



# Optimizing compliance with child labour legislation through strategic collaboration of labour inspection and child labour monitoring programmes

## Labour Administration, Labour Inspection and Occupational Safety and Health

### I. INTRODUCTION

Amidst growing worldwide concern about the persistence of the worst forms of child labour, labour inspectorates have found that they are not sufficiently equipped to meet the challenge on their own. They often lack adequate financial or human resources, or sufficient technical expertise and understanding of the problem. These shortcomings limit the inspectorates' ability to successfully identify workplaces where children are working, particularly in the informal economy. The problem is further exacerbated by the limited sanctions, remedial action, and/or means of prosecution available.

This brief offers guidance aimed at strengthening collaboration between national labour inspectorates (LI) and regional or community-based child labour monitoring (CLM) programmes. It strives to provide information to promote effective coverage of undesirable, hard-to-reach child labour practices, frequently found in the informal economy. The brief also identifies and describes the distinct and complementary roles of labour inspectorates and CLM programmes, and suggests ways in which these organizations – as well as their partners in the public, private, and non-profit

sectors – can work together to optimize efficiency and improve outcomes.

### II. LEGAL FRAMEWORK

As the public body legally authorized to enforce national labour laws, the labour inspectorate is responsible for taking action when illegal child labour practices are found. Such action traditionally includes the following measures: imposing sanctions, obtaining remedies, and/or pursuing administrative, civil and criminal prosecution against persons or enterprises that have violated the law.

The Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labour Convention, 1999 (No. 182) both stipulate that member States must take appropriate measures to ensure the effective enforcement of the provisions of these Conventions and to define the persons responsible for compliance.<sup>1</sup>

<sup>1</sup> Article 9 of Convention No. 138, [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C138](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138) and Article 7 of Convention No. 182 [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100\\_ILO\\_CODE:C182:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100::NO:12100:P12100_ILO_CODE:C182:NO).

**Paragraph 14 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190)**, accompanying Convention No. 182, states that, “Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in persistent violation, consideration of temporary or permanent revoking of permits to operate”.

**Paragraph 8.1.6 of the Roadmap for achieving the elimination of the worst forms of child labour by 2016**,<sup>2</sup> calls for “enforcing appropriate sanctions against perpetrators of the worst forms of child labour, strengthening the inspection and monitoring machinery that bring these to light, and documenting court cases. Particular emphasis should be given to strengthening labour inspection, including on occupational health and safety”. It further calls, in Paragraph 8.4.3, for “working towards regulating and formalizing the informal economy where most instances of the worst forms of child labour occur, including through the strengthening of state labour inspection and enforcement systems and capacities”.

**The Brasilia Declaration on Child Labour (2013)**<sup>3</sup> also refers to the importance of labour inspection. Points 10 and 11 respectively state: “We recognize the importance of labour administration and in particular labour inspection in the eradication of child labour, and we will seek to develop and strengthen, as appropriate, our labour inspection systems;” and “We encourage, where appropriate, the competent authorities that have the responsibility to enforce the law and regulations regarding child labour, including labour inspection services, to cooperate with each other, in the context of the application of penal sanctions or, as appropriate, other sanctions in cases of child labour, especially its worst forms”.

### III. THE DOUBLE CHALLENGE OF CHILD LABOUR MONITORING

The concept of “CLM” emerged in the 1990s in an effort to improve and intensify the detection of child labour. Its aim was to create a sustainable localized mechanism that would complement broad-based labour inspection and help to identify working children, overlooked by previous attempts to eradicate child labour.

In the past, limited compliance with child labour legislation was common in certain industries, such as subsistence livestock farming or

crop agriculture, as children usually worked alongside adult family members. However, in the modern economy, family units have to comply with all relevant legislation, as they are frequently becoming subcontractors and producers for national and international markets as part of supply chains. Further, many are engaging in extremely arduous work, like stone crushing, salt mining, and stone quarrying in Africa, Asia, and South America. **To date, national inspectorates have not, by and large, been successful in finding the means and the method to target locations like these, where the worst forms of child labour flourish.**

Child labour monitors do not have the same degree of legal authority as labour inspectors to enforce child labour law provisions. They do not have the legal right to enter workplaces (which is a unique prerogative for labour inspectors

<sup>2</sup> [http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_13453/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_13453/lang--en/index.htm).

<sup>3</sup> [http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_23480/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_23480/lang--en/index.htm).

provided for under the Labour Inspection Convention, 1947 (No. 81)<sup>4</sup>); neither do they have the power to sanction employers for violating the law. What is more, child labour monitors are also in a weaker legal position than labour inspectors in terms of the potential remedies they can apply to prevent child labour violations once identified.

