadly in that country.” Finally, Athreya posed a question to Thomas: Does the ILO, when assessing a country’s progress (ratification of conventions, adoption of laws, enforcement of laws, public education campaigns), also look for evidence of backlash?

Responding to Athreya’s critique, Constance Thomas said that in two of the three examples, the ILO had found that discrimination was present. First, 12 years ago, the ILO Committee of Experts looked at a case of compulsory pregnancy testing in Brazil and found the practice to be in violation of ILO Convention 111. The ILO helped Brazil set up a new compliance system to eliminate this problem, and the system has become a model for other developing nations. Second, in China, the ILO considers the problems faced by people from rural areas in China to be discrimination based on social origin, “almost like a new form of a caste system.” On the subject of backlash, the ILO tries to learn about it through informal sources because governments will never openly report on backlash, and unions are also unlikely to talk about it. Backlash is apparent when governments change programs from “affirmative action” to “equality,” or when compulsory reporting systems become voluntary. The ILO tries to give appropriate credit for progress, but it also tries to ensure that progress is maintained and backlash is stopped.

Responding to a question about Taiwan, Athreya noted that one of the most important factors affecting gender equality in Taiwan was a transition in government. The country has undergone “a historic transformation” and is now more genuinely a democracy. The party in power has strong ties to independent labor unions and human rights groups, and the new government has appointed a prominent women’s rights activist as labor minister.

Thomas noted that the ILO does not scrutinize the country reports it receives as the follow-up to the 1998 Declaration of Fundamental Principles and Rights at Work but simply accepts them. This approach differs greatly from that taken by Thomas and others in the supervisory arm of the ILO. She would never accept such reports at face value. Sandra Polaski noted that although this is the case with the country reports, the ILO is also

putting out a series of “global reports.” In these reports, the ILO staff does evaluate and verify information from the country reports and a variety of other sources. She thinks these reports have “very high quality” and “a long shelf life.” “If I were to make a list of the top five sources,” Polaski said, the global reports “would be in the list of [the] top five.”

6

Measuring Child Labor

PRESENTATION

Data Analyst Amy Ritualo (2002), of the ILO International Programme on the Elimination of Child Labour, said that, unlike previous speakers, she would not claim that child labor was the most difficult to measure of the four labor standards. On the contrary, researchers have made “great strides” in collecting data on child labor. Nevertheless, she said, child labor researchers face some of the same challenges mentioned by experts on the other labor standards. These include the challenge of translating ILO standards into quantifiable measures and the difficulty of investigating the worst forms of child labor, which are illegal and often hidden.

Definitions of Child Labor

Ritualo explained that ILO and national definitions of “child labor” differ from the definition of children’s “economic activity,” which has been used in most research. The ILO has defined child labor in two conventions: ILO Convention 138 (C. 138) obligates countries to fix a minimum age for employment that should not be less than the age for completing compulsory schooling and, in any event, should not be less than 15 years. Developing countries may set the minimum age at 14. She said that C. 138 provides flexibility for countries to establish a younger minimum age of 12 or 13 for children to partake in “light work.” The convention defines

“light work” as that which is (a) not likely to be harmful to their health or development; and (b) not such as to “prejudice their attendance at school, their participation in vocational orientation or training . . . or their capacity to benefit from the instruction received” (ILO, 1973a). Convention 138 requires countries’ minimum age laws to ensure that no person under 18 is allowed to be employed in “hazardous work.” This term is to be defined by each country, based on the guideline that “hazardous work” by its very nature or the circumstances in which it is carried out is likely to jeopardize the health, safety, or morals of young persons (ILO, 1973b).

In 1999, Ritualo said, the ILO unanimously adopted a separate convention designed to eradicate the worst forms of child labor. Convention 182 (C. 182) prohibits the following:

1. All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.

2. The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.

3. The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties.

4. 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 (ILO, 1999).

Ritualo noted that the convention does not clearly define this last type of prohibited child labor, allowing countries to establish their own definitions.

Next, Ritualo discussed “economic activity” among children, noting that this is often used as a proxy for “child labor.” Most research and reports on child labor have been based on economic activity “because it is easier . . . than translating the ILO standards into a statistical definition.” According to the ILO definition of the “economically active population” in a given country, it:

comprises all persons of either sex who furnish the supply of labor for the production of economic goods and services as defined by the United Nations systems of national accounts and balances during a specified time-reference period. (ILO, 2000a).

This broad definition, she said, includes children who do paid and unpaid work (including those who are temporarily unemployed), self-employed children, apprentices, and paid family workers.

According to Ritualo, the “economic activity” definition has both strengths and limitations. One strength lies in the fact that this type of data has been gathered in many labor force surveys, providing experience in design of questionnaires. Another strength is that there is a large amount of data on children’s work in many countries, based on this common definition. This means that “it is easier to compare countries” with this definition than with a “child labor” definition. However, the economic activity definition is limited in its ability to measure unpaid family work, part-time work, work such as carrying wood or water, illegal activities, begging, and household chores.

Data Sources

Ritualo said that, for several reasons, data on children’s work are usually gathered through household surveys. The household is the best place to identify and collect information on household members, and children work for reasons related to their family circumstances. In addition, because questions on child labor can be added to ongoing national household surveys, this method can be the most cost-efficient and sustainable way to collect data. However, household survey methods often miss street children, who do not live in households, and may have difficulty in capturing the worst forms of child labor. In addition, because children’s work is often clustered in certain locations and/or occupations (Anker, 2000), surveys of representative national samples of households may inadvertently omit some types of child labor.

Ritualo explained that she is employed in ILO’s SIMPOC. SIMPOC was created in 1998 to support the ILO International Programme on the Elimination of Child Labour by providing reliable, gender-sensitive information that can be used for research, advocacy, education, and program design. Currently, SIMPOC provides more than 40 countries with technical assistance in surveying child labor. Surveys are conducted when a country requests assistance, needs data on children and families, and has expressed a commitment to collect and disseminate such data. SIMPOC staff work closely with national statistical offices, government labor ministries, academic institutions, NGOs, and other international organizations.

Because the SIMPOC program is designed to encourage countries to

routinely collect data on child labor, Ritualo said, countries are allowed flexibility in designing questionnaires, survey samples, and sampling methods. Based on experience and pilot studies (ILO, 2002a), more recent SIMPOC surveys include more detailed, probing questions, which have been found to increase the estimated percentage of economically active children. These include questions on the children's occupations, hours and schedule of work (including household chores), injuries and illnesses, schooling, and parents' views of child labor. The surveys also ask basic demographic, social, and economic questions. Although survey methods vary somewhat among countries, SIMPOC requires participating countries to update their master sampling frame and to oversample households in urban areas, lower income areas, and areas where child labor is concentrated. Large samples of more than 10,000 households are usually surveyed.

The World Bank's LSMS household surveys provide another important source of data on child labor, Ritualo said. The World Bank conducts these surveys in partnership with national agencies, academic experts, and other groups in order to assess how government policies and programs affect welfare and living conditions. Currently, data are available from more than 40 LSMS surveys conducted in various countries. Along with detailed questions on family income, expenditures, and welfare, LSMS surveys ask some questions about children's work. However, Ritualo cautioned that the age of children about whom questions are asked varies among surveys, from age 7 in some countries to age 12 or 14 in others. Another problem is that the sample sizes of between 1,500 and 5,000 households "can be quite low when you are trying to measure detailed information on the work activities of children."

UNICEF launched its MICS in response to the 1990 World Summit for Children, creating another useful source of data on children's employment. In order to measure progress towards the goals of this summit, the MICS were designed to identify "the proportion of children in households aged 5 to 14 who are currently working" (UNICEF, 2000). To date, more than 100 of these surveys have been conducted in partnership with national agencies, international organizations, and research institutions. Although implemented differently in different countries, all MICS are based on a battery of survey modules. The child labor survey module includes seven questions related to work; the questions address paid and unpaid employment, hours of work, and household chores. However, the module does not include questions about children's occupations or the industries in which they are employed.

Ritualo briefly mentioned two other sources of data on child labor—national labor force surveys and censuses and the ILO Database on the Economically Active Population. She said that national labor force surveys are designed primarily to measure adult activities, and many do not collect any data on children under the age of 15. Other problems include interviewers' and respondents' attitudes towards children's work and the difficulty of measuring unpaid, part-time, and seasonal work. The ILO database presents economic activity for 10-year periods, including information on children age 10 to 14. However, SIMPOC surveys have shown that these estimates of children's economic activity are too low.

In order to capture the full extent of children's work, the ILO and UNICEF have developed a "rapid assessment" methodology. Research institutions, universities, and NGOs conduct these short-term studies to gather information on the worst forms of child labor. After collecting background information, researchers use a participatory approach to observe and interview key informants, working children, other children, and adults.

Key Indicators and Measures of Progress

Ritualo suggested using the following key indicators to measure the extent of child labor:

1. number and proportion of economically active children;
2. number and proportion of children who are child laborers;
3. ratio of children not in school;
4. proportion of children involved in household chores in their own homes, organized by ranges of hours worked;
5. proportion of children working in industry sectors (agriculture, mining, construction, transportation, etc.);
6. proportion of children working by range of hours worked; and
7. other indicators that help put child labor within the national context.

She cautioned that, although data on child labor, as defined by the ILO, would be most useful to measure compliance with ILO child labor standards, these data are hard to find. She observed that the more plentiful data on economically active children were more useful for three reasons. First, national efforts to reduce child labor would affect the ratio of economically active children. Second, information using this definition is

available for more countries, making cross-country comparisons “more feasible.” Finally, ILO global estimates using the two different definitions indicate that about 88 percent of economically active children were also considered to be involved in child labor.

Although time series data would be most useful to measure a country’s progress toward the elimination of child labor, Ritualo said such data are lacking. For example, within the SIMPOC program there are only two countries for which data have been gathered for more than one year. She cautioned that “you must know something about the country” to correctly analyze and interpret data on child labor. Finally, given the lack of data to measure child labor over time, she suggested that key indicators might include a country’s actions, such as ratifying ILO conventions on child labor and developing laws aimed at reducing child labor. She referred to Thomas’s presentation, which described how the ILO obtains, analyzes, and disseminates extensive information on various countries’ actions (or inactions) related to compliance with international labor standards.

DISCUSSION

World Bank economist Harry Patrinos said that he had enjoyed reading Ritualo’s “very rich” and “very useful” paper. He was pleased by the many new surveys that have produced better data that enable analysis of the factors that cause child labor and help policy makers design programs that will reduce child labor. Noting the explosion of research on child labor in recent years (see, for example, Basu, 1999), Patrinos said that, with better data, researchers can evaluate different types of interventions (see, for example, Ravallion and Wodon, 2000).

Patrinos was also happy to learn that surveys are beginning to include questions about children’s education as well as their work. He noted that Ritualo’s paper calls for more information on how children’s work affects their performance in school, and he said that TIMSS could provide this information. The TIMSS not only provides information on academic performance but also includes a background questionnaire that includes a question on child work.

Patrinos noted that Ritualo’s paper cites ILO Convention 138, which requires countries to establish a minimum working age that should not be less than the age for compulsory schooling. He questioned whether countries were implementing this aspect of the convention and asked Ritualo to compare the minimum employment age and compulsory schooling age for

a number of countries, using updated data. He said he had assembled data on this a few years ago (Siddiqi and Patrinos, 1995; Sinclair and Trah, 1991; UNESCO, 1993). In some countries, he said, there is an overlap “so that you can legally start working before compulsory education comes up.” In other countries, compulsory education ends at a much younger age than the minimum working age. He asked what signals countries with these overlaps and gaps were sending to young people.

Patrinos called for more information on children who work at home, taking care of siblings and doing household chores. He expressed concern for these children, who receive no education and do not learn any skill or trade, and called for more data on the hours they work.

He also expressed concern at the idea expressed in Ritualo’s paper that more detailed, probing survey questions led to higher estimates of child labor. Although such questions are “good in the sense of getting a better picture,” he wondered whether activities such as taking out the trash should be considered child labor. He warned that looking at activities without considering the hours devoted to them could result in overestimated counts of child labor, and he suggested adding survey questions on hours worked.

Although Patrinos agreed with Ritualo that we need more information on child labor on a regular basis, he asked about the costs of large-scale surveys, noting that larger samples provide more information on child labor but also cost more. He asked for information on whether governments and national agencies made use of the large, expensive, and irregular SIMPOC, LSMS, and MICS surveys to formulate policies or programs. If child labor data are indeed useful, he expressed the hope that national statistical agencies would begin to integrate questions from these surveys into their regular national surveys. Today, he said, “It’s clear that the only regular and timely surveys are the ones that give us the least information about child labor.”

Patrinos agreed with Ritualo that it is important to collect information on the worst forms of child labor, although it is very difficult to do so. He suggested that she add a summary discussion of the benefits of having better, and timely, regular data on child labor.

He suggested adding information on programs to reduce child labor to the list of indicators in Ritualo’s paper. He noted that the paper mentions only ratification of ILO conventions and enactment of minimum working age laws. Yet his research suggests a five-point strategy for reducing child labor as follows: a gradual policy approach; home business support and school enrollment incentives; targeting children of parents with low educa-

tion; targeting locations where child labor is concentrated; and poverty programs that target characteristics of poverty that contribute to child labor (Grootaert and Patrinos, 1999).

As part of this gradual approach, Patrinos said, countries could allow a flexible school schedule so that children could do some work and attend school at night or on weekends. Because school incentive programs have proven very effective at reducing child labor, Patrinos suggested including more information on Mexico's *Progres*a (now known as *Oportunidades*) program. In this program, the government provides cash payments to low-income families of children who regularly attend school. Rigorous evaluations (see, for example, Krueger, 2002; Coady and Parker, 2002) have demonstrated that the program reduces child labor and increases educational levels among the poor.

7

Nongovernmental Labor Regulation and Information Disclosure

PRESENTATION

At the time of this workshop (July 2002), accounting scandals at several large multinational corporations dominated newspaper headlines and political debates. Dara O'Rourke of the Massachusetts Institute of Technology opened his presentation on voluntary labor monitoring systems (O'Rourke, in press) with a quotation from President George W. Bush:

At this moment America's greatest economic need is higher ethical standards, standards enforced by strict laws and upheld by responsible business leaders. Self-regulation is important but it's not enough.... Greater transparency will expose bad companies, but, just as importantly, protect the reputations of the good ones.

—President George W. Bush, July 9, 2002

O'Rourke noted that Bush's calls for increased transparency, improved corporate accountability, and new methods for auditing the auditors, although focused on financial reporting, were "all relevant to our topic." He also noted that financial auditing was a "much more mature and more regulated form of company self-reporting" than voluntary monitoring of labor conditions.

The Growth of Voluntary Labor Regulation

O'Rourke said that systems of nongovernmental labor regulation have grown rapidly over the past five years (Gereffi, Garcia-Johnson, and Sasser, 2001; Herrnstadt, 2001) because of "the failures of traditional state regulation of labor and environmental issues." These failures are due not only to the limited technical and financial capacity of poor governments, he said, but also to developing countries' failure to enforce their own laws. Another reason for the rapid growth of nongovernmental labor regulation, he said, is that global supply chains have developed and grown so quickly that enforcement of labor laws by individual states may be difficult or ineffective. In addition, government regulators have not provided the information on labor conditions increasingly demanded by consumers, socially responsible investors, and activists in the developed world. O'Rourke said that the new systems of nongovernmental labor regulation have grown, not only because of these weaknesses in traditional government regulation but also because of "important successes" during the short time the systems have been in place.

Today, O'Rourke said, there are "a multiplicity" of voluntary corporate codes of conduct and monitoring programs. They include internal programs, in which firms monitor labor practices in the facilities they own or purchase from, and external monitoring. Firms may hire a third party, outside the firm, to evaluate, audit factories, and certify compliance with corporate codes. In addition, O'Rourke said, there are independent verification efforts, involving organizations that are not paid directly by the company or the factory.

O'Rourke said that "some of the most important" labor monitoring systems are those that involve groups of companies and other stakeholders. These include the Worldwide Responsible Apparel Production, created by the American Apparel Manufacturers Association; the SA8000 certification from Social Accountability International; and the Fair Labor Association, which evolved out of a Clinton Administration initiative, the Apparel Industry Partnership. In addition, O'Rourke said, the United Students Against Sweatshops and the Union of Needletrades, Industrial, and Textile Employees (the largest U.S. garment workers' union) joined to develop the Worker Rights Consortium. The British government provides most of the funding for the Ethical Trading Initiative, a partnership of U.K. unions and businesses. O'Rourke also noted that the Fair Wear Foundation, based in The Netherlands, has begun to conduct supply chain monitoring and veri-

fiction. Finally, he said the French, Swedish, Dutch, and Swiss Clean Clothes Campaigns have launched four pilot projects around the world to test and evaluate different approaches to labor monitoring.