Based on these limitations, the primary strategy of CLM is to build trust at the local level, with a view to obtaining information about child labourers through the “eyes and ears” of the community. CLM works to establish positive relations with community and business leaders, so that the monitors are invited into private homes or to meetings in neutral locations - such as schools - in order to identify child labourers. This kind of community relationship building is not generally a traditional strength or practice of the labour inspectorate. At the same time, the CLM programme may be concerned about engaging too closely with the labour inspectorate and related law enforcement, and thus compromising the trust that they are working to establish.

#### IV. LACK OF EFFECTIVE COLLABORATION BETWEEN LABOUR INSPECTORATES AND CLM PROGRAMMES

While both labour inspectorates and CLM programmes make a critical contribution towards eradicating child labour, they have not always conducted their activities in a coordinated manner.

There is generally no common view or agreement on whether and to what extent CLM programmes and labour inspectorates should engage one another at an operational level. While there are instances of CLM programmes

and labour inspectorates collaborating - inspectors joining the monitoring teams in the CLM system of the Bangladesh garment industry; inspectors serving on the CLM programme oversight committees in Pakistan’s export industries - these arrangements have tended to be informal and temporary. Labour inspectorates, for their part, do not routinely consider the benefit of including CLM programmes in their national labour inspection strategies and may face legal and political hurdles to implementing an effective collaboration.

These communication barriers between labour inspectorates and CLM programmes actively hinder opportunities for complementary and coordinated action.

#### V. PROMOTING EFFECTIVE ENFORCEMENT

Ensuring appropriate conditions and protection of children and young persons in the workplace obligates labour inspectorates to take steps beyond reactive enforcement, and to include proactive measures to encourage compliance. This may include providing information and advice to employers and workers on the most effective means of complying with the law. Labour inspectorates are also obliged to address broad labour inspection goals by communicating directly with the legislative authorities when they identify deficiencies or abuses not specifically covered by existing laws.

The collaboration between labour inspectorates and CLM organizations is more likely to be effective if the roles and prerogatives of each are clearly established beforehand. While the fundamental objectives and activities of these organizations are closely aligned, there are traditional distinctions between their roles that must be well understood by both in order to foster collaboration (see Table 1).

<sup>4</sup> [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:::NO:12100:P12100\\_ILO\\_CODE:C081:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:::NO:12100:P12100_ILO_CODE:C081:NO).

Table 1: Roles and prerogatives of labour inspectorates and CLM organizations

Function	Labour inspectorates	Child labour monitors
<b>Business focus</b>	<b>Formal and informal economy.</b>	<b>The informal economy.</b>
<b>Worker focus</b>	All workers.	Children under the age of 18.
<b>Access to workplace</b>	Legal right of entry into most workplaces.	Requires the proprietor's agreement to enter the premises.
<b>Inspection issue focus</b>	Broad range of issues: minimum age, child labour, wages, working time, occupational safety and health, social security and industrial relations.	Child worker issues: age, work type, work conditions, family/school situation.
<b>Legal Authority</b>	To enforce the law and to take authorized action against an employer for violations.	No formal legal authority, notifies the inspectorate and other relevant authorities of apparent violation.
<b>Occupational Safety and Health (OSH)</b>	Authorized to: order workplace corrections; prompt legal proceedings or sanctions; stop business operations; close establishments; and provide information and guidance on action necessary to comply with safety and health requirements and enforce measures to combat child labour.	No authority to sanction businesses, but well-situated to provide information on vulnerabilities of child workers and risk reduction measures.
<b>Follow-up</b>	Focus on ensuring employer compliance with legal requirements.	Focus on child, as well as referral to appropriate resource or alternative.
<b>Prevention</b>	Enforcement measures discouraging violations; complementary preventive approaches (e.g. information, advice, incentives); encouraging workplace compliance.	Limited to complementary preventive approaches (e.g. information, advice).

## VI. CASE STUDIES OF EFFECTIVE LI / CLM COLLABORATIONS

As indicated, there are many examples around the world of labour inspectorates and their

local child labour monitor programmes utilizing innovative strategic partnerships, which have had positive results. Some of these case studies are briefly described below.

### Brazil

This case study illustrates the importance of enacting national policies that support an integrated approach to inspection and monitoring functions, both in the area of children's welfare and in labour inspection, generally. It demonstrates the importance of national policy that engages organizations at every level in a common platform for dialogue, thereby promoting more effective communication and a greater coordination of activities among partner organizations.

Brazil provides a good example of how a nationwide CLM mechanism can be incorporated within the overall labour inspection framework. As such, it is embedded within a larger system of public welfare and services.

It goes without saying that all lower levels of government are obliged to comply with the requirements of national policies, which encourage "tripartite plus" cooperation – that is, uniting government, employers, workers, and relevant non-governmental organizations (NGOs) in a common platform for dialogue. These platforms take the form of child protection committees at the local level, and child and labour-related bodies at state level, which meet regularly to plan and resolve operational matters and to enable a coherent approach to child labour.