O'Rourke mentioned a number of "related initiatives," designed to encourage corporations' voluntary systems of monitoring labor conditions. These include global agreements between multinational corporations and networks of unions, the UN Global Compact (participating companies report annually on labor rights and environmental standards), and the Global Reporting Initiative, an effort to standardize reporting among the many different monitoring systems.

Variations in Voluntary Monitoring

Because current voluntary monitoring programs are designed to achieve a variety of different goals, O'Rourke said, they use a variety of methods to monitor different aspects of labor conditions. Some "are just trying to find problems," but he said that even activists are becoming less interested in this approach. Although exposés are critical for motivating firms and governments to take action, too many exposés may lead to issue fatigue among consumers and activists. Other efforts are designed to improve compliance within multinational firms' supply chains or to provide information to support consumer campaigns and worker organizing and empowerment. Under certain conditions, these initiatives can support government regulation and democratize it by involving NGOs, unions, and consumers. However, some people believe that the new systems undermine traditional state regulation, weakening the sovereignty of developing countries by moving activities that belong to government into the private sector.

O'Rourke said that the new systems vary widely in terms of what they monitor and how they monitor it. One factor causing this variation is that the labor standards included in various companies' codes of conduct differ somewhat. For example, there are debates about how to interpret statements on freedom of association in the various codes. In addition, even when companies have "aspirational" codes of conduct that call for the elimination of discrimination, it is difficult to move beyond these codes and actually implement nondiscriminatory labor practices. Voluntary labor monitoring systems also have varying requirements on workers' wages and hours.

Despite these differences, he said, there are some similarities in "what gets monitored." Almost all of these systems monitor compliance with the

four core ILO labor standards—freedom of association, elimination of forced labor, nondiscrimination, and elimination of child labor (Nadvi and Waltring, 2001). In addition, most of them monitor conditions of work, including limits on hours, wage requirements, and provisions for basic health and safety. Also, he said, most of the systems monitor workers' living conditions, such as the adequacy of dormitories and food provided by the employer.

There are “major challenges in doing this kind of monitoring,” O'Rourke said, such as the long, mobile chains used in producing and purchasing apparel and other products for a multinational brand or retailer. These long supply chains, together with multiple layers of ownership and shifting locations, can make it difficult for auditors to track and monitor the correct factories in developing nations. In addition, monitors who are not closely affiliated with the owners of the factory may have difficulty obtaining access. And because factories in developing countries often supply a variety of buyers, they are faced with many different, and sometimes conflicting, codes of conduct. Some factories “have two or three sets of books” to deceive tax collectors and multinational purchasers about working conditions and the real costs of production.

Noting that monitors need improved technical capacity to understand and investigate different labor problems, O'Rourke said that when he is present as a health and safety expert, it “is not a normal day in the factory.” He presented slides demonstrating that some health and safety problems, such as uncovered cloth-cutting blades, may be quite obvious to monitors, while other less visible health and safety problems may cause chronic illness or injury. He noted that accounting firms are entering the labor monitoring field “as fast as they can print the brochures” and need to improve their capacity and expertise.

Use and Disclosure of Monitoring Information

The new programs are now collecting “significant, huge” amounts of “very interesting data,” O'Rourke said. The downside is that most of it is not made public, but some information is beginning to come out. The first type of information now available is disclosure of the names and locations of factories—this is a big step to “pull back the veil of secrecy over industry.” Second, some monitoring groups are publishing the results of their certification audits. For example, the Fair Labor Association recently decided to make summaries of its audits available to the public. Third, some

organizations are making information public in the form of benchmarking systems, which enable outsiders to compare the performance of individual factories.

O'Rourke said that most of the information goes to the factory, where it is needed to correct labor problems, and to the multinational corporations that pay for the monitoring. Some programs, such as the Ethical Trading Initiative, have "club transparency," that is, they share audit results with companies, unions, and NGOs that belong to the initiative, but not with the general public. In contrast, the Worker Rights Consortium makes its factory reports public "almost immediately," with some delay for discussions with the companies that purchase from or own these factories and with workers' organizations.

Voluntary monitoring information can be valuable for a number of different purposes, O'Rourke said. It can be used to assess labor conditions across supply chains or across different industry sectors. Analysts "can begin to see patterns of noncompliance and patterns of compliance." One of the most important attributes of the information, according to O'Rourke, is that it demonstrates "what is really possible" in developing nations, in contrast to the "aspirational" ILO standards (Fung, O'Rourke, and Sabel, 2001). The information can also be used to identify patterns of violations of international labor standards. In addition, monitoring systems gather information directly from workers about their views and concerns. These data can be especially useful for understanding problems in countries such as China, where there are no free, independent trade unions through which workers can express their concerns. And, O'Rourke noted, the growing supply of information from monitoring includes data on corrective actions that can be valuable in learning "how we can improve conditions." Finally, he said, corporate data could shed light on broad labor conditions throughout an entire country.

Moving Monitoring Forward

In the future, O'Rourke said, the many different monitoring systems existing today may move toward more standardized reporting, which would allow the systems to work together and the public to compare reports from the different systems and establish benchmarks. The information that is currently made available has launched a dialogue, and it is important to continue and expand this dialogue, rather than trying to end it by claiming "the problem has been solved." O'Rourke called for more disclosure of the

information, both to multi-stakeholder groups who can analyze and summarize it, and to unions and NGOs. Another group that needs information is consumers. However, O'Rourke said that the idea of a "no sweat" label for products "has been called into question," partly because of the difficulty of getting accurate information on labor conditions across complex global supply chains. Consumers need more information than can be provided on a label, including data on a corporation's approach to identifying and solving labor problems and the role of workers in those solutions. O'Rourke also predicted that governments in developing nations could use these data as a "rich addition" to what they already possess, in order to motivate action to provide workers with labor rights.

To improve voluntary monitoring and reporting, O'Rourke said, the first step is "increased transparency." The public needs more information on monitoring results (including raw data from factory audits) and methods. A public debate over this information will spur improvements in methods. He called for approaches to moving information not only "up to consumers" in the developed world but also down to the workers themselves, local NGOs, and local government officials in the developing world. Workers could comment on factory reports, based on their own experiences in those factories. O'Rourke said we should acknowledge that these monitoring systems are young efforts, testing different approaches. He said the public would benefit from the ability to critique "cynical versions" of labor monitoring, just as it critiques cynical versions of financial accounting.

O'Rourke suggested that the committee think about how to connect the "very rich, interesting empirical data" from nongovernmental monitoring systems focused on individual companies with country-level data. He concluded with a plea for further research, especially field research on the monitoring approaches being used and their effectiveness. This research could help identify the best approaches for obtaining accurate information and enhance efforts to regulate the global workplace.

DISCUSSION

Reflecting the variety of approaches to monitoring, the NRC invited representatives of a corporation, a nonprofit monitoring organization, and an NGO to respond to Dara O'Rourke. The first respondent was Dusty Kidd, Vice President for Compliance at the Nike Corporation. Kidd commended O'Rourke for his "even-handed" analysis of the many monitoring initiatives underway. Reflecting on the variety of approaches, Kidd com-

mended them all. He said any initiative that tries to get companies, NGOs, trade unions, and governments to work together for improved workplaces is “intrinsically good work.”

However, the “real critical test” of these efforts is whether they actually help improve working conditions. Monitoring without remediation, he said, is a waste of time, and he called for better methods to measure progress.

Emphasizing a point in O’Rourke’s paper, Kidd warned that monitoring programs created and operated by people from the developed world could reduce or supplant opportunities for local monitoring. Without more action and stakeholder involvement at the local level, he said, it would be impossible to sustain improvements in monitoring and remediation. In establishing Nike’s Labor Practice Department six years ago, his goal was to “work ourselves out of jobs,” but he recently had to ask a regional director to hire four more monitors. Kidd said that he and others at Nike strongly support increased transparency, and he hopes that other companies will become more transparent as well. He said that, at the UN meeting launching the Global Compact, the chairman of Nike was the only company representative who spoke out in favor of global transparency, global protocols, and global monitoring.

Although monitoring efforts are moving forward, Kidd said, he asked whether current efforts are “really going to reach enough workers to be meaningful.” He reminded the audience that the workers currently being monitored represent a very small percentage of all workers in the developing world, and he urged them not to forget the “masses of people” in the informal sector and cottage production.

Kidd identified some points in O’Rourke’s paper that indicate progress in voluntary monitoring. First, the comparison of voluntary codes of conduct revealed more similarities than differences, an improvement from four or five years ago. Second, there are many more companies, unions, and NGOs involved in Europe and the United States, although more participation is needed from developing countries.

Kidd concluded his remarks with a reminder of how difficult monitoring is. He asked the audience to try to imagine monitoring labor conditions in “over 900 factories in 51 countries.” Monitoring is difficult not only at this macro-level but also at the micro-level. He pointed to the complexity of making a determination in a hypothetical example of a worker who was fired: Three months later, on learning of this problem, the monitor must decide whether the worker was fired for cutting a garment or

for trying to form a union. Given these difficulties, Kidd said, “There is still just an incredible amount of work to do.”

David Roe, counsel for the Lawyers Committee for Human Rights, said that O’Rourke’s paper was “an extremely good summary” of current work in nongovernmental reporting of labor standards information. He encouraged the committee to carefully consider the potential of the new voluntary labor monitoring and regulation systems to create positive spillover effects, affecting many more companies beyond the current small group of large multinationals. He also asked that they think carefully about the potential of these new systems to complement—or interfere with—government regulation.

Roe said that voluntary monitoring arose because of a perceived vacuum in government and international regulation of labor conditions. The result, he said, was that “fools rush in where angels fear to tread.” Saying that he would include among the “fools” all of the participants in this workshop and in voluntary monitoring in general, Roe emphasized that the reason they were there was the “accurate perception that there was a vacuum.” Over the long term, however, this vacuum must be filled. Roe reminded the audience that the current array of voluntary monitoring efforts is only a “way-station,” not a substitute for government enforcement of labor laws and protection of labor rights.

Roe reiterated O’Rourke’s call for increased transparency. He called for more data that are credible, comparable, replicable, and measurable. While agreeing with O’Rourke that current data from voluntary monitoring is “unsystematic,” Roe suggested focusing not only on improving the data’s credibility but on increasing their transparency. Transparency, he said, reflects “a commitment to learn from what’s going on” by exposing oneself to critics. Transparency increases the speed and depth of learning at a time when voluntary monitoring approaches are still being developed and tested.

Roe argued that data from individual factories and companies may provide greater incentives for improving labor conditions than data on countrywide labor conditions. He said that ignoring the growing body of information from voluntary monitoring would mean avoiding the “public policy purposes” of labor monitoring. He described the database he is currently creating, which is made up of the units used to measure labor standards and compliance. When completed, the database will include measurement units (not actual data) from about 100 sources. The database

may be used to analyze whether some types of labor issues are easier to measure than others and to see whether different measurement methods yield different results.

Based on these points, Roe suggested that the committee's public database include as much existing data as possible, with appropriate caveats. The database will be most useful if it allows people to sort and order the data. Experience in environmental monitoring, he said, demonstrates the technical feasibility of making very large amounts of raw data easily accessible to even the casual user, allowing searches based on the user's criteria. He referred to the Scorecard website produced by Environmental Defense (<http://www.scorecard.org/ranking/>) as an example of a user-friendly database that includes detailed data on individual factories.

Roe suggested designing the labor standards database in a way that would allow users to supplement or correct data posted on the website. He said that this can be done without requiring major effort from the website sponsor and without devolving into chaos. One option is to provide a delineated comment space available only to specified users. For example, only a specific industrial facility would be allowed to comment on data about pollution from that facility (as on the Scorecard website). Another possibility is to invite online posting of comments or data related to specific factual issues. In this design, all subsequent users would be alerted and led to the additional information, without confusion as to source and without requiring alteration of the database from which the original data are drawn. When the underlying database is updated, as presumably will occur at regular intervals, the supplemental materials could be automatically erased, and an opportunity for new comment on the new data could be offered.

Alice Tepper Marlin, President of SAI, thanked Roe for his comments and congratulated O'Rourke on his "thoughtful and comprehensive paper." She agreed with O'Rourke that monitoring systems are beginning to converge. For example, SAI, together with three other monitoring programs, has launched 12 different pilot projects in Costa Rica. The pilots are designed to develop integrated audits measuring organic agriculture, fair trade, and labor practices, and to market the four monitoring programs within the food industry.

Tepper Marlin noted that O'Rourke had suggested evaluating current monitoring programs based on four criteria—legitimacy, rigor, accountability, and complementarity. She suggested adding a fifth criterion: scale of implementation. Although the efforts underway seemed large to the "fools" who rush in, she said, they actually focus on only a tiny portion of

the global workforce. In the long run, she said, we need to monitor the supply chains of tens of thousands of companies, not just the supply chains of the hundreds of companies currently involved. And we need to see “country-level strategies,” with government enforcement of labor laws that are consistent with the ILO fundamental rights and principles.

Although transparency is important, Tepper Marlin warned against getting “bogged down” in an enormous amount of detail about a particular facility rather than focusing on the most important indicators. Among the most important indicators, she said, are those that measure improvement in freedom of association and other labor rights.

Tepper Marlin said that certification programs are valuable in meeting consumer needs for “clear and simple information.” Factory audits designed to provide such information “become effective” when they lead to onsite remediation programs, with independent verification that improvements are being made. Certification audits can lead to institutional change, empowering workers and leading management to create ongoing methods to address grievances, health and safety issues, and other problems. She said that a one-day audit would not provide credible information to consumers and the public. In the SAI system, an audit requires at least 17 days, more than half of which are spent onsite at a factory and interviewing workers and managers.

Tepper Marlin said that SAI’s records of requests for corrective actions at certified factories reveal patterns of problems and solutions. For example, she has learned that the most frequent problems are in management systems, compensation, and working hours, followed by less frequent violations in the areas of occupational safety and health and child labor. Problems with freedom of association are reported even less frequently, perhaps because auditors have difficulty ascertaining violations in this area. In addition to this small pool of information from certified facilities, the auditing organizations engaged by SAI have data from a much larger group of thousands of facilities that failed certification audits. Another useful source of information is complaints by observers who question certification results. SAI will soon post these complaints on its website. Finally, she said that SAI will also post reports on large companies. Each report will address the extent of auditing and certification among the factories that are owned by, or supply to, the company. The reports on some companies will include “as many as a thousand audits,” providing data that can be analyzed by facility size, location, and industry sector.

Tepper Marlin called for more cost-benefit analyses to demonstrate to more companies the importance of voluntary labor monitoring. She said that large companies that do monitor their labor conditions, such as Nike, Levi's, Toys R Us, and Avon, are concerned about free riders. These larger companies are investing time and money to monitor and improve labor conditions, and their efforts lead to improvements at factories that supply many other companies, including some that make no investment. Because of this problem, some large firms are beginning to ask about enforcement of labor laws, as well as intellectual property laws, when they are negotiating with a developing country about investing there. When more large firms begin to make such requests, Tepper Marlin said, this will strengthen and support the role of labor ministries, the ILO, and other national and international institutions.

In further discussion, Dwight Justice of the ICFTU commented that none of the respondents had mentioned the role of trade unions in introducing the ILO core standards into voluntary codes of conduct. He noted that trade unions partner in the Ethical Trading Initiative, which recognizes them as "the formal voice of workers." In his experience, the only two ways workers are protected are by enforcement of laws and by themselves. He questioned whether voluntary initiatives would encourage improvement in these two forms of protection. He said that private firms should not tell the public they are observing labor standards when these firms cannot really take on responsibility for enforcement of the labor standards. He warned the committee to look carefully at information from voluntary monitoring, because some of it is "erroneous," and he concluded by saying that the easiest approach to monitoring is "by the workers themselves . . . when they have power."

References

- Anker, R. (2000). The economics of child labor: A framework for measurement. *International Labor Review*, 139(3). Geneva: International Labour Organization.
- Bales, K. (1999). *Disposable people: New slavery in the global economy*. Berkeley, CA: University of California Press.
- Bales, K. (2002a, April). The social psychology of modern slavery. *Scientific American*, 286(4), 80–88.
- Bales, K. (2002b). International Labor Standards: Quality of Information and Measures of Progress in Combating Forced Labor. Paper prepared for National Research Council Workshop on International Labor Standards: Quality of Information and Measures of Progress. Available: <<http://www7.nationalacademies.org/internationallabor/DQworkshop.html>> [October 15, 2002].
- Basu, K. (1999). Child labor: Cause, consequence, and cure, with remarks on international labor standards. *Journal of Economic Literature*, 37(3), 1083–1119.
- Coady, D.P., and Parker, S.W. (2002). *A cost-effectiveness analysis of demand- and supply-side education interventions: The case of PROGRESA in Mexico*. International Food Policy Research Institute (IFPRI), Food Consumption and Nutrition Division Discussion Paper 127.
- Compa, L. (2002). Assessing Assessments: A Survey of Efforts to Measure Countries' Compliance with Freedom of Association Standards. Paper prepared for the National Research Council Workshop on International Labor Standards: Quality of Information and Measures of Progress. Available: <<http://www7.nationalacademies.org/internationallabor/DQworkshop.html>> [October 15, 2002].
- Donnelly, J. (1995). *Universal human rights in theory and practice*. Ithaca, NY: Cornell University Press.
- Forteza, A., and Rama, M. (2001). Labor market “rigidity” and the success of economic reforms across more than one hundred countries. *Policy Research Working Paper*. Washington, DC: World Bank.

- Freeman, R. (1994). A global labor market? Differences in wages among countries in the 1980s. Unpublished manuscript. Washington, DC: World Bank.
- Fung, A., O'Rourke, D., and Sabel, C. (2001). *Can we put an end to sweatshops?* Boston: Beacon Press.
- Gereffi, G., Garcia-Johnson, R., and Sasser, E. (2001 July–August). The NGO-industrial complex. *Foreign Policy*, 56–65.
- Green, M. (2001). What we talk about when we talk about indicators: Current approaches to human rights measurements. *Human Rights Quarterly*, 23(4), 1062–1098.
- Grootaert, C., and Patrinos, H.A. (Eds.). (1999). *Policy analysis of child labor: A comparative study*. New York: St. Martin's Press.
- Herrnstadt, O. (2001). Voluntary codes of conduct: What's missing. *The Labor Lawyer*, (16), 349–370.
- International Confederation of Free Trade Unions. (2001). *Annual survey of violations of trade union rights 2001*. Brussels, Belgium: Author.
- International Labor Organization. (no date). ILOLEX "Ratifications." Available: <<http://www.ilo.org/ilolex/english/newratframeE.htm>> [January 21, 2003].
- International Labour Office. (2002). *Report of the committee of experts on the application of conventions and recommendations*. Report III (Part IA) to the International Labour Conference 90th Session. Geneva, Switzerland: Author.
- International Labour Organization. (1948). *Convention 87 freedom of association and protection of the right to organize convention, 1948*. Geneva, Switzerland: Author.
- International Labour Organization. (1949). *Convention 98 right to organize and collective bargaining convention, 1949*. Geneva, Switzerland: Author.
- International Labour Organization. (1951). *Convention 100 equal remuneration convention, 1951*. Geneva, Switzerland: Author.
- International Labour Organization. (1958). *Convention 111 discrimination (employment and occupation) convention, 1958*. Geneva, Switzerland: Author.
- International Labour Organization. (1973a). *Convention 138 minimum age convention, 1973*. Geneva, Switzerland: Author.
- International Labour Organization. (1973b). *Recommendation 146 minimum age recommendation, 1973*. Geneva, Switzerland: Author.
- International Labour Organization. (1998a). *Handbook of procedures relating to international labour conventions and recommendations*. Geneva, Switzerland: Author.
- International Labour Organization. (1998b). *ILO declaration of fundamental rights and principles at work*. International Labour Conference 86th Session. Geneva, Switzerland: Author.
- International Labour Organization. (1999). *Convention 182 worst forms of child labour convention, 1999*. Geneva, Switzerland: Author.
- International Labour Organization. (2000). *Current international recommendations on labour statistics: 2000 edition*. Geneva, Switzerland: Author.
- International Labour Organization. (2002a). *Every child counts: New global estimates on child labour*. Geneva, Switzerland: Author.
- International Labour Organization. (2002b). *Committee on freedom of association report 328. LXXXV (Series B, No. 2): June*. Available: <<http://www.ilo.org/ilolex/english/cfarepsq.htm>> [October 15, 2002].

- International Women's Rights Action Watch. (Various dates). *IWRAW to CEDAW country reports*. Available: <<http://www.igc.org/iwraw/publications/list/>> [August, 2002].
- Krueger, A.B. (2002). Economic scene: A model for evaluating the use of development dollars south of the border. *New York Times*, May 2, 2002.
- Kucera, D. (2001a). Decent work and rights of work: New measures of freedom and collective bargaining. In R. Blanpain and C. Engels (Eds.), *The ILO and the social challenge of the 21st century* (pp. 125–135). The Hague, The Netherlands: Kluwer Law International.
- Kucera, D. (2001b). *The effects of core worker rights on labor costs and foreign direct investment: Evaluating the "conventional wisdom."* Geneva, Switzerland: International Institute for Labour Studies Decent Work Research Program Discussion Paper. Available: <<http://www.ilo.org/public/english/bureau/inst/papers/index.htm#decent>> [October 15, 2002].
- Nadvi, K., and Waltring, F. (2001). Making sense of global standards. Draft IDS-INEP Working Paper. Sussex, UK: Institute for Development Studies.
- Organisation for Economic Co-operation and Development. 1996. *Trade, employment and labor standards: A study of core workers' rights and international trade*. Paris: Author.
- O'Rourke, D. (in press). Outsourcing regulation: Analyzing non-governmental systems of labor standards and monitoring. Available: <<http://web.mit.edu/dorourke/www/>> [February 21, 2003].
- Rama, M., and Artecona, R. (2002). A database of labor market indicators across countries. Draft prepared for the World Bank Research Project on the Impact of Labor Market Policies and Institutions on Economic Performance. Available: <<http://www7.nationalacademies.org/internationallabor/DQworkshop.html>> [October 15, 2002].
- Ravallion, M., and Wodon, Q. (2000). Does child labor displace schooling? Evidence on behavioral responses to an enrollment subsidy. *Economic Journal*, 110, C158–C176.
- Ritualo, A. (2002). Measuring child labour. Paper prepared for National Research Council Workshop on International Labor Standards: Quality of Information and Measures of Progress. Available: <<http://www7.nationalacademies.org/internationallabor/DQworkshop.html>> [October 15, 2002].
- Rodrik, D. (1999). Democracies pay higher wages. *Quarterly Journal of Economics*, CXIV (3), 707–738.
- Siddiqi, F., and Patrinos, H.A. (1995). *Child labor: Issues, causes and interventions*. Human Resources and Operations Policy Working Paper 56. Washington, DC: World Bank.
- Sinclair, V., and Trah, G. (1991). Child labor: National legislation on the minimum age for admission to employment or work. *Conditions of Work Digest*, 10(1), 19–146.
- Steiner, H., and Alston, P. (1996). *International human rights in context*. Oxford: Oxford University Press.
- Thomas, C. (2002). Information Sources and Measures of International Labour Standards on Discrimination. Draft Paper prepared for National Research Council Workshop on International Labor Standards: Quality of Information and Measures of Progress. Available: <<http://www7.nationalacademies.org/internationallabor/DQworkshop.html>> [October 15, 2002].
- United Nations Children's Fund. (2000). *Monitoring progress toward the goals of the world*

- summit for children: End-decade multiple indicator survey manual*. New York: Author, Division of Evaluation, Policy and Planning
- United Nations Educational, Scientific and Cultural Organization. (1993). *Statistical yearbook*. Paris: Author.
- U.S. Department of State. (2002). *Country reports on human rights practices-2001*. Available: <<http://www.state.gov/g/drl/rls/hrrpt/2001/>> [September 4, 2002].
- U.S. Government, Office of the U.S. Trade Representative. (no date). *Trade and development, generalized system of preferences*. Available: <<http://www.ustr.gov/gsp/general.shtml>> [January 28, 2003].
- U.S. Government, Overseas Private Investment Corporation. (no date). The Overseas Private Investment Corporation (OPIC). Available: <<http://www.opic.gov/>> [January 28, 2003].
- Verité. (n.d). *Report to California Public employees retirement system emerging markets research project*. Amherst, MA: Author. Available: <<http://www.calpers.ca.gov/invest/emergingmkt/country.htm>> [September 3, 2002].
- Yin, R.K. (1994). *Case study research and design methods*. London: Sage.

List of Acronyms

AFL-CIO	American Federation of Labor and Congress of Industrial Organization
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEP	Council on Economic Priorities
CLC	Commission for Labor Cooperation
DOL	U.S. Department of Labor
EDF	Environmental Defense Fund
FTAA	Free Trade Agreement of the Americas
GDP	Gross Domestic Product
IATP	Initiative Against Trafficking in Persons
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organization
ILRF	International Labor Rights Fund
LSMS	Living Standards Measurement Study

MICS	Multiple Indicator Cluster Surveys
NAALC	North American Agreement on Labor Cooperation
NAFTA	North American Free Trade Agreement
NGO	nongovernmental organization
NRC	National Research Council
OECD	Organisation for Economic Co-operation and Development
SAI	Social Accountability International
SIMPOC	Statistical Information and Monitoring Programme on Child Labour
TIMSS	Third International Mathematics and Science Study
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
WTO	World Trade Organization

Appendix A

Workshop Speaker Biosketches

Raquel Artecona is regional advisor on international trade at the UN Economic Commission for Latin America and the Caribbean. Her work involves providing technical support to regional trade agreements, including the FTAA, and monitoring economic relations between the United States and Latin America through trade, capital flows, and foreign direct investment. Prior to joining the UN in 2001, she was affiliated with the World Bank, where she was involved in research and operational support on labor market, gender, and trade issues. Raquel Artecona did her undergraduate studies at the Universidad de la República (Uruguay) and got her Master's degree from the University of Kansas. She is now a Ph.D. candidate in economics at American University.

Bama Athreya is the deputy director for the ILRF, a Washington DC-based nonprofit advocacy organization. Dr. Athreya joined the ILRF in early 1998, just after returning from a two-year assignment in Cambodia as the AFL-CIO's country representative. While in Cambodia she directed worker education and labor law training programs and conducted extensive research on the problems of women workers and on child labor. A cultural anthropologist, she received her Ph.D. from the University of Michigan. She spent three years in Indonesia, first as a State Department official and later as an independent researcher, and wrote her thesis on Indonesia's labor movement. She has also lived and worked in China, Taiwan, and India.

Kevin Bales is director of Free the Slaves, the U.S. sister organization of Anti-Slavery International (the world's oldest human rights organization), and Professor of Sociology at the University of Surrey Roehampton in London. His book *Disposable People: New Slavery in the Global Economy*, published in 1999, was nominated for the Pulitzer Prize and has been published in nine other languages. Archbishop Desmond Tutu called it "a well researched, scholarly and deeply disturbing exposé of modern slavery." Bales's work won the Premio Viareggio for services to humanity in 2000, and the documentary based on his work won the Peabody Award for 2000. He is a trustee of Anti-Slavery International and a consultant to the United Nations Global Program on Trafficking of Human Beings. Bales has been invited to advise the U.S., British, Irish, Norwegian, and Nepali governments, as well as the governments of the Economic Community of West African States, on the formulation of policy on slavery and human trafficking. He gained his Ph.D. at the London School of Economics. He is currently editing an Anti-Human Trafficking Toolkit for the UN, working with the chocolate industry to remove child and slave labor from the product chain, and writing on contemporary slavery (see, for example, his feature article in the April 2002 *Scientific American*).

Lance A. Compa (author of workshop paper) has been a senior lecturer at the New York State School of Industrial and Labor Relations at Cornell University since 1997. He teaches courses and conducts research on international and U.S. labor law. One large research project led to the publication of his most recent book, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards* (Human Rights Watch, August 2000). He has investigated the impacts of international trade and investment on workers and trade unions, and researched and developed policy positions linking labor rights with trade policies. From 1995 to 1997, he was the first director of Labor Law & Economic Research at NAFTA Labor Secretariat. In this position, he directed a staff of lawyers and economists from the United States, Canada, and Mexico in comparative studies of labor law and labor markets. Earlier, he held legal and managerial positions with two trade unions. He received his J.D. from Yale Law School and is a member of the Massachusetts bar. He has published many articles in academic journals as well as books, monographs, book reviews, and opinion pieces.

Anthony Giles is the director of research of the Secretariat of the CLC. The

Commission is an international body established under the NAALC, a supplementary accord to NAFTA. The CLC Secretariat, located in Washington, DC, is the administrative and research arm of the Commission. As director of research, Dr. Giles is responsible for coordinating the Commission's research into North American employment law, labor markets, labor relations, and human resources management.

Dr. Giles is currently on leave from Université Laval in Quebec City, Canada, where he is a full professor in the Department of Industrial Relations. He holds a Bachelor of Administration degree from Concordia University in Montréal, a Master's degree in Public Administration from Carleton University in Ottawa, and a Ph.D. in Industrial Relations from the University of Warwick in England. Before joining Université Laval in 1992, he was a professor in the Faculty of Administration at the University of New Brunswick. A specialist in comparative and international industrial relations, Dr. Giles's recent academic research and publications have focused on globalization and its impact on work and employment, as well as on the management of work in transnational firms. He is a past Secretary-Treasurer of the Executive Board of the Canadian Industrial Relations Association. He is presently a member of the Industrial Relations Research Association's NAFTA Committee and the Groupe de recherche sur la transformation de la régulation du travail face à la mondialisation, an interuniversity research group in Quebec. He is associate editor of the journal *Relations industrielles/Industrial Relations* and a member of the editorial board of the journal *Labor/Le travail*.

Ann Jordan is director of the IATP at the International Human Rights Law Group. She directs and implements a project to bring a human rights perspective to legal and social responses to the international problem of human trafficking. IATP works with immigrant rights, women's rights, and other nongovernmental organizations in the United States, Nigeria, Bosnia, Cambodia, Russia, the Ukraine, and elsewhere on legal reform, research, training, and advocacy. Ms. Jordan was deeply involved in the development of the new U.S. trafficking law; she organized the Freedom Network (USA) to Empower Trafficked and Enslaved Persons and formed the Human Rights Caucus of anti-trafficking and human rights organizations from all regions of the world to advocate for a human rights framework in the new UN Trafficking Protocol. She was also a member of the Women's Caucus for Gender Justice in the International Criminal Court, which participated in the negotiations for the new UN International Crimi-

nal Court and advocated for the inclusion of gender-based crimes and gender balance in the treaty. She was a Fulbright Scholar in the law faculties of Jilin University, Changchun, Jilin Province, China, and the City University of Hong Kong, as well as a law professor at the Chinese University of Hong Kong. Ms. Jordan earned her law and undergraduate degrees at Columbia University.

Dwight W. Justice is currently on the staff of the ICFTU in Brussels where his main responsibilities are in the areas of multinational companies, industrial relations, and trade union organizing. He has been extensively involved in the area of corporate responsibility and codes of conduct. He is a member of the board of the Ethical Trading Initiative. He has served as the adviser to the Workers' Group on committees of the International Labor Conference.

Mr. Justice began his work for trade unions as a shop steward for the United Food and Commercial Workers Union. Since 1977 he has held a number of positions with various trade union organizations in the areas of political and legislative affairs, organizing, and international affairs. He has organized workers in the education, health care, public service, manufacturing, and retail sectors. He has been on the staff of the ICFTU since 1990. He was born in Williamson, West Virginia, in 1951 and is a graduate of Elmira College.

Dusty Kidd manages the Compliance Department, a global team of managers and inspectors stationed throughout the world to provide labor and environmental oversight for the Nike supply chain over more than 800 factories in more than 50 countries. Kidd joined Nike in 1991 as a marketing communications director in Oregon and Hong Kong. In 1995 he was named director of Independent Businesses for Asia Pacific, overseeing Nike marketing and distribution through licensees in Asia. In 1996 he was named director of Labor Practices, and he established and directed the efforts of that department, first in Asia and then, in 1997, from Nike's headquarters in Beaverton, Oregon. He was named to his current position in 2000. Kidd has a B.A. in International Relations from the University of Wisconsin and an M.A. in Journalism from the University of Missouri. He was a business journalist for 15 years, during which time he was a congressional and foreign correspondent in Washington, DC, Hong Kong, and Tokyo, and an editor and publisher in New York.

Sandra Polaski recently joined the Carnegie Endowment for International Peace as a senior associate. Her work will focus on international labor policy in the context of trade and development. Until April 2002, Ms. Polaski served as the U.S. Secretary of State's Special Representative for International Labor Affairs, the senior State Department official dealing with such matters. In that capacity she played a leading role in the development of U.S. government policy and strategies on international labor issues, and she integrated those issues into U.S. foreign policy. Among other responsibilities at the State Department, she served as the lead negotiator in establishing labor provisions in the U.S.–Jordan Free Trade Agreement. Ms. Polaski also represented the U.S. government on labor policy issues at UN and ILO meetings. She conducted dialogues on labor matters with numerous developing and transitional country governments on behalf of the United States. Ms. Polaski was responsible for the development and implementation of the State Department's innovative Partnerships to Eliminate Sweatshops program, which provides grants to private-sector groups to pursue projects that promote corporate social responsibility and good labor standards in workplaces around the globe. Previously, Ms. Polaski was the director of Economic and Labor Law Research for the Secretariat of the North American Commission on Labor Cooperation, a NAFTA-related intergovernmental body. Prior to her work in the international labor field, Ms. Polaski was a leader in U.S. unions, with responsibilities as a strategist, chief negotiator, and organizer. Ms. Polaski holds a Master's degree in international economics and international relations from the Johns Hopkins University School of Advanced International Studies. She also holds degrees from the University of Wisconsin and the University of Dayton.

Harry Anthony Patrinos is senior education economist at the World Bank. His main areas of focus are demand-side financing and lifelong learning issues in the Latin America region. Last year he led the Task Force on Bridging the Digital Divide Through Education. He established the Economics of Education Thematic Group (<http://www.worldbank.org/education/economicسد>), as well as EdInvest (www.worldbank.org/edinvest), the Education Investment Information Facility. Dr. Patrinos has many publications in the academic and policy literature. He is co-author of the book *Decentralization of Education: Demand-Side Financing* (1997). He has worked in Africa, Latin America, Asia, Europe, and North America. His latest book, co-edited with Christiaan Grootaert, is *Policy Analysis of Child Labor: A Comparative Study* (St. Martin's Press, 1999). He is one of

the main authors of the World Bank's sector review paper on education, *Priorities and Strategies for Education* (1995). He previously worked as an economist at the Economic Council of Canada. Mr. Patrinos received a doctorate from the University of Sussex (England).

Martín Rama is lead economist with the Development Research Group of the World Bank. In recent years, his work has focused mainly on labor market issues. He has managed large research projects on labor policies and institutions, income support programs for the unemployed, and public sector downsizing. In the context of the latter project, he is involved in World Bank-supported programs to reform the public sector in various developing countries and transition economies. Martín Rama did his undergraduate studies at the Universidad de la República (Uruguay) and received his Ph.D. in economics from the University of Paris. His academic publications include journal articles on labor economics, trade policy, macroeconomic stabilization, long-run growth, and political economy issues. Prior to joining the World Bank in 1992, he was affiliated with the Centro de Investigaciones Económicas, a nonpartisan think tank in Uruguay. For the last 12 years he has been a visiting professor at the University of Paris, where he teaches development economics for graduate students.

Amy R. Ritualo is a data analyst in the International Programme on the Elimination of Child Labour at the International Labour Office in Geneva. In this capacity, Ms. Ritualo carries out indepth analyses of child labor data in order to develop indicators of child labor, identify general and regional patterns of child labor, evaluate child labor data collection methodologies, and provide assistance in establishing priorities and recommendations for policy and program development. In addition, her interests are in increasing public awareness of children's well-being in the United States and the effects of divorce and remarriage on children's well-being. She holds a Master's degree in Demography from Georgetown University and a B.S. from Western Washington University.

David Roe is counsel for the Lawyers Committee for Human Rights and director of its new Workers Rights Information Project. From 1976 through 2001 he was on the staff of Environmental Defense (formerly the EDF), except for a sabbatical year teaching at Harvard Law School. At EDF he specialized in information disclosure issues, wrote California's landmark toxic chemical disclosure law (Proposition 65), and led strategy for

the Scorecard website (www.scorecard.org). Mr. Roe got his B.A. from Yale, studied at Oxford as a Rhodes Scholar, came back to Yale for a J.D., and is a member of the California bar. He wrote *Dynamos and Virgins* (Random House, 1984) and has also published a number of articles and studies, including most recently “Ready or Not: The Coming Wave of Toxic Chemicals,” *Ecology Law Quarterly* (forthcoming); “Toxic Chemical Control Policy: Three Unabsorbed Facts,” *Environmental Law Reporter* (February 2002); and “Green Scholarship,” *The Green Bag* (Autumn 1999).

Alice Tepper Marlin serves as president of SAI. SAI is a charitable human rights organization dedicated to improving workplaces and communities by developing and implementing socially responsible standards. She has held this CEO position since 1996, when SAI was founded. She is also adjunct professor of Markets, Ethics and Law at New York University’s Stern School of Business. Ms. Tepper Marlin is the recipient of numerous awards, including Japan Society Fellowship, Right Livelihood Award, Wellesley College Alumnae Achievement Award, Social Venture Pioneer Award, and both Adweek’s and Mademoiselle’s Woman of the Year Award. She has been profiled in the *New York Times*, *People*, *Time*, and numerous other publications around the world. She has been interviewed by the Today Show, CNN, Good Morning America, and others. She teaches MBA candidates at the Stern School of Business. In 1969, Ms. Tepper Marlin founded the CEP and served for 33 years as president. At CEP she wrote and/or edited dozens of books, including *Shopping for a Better World* (Ballantine Books). Earlier, Ms. Tepper Marlin served as a securities analyst and labor economist at Burnham & Co. and as the editor of the tax journal of the International Bureau of Fiscal Documentation in the Netherlands.

Constance Ann Thomas is section chief, Equality and Employment Branch in the Department of International Labour Standards of the International Labour Office, Geneva, Switzerland. She was admitted to the California bar in 1981 and has been engaged full-time with the ILO since 1990. Her current responsibilities include secretariat coordination on application of fundamental labor rights with ILO supervisory bodies, promotion of ILO international and technical assistance on labor standards concerning equality, research on equality issues, advisory technical assistance on national labor law drafting and reform, and liaison work with UN human rights treaty bodies. Previous assignments include posting as senior specialist on International Labor Standards, Labor Law and Gender Issues in the

Multi-disciplinary Team of the Caribbean. Earlier, she was employed as an associate attorney in private practice employment and labor law firms (Law Office of Moore and Bell, Oakland, California, 1980–1988; Law Office of Mcternan, Stender and Walsh, San Francisco, California, 1988–1990).

Appendix B

Audience List

Michael Allen
Global Alliance

Raquel Artecona
Economic Commission of Latin
America and the Caribbean

Bama Athreya
International Labor Rights Fund

Kevin Bales
University of Surrey, Roehampton

Robert Bednarzik
U.S. Department of Labor
Bureau of International Labor
Affairs

Maya Bhullar
U.S. Department of Labor
Bureau of International Labor
Affairs

Eric Biel
Fontheim International, LLC

Mick Blowfield
Development Alternatives Inc.

Emily Calderon
U.S. Department of Labor
Bureau of International Labor
Affairs

Charita Castro
U.S. Department of Labor
Bureau of International Labor
Affairs

Elizabeth Compa
Human Rights Watch

Mary Covington
International Labor Organization
Washington Branch Office

Valerie Durrant
The National Academies
Committee on Population

Anthony Freeman
International Labor Organization
Washington Branch Office

Chantenia Gay
U.S. Department of Labor
Bureau of International Labor
Affairs

Anthony Giles
NAFTA Commission for Labor
Cooperation

Sudha Haley
U.S. Department of Labor
Bureau of International Labor
Affairs

Mark Hankin
American Center for International
Labor Solidarity

Clementina Hernandez
NAFTA Commission for Labor
Cooperation

Gareth Howell
Independent Consultant

Ann Jordan
International Human Rights Law
Group
Initiative Against Trafficking In
Persons

Dwight Justice
International Confederation of
Free Trade Unions
Multinational Enterprises

Teserach Ketema
U.S. Department of Labor
Bureau of International Labor
Affairs

Dusty Kidd
Nike Corporation

Carla Komich
United States Agency for
International Development
Bureau for Africa

Lena Kopelow
International Labour Organization
Washington Branch Office

Kristin Lantz
U.S. Department of Labor
Bureau of International Labor
Affairs

Suzy Lewtas
DTI Associates

Jorge Lopez
U.S. Department of Labor
Bureau of International Labor
Affairs

Viondette Lopez
U.S. Department of Labor
Bureau of International Labor
Affairs

Amy Luinstra
The World Bank
Social Protection Department

Gregory Maggio
Overseas Private Investment
Corporation

Jorge Mutio
Government of Uruguay
Ministry of Labor and Social
Security

Harry Patrinos
The World Bank
Economics of Education Thematic
Group

Carol Pier
Humans Rights Watch

Sandra Polaski
Carnegie Endowment for
International Peace

Martin Rama
The World Bank
Development Research Group

Tanya Rasa
U.S. Department of Labor
Bureau of International Labor
Affairs

Gabriell Rigg
U.S. Trade and Development
Agency

Amy Ritualo
International Labour
Organization
International Programme on the
Elimination of Child Labour

Markley Roberts
AFL-CIO (retired)

David Roe
Lawyers Committee for Human
Rights

Ruth Rosenbaum
Center for Reflection, Education
and Action Incorporated

Vivita Rozenbergs
U.S. Department of Labor
Bureau of International Labor
Affairs

Gregory Schoepfle
U.S. Department of Labor
Bureau of International Labor
Affairs

Elliot Schrage
Columbia University
School of Business

James Shea
U.S. Department of Labor
Bureau of International Labor
Affairs

John Sheerin
U.S. Department of Labor
Bureau of International Labor
Affairs

Karen Travis
U.S. Department of Labor
Bureau of International Labor
Affairs

Robert Shephard
U.S. Department of Labor
Bureau of International Labor
Affairs

Anil Verma
University of Toronto
Rotman School of Management

Connie Sorrentino
U.S. Department of Labor
Bureau of International Labor
Affairs

Allen White
Global Reporting Initiative

Kenneth Swinnerton
U.S. Department of Labor
Bureau of International Labor
Affairs

Andrew White
The National Academies
Committee on National Statistics

Elizabeth Taylor
U.S. Department of Labor
Bureau of Labor Statistics

Robert Wholey
U.S. Department of Labor
Bureau of International Labor
Affairs

Alice Tepper Marlin
Social Accountability
International

Lynda Yanz
Maquila Solidarity Network

Constance Thomas
International Labour Organization
EGALITE

Anne Zollner
U.S. Department of Labor
Bureau of International Labor
Affairs

Appendix C

The Committee on Monitoring International Labor Standards

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

JARL BENGTTSSON, Consultant, Organization for Economic Cooperation and Development, Paris, France

THOMAS DONALDSON, Mark O. Winkelman Professor, Professor of Legal Studies, The Wharton School of Business, University of Pennsylvania*

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

THEA LEE, Assistant Director for International Economics, 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

* Thomas Donaldson resigned from the committee in October 2002.

- DARA O'ROURKE**, Assistant Professor of Environmental and Labor Policy, Department of Urban Studies and Planning, Massachusetts Institute of Technology
- HOWARD PACK**, Professor of Business and Public Policy, The Wharton School of Business, University of Pennsylvania
- 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 SMITH**, Counsel, Foley & Hoag Attorneys at Law, Washington, DC
- T.N. SRINIVASAN**, Samuel C. Park, Jr. Professor of Economics, Department of Economics, Yale University
- AURET VAN HEERDEN**, Executive Director, Fair Labor Association, Washington, DC
- HEATHER WHITE**, Founder and Executive Director, Verité, San Francisco, CA**
- FAHRETTIN YAGCI**, Lead Economist, Africa Region, The World Bank, Washington, DC

** Heather White resigned from the committee in November 2002.

Appendix D

The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work

Several events led up to ILO approval in 1998 of a Declaration of Fundamental Principles and Rights at Work. The ILO is a tripartite organization, affiliated with the United Nations and made up of representatives of workers, employers, and governments around the world. Traditionally, these three groups have established labor standards in the form of conventions. Under the ILO constitution, after the International Labour Conference (held each year in Geneva) has approved a convention and at least two nations have ratified it, the convention comes into force (ILO, ILOLEX, 2002). Each member nation is then expected to ratify that convention, creating a binding legal obligation to carry out its provisions through changes in the nation's labor laws and enforcement mechanisms. The ILO has created an extensive supervisory system to encourage nations to carry out the 184 conventions approved thus far. This system includes ongoing reporting, dialogue with member nations, complaints procedures, and special procedures focusing specifically on complaints related to freedom of association.

However, many ILO conventions have been ratified by only a few of the ILO's 175 member states (ILO, ILOLEX, 2002). At the same time, nations that do ratify conventions often do not carry out their legal obligations to change their labor laws and enforcement systems accordingly (Compa, 2002). Some observers view the ILO as "toothless" because it lacks an enforcement system to address these problems. Activists have sought (and continue to seek) a link between labor issues and international

trade negotiations at the WTO, hoping that trade sanctions would provide a stronger “stick” to encourage developing countries to improve labor protections.

Nations around the world responded to these problems and pressures by seeking a more focused approach to labor standards. At the 1995 World Summit for Social Development in Copenhagen, nations affirmed that all workers are entitled to four basic rights—freedom of association and the right to organize and bargain collectively; the prohibition of forced labor; prohibition of child labor; and the elimination of discrimination in employment. Later that year, the ILO identified eight conventions that addressed these four basic rights as “fundamental to the rights of human beings at work,” and launched a campaign to increase their ratification (see Table D-1). In 1996, the WTO in Singapore reiterated its long-standing opposition to addressing labor issues. At this WTO meeting, world leaders renewed their commitment to observe “internationally recognized core labour standards” and stated that the ILO was the appropriate body to set and promote these standards.

The 1998 Declaration reflected these developments, focusing and strengthening the ILO’s approach to protecting workers around the world. The Declaration not only calls on the ILO and its member nations to promote the four basic rights identified in Copenhagen, whether or not they have ratified conventions corresponding to those rights, but also creates new promotional mechanisms. These include increased technical assistance from the ILO and increased reporting from member nations to move toward attainment of these rights. Although the Declaration represents a new approach to international labor standards, different from the use of conventions, most observers equate its four rights and principles with the eight “fundamental” ILO conventions. Thus, the term “core international labor standards” has come to mean not only the four broad principles in the Declaration but also the eight corresponding conventions. The text of the Declaration is presented below (ILO, 1998b), followed by a table comparing its rights and principles with the corresponding ILO conventions (Table D-1).

TEXT OF THE ILO DECLARATION

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity,

TABLE D-1 The Four Core International Labor Standards

Fundamental Principle	Corresponding ILO Conventions	Number of Ratifications of Convention
1. Freedom of association and effective recognition of the right to collective bargaining	C. 87: Freedom of Association and Protection of the Right to Organize Convention, 1948	141
	C. 98: Right to Organize and Collective Bargaining Convention, 1949	152
2. The elimination of all forms of forced or compulsory labor.	C. 29: Forced Labor Convention, 1930	161
	C. 105: Abolition of Forced Labour convention, 1957	159
3. The effective abolition of child labor.	C. 138: Minimum Age Convention, 1973	121
	C. 182: Worst Forms of Child Labor Convention, 1999	132
4. The elimination of discrimination in respect of employment or occupation	C. 100: Equal Remuneration Convention, 1951	160
	C. 111: Discrimination (Employment and Occupation) Convention, 1958	158

social progress and the eradication of poverty, confirming the need for the ILO to promote strong social policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions, to ensure that, in the context of a global strategy for economic and social development, economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of Fundamental Principles and Rights at Work is of particular significance in that it enables the persons concerned, to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and the competent body to set and deal with international labor standards, and enjoys universal support and acknowledgement in promoting Fundamental Rights at Work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the Fundamental Principles and Rights embodied in the Constitution of the Organization and to promote their universal application;

The International Labour Conference

1. Recalls:

(a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labor;

- (c) the effective abolition of child labor; and
- (d) the elimination of discrimination in respect of employment and occupation.

3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including, by the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

- (a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

- (b) by assisting those Members not yet in a position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of these Conventions; and

- (c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.

5. Stresses that labor standards should not be used for protectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.