A second crucial element in the Brazilian case study is the communication infrastructure. Technology has enabled different levels of government (local, state, and national) and various official agencies (education, social development, judiciary, labour, etc.) to connect through a system of linked databases. When a child worker

is identified – whether by a community member or an inspector – that child's name is entered into the database, which automatically transfers the case data to the relevant agency/service provider to ensure that the appropriate legal response and support is provided. This data system enables the targeting of "hot spots" where child labour is widespread so that inspection activities can be intensified in those areas.

This coordinated inspection-monitoring system was developed in the early 1990s, when the Brazilian government and civil society took a number of initiatives to combat child labour. Many of these initiatives fell short of expectations, as they lacked a centralizing force to energize and mobilize these individual efforts into coherent and effective programmes. The performance of labour inspectors was also hindered by the lack of social programmes to which identified child workers could be referred.

However, the establishment of this coordinated network led to a remarkable increase in the efficiency and effectiveness of the labour inspectors' work. CLM was not discernible as a free-standing system of its own within this network – the concept rather served as one of the catalysts for the larger network, and CLM methods of work were embedded within it. The pay-off for the inspectorate was substantial. Labour inspectors acted as conduits between the civil society actors, the official inspectorate, and the various levels and sectors of government. This collaboration led to an unexpected result: CLM activities supported and sustained the labour inspectorate's inspection activities and fostered a positive image in the eyes of society.

## Cambodia<sup>5</sup>

This case study offers an example of how a practical division of labour was created between the labour inspectorate and CLM monitors, and outlines the crucial preparatory steps that took place to enable these teams to function in an integrated manner.

In the Cambodian example, two thematic country teams were created: an “establishment monitoring team”, composed of labour inspectors who visited factories, shrimp processing plants, and other formal sector firms; and a “community monitoring team”, made up of community activists and leaders of local organizations who focused on home-based work and informal economy workplaces. The two teams were trained together on child labour issues and workplace monitoring techniques. By undertaking the training simultaneously, a strong linkage was established from the start between workplace monitoring and community monitoring efforts. Once in the field, the teams worked together to verify that each working child identified was monitored both at the workplace and also in her/his family or community.

Another mechanism that helped strengthen the link between the labour inspectorate and CLM teams in Cambodia was the use of two new reporting tools. First, a common checklist was developed, which identified critical indicators to investigate in each of the occupational sectors where child labour might be encountered. Second, a common list of child labourers was compiled as they were located and identified. Names were entered into a database and shared with the service agencies to which the children were referred.

The Cambodian example also highlights the complementary services that the CLM teams were able to offer. Since monitors lived in the communities that they were overseeing, they knew those areas where child labour was most likely to occur. These monitors were well-respected community members, and as such they were able to effectively communicate with parents on workplace safety and the importance of education, and with employers and adult workers about the importance of stopping child labour.

## Uganda<sup>6</sup>

The Uganda study illustrates the benefits of inter-agency collaboration through effective record-keeping and data management. It demonstrates the value of sharing data through well-designed data management systems.

In Uganda, a collaborative effort involving data reporting was formed between child labour monitors and district community development officers, thereby constituting a unit whose role included child inspection - and as such it represented the labour inspectorate. An evaluation of this collaboration noted that clear and simple reporting methods and documentation of actions taken for the detection and management of child labour cases were essential tools for both inspectors and monitors. This example highlights the benefit of systematizing CLM and reporting and ensuring that there is a clear link with the responsible governmental agencies.

Another unique aspect in this case was the three-way connection that was achieved between

the Ministry of Gender, Labour and Social Development, the district officers, and a network of community groups concerned with child welfare. The information and monitoring system embodied in the agency concerned with orphans and other vulnerable children (the “OVC”, which represents the labour inspectorate in this example) provided the framework for the collection and sharing of data on child labour cases. Community monitors stated that in order for the OVC to work effectively, data collection requirements should be kept simple and practical, so that clear actions could be identified and implemented to address child labour at the community level. Since the OVC’s management information system had well-established structures for the identification and reporting of vulnerable children from the village to the district level, the integration of child labour data into the OVC management information system provided the opportunity to improve sustainability of CLM for all the involved organizations.

<sup>5</sup> ILO-IPEC: *Experiences and lessons learned on child labour monitoring: Rubber, salt and fishing sectors in Cambodia* (Geneva, 2005). [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_bk\\_pb\\_32\\_en.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_32_en.pdf).

<sup>6</sup> ILO-IPEC: *Action research on the Integrated Area Based Approach and Child Labour Monitoring Systems in Rakai District, Uganda* (Geneva, 2011). [http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_19535/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_19535/lang--en/index.htm).

## VII. RECOMMENDATIONS

Based on analysis of productive labour inspectorate/CLM partnerships, it is apparent that CLM programmes can complement and extend the reach of labour inspectorates into areas that they are currently unable to effectively address. These “good practice” cases include some common features that may be emulated or replicated by organizations striving to successfully address child labour challenges. The following recommendations draw on these good practices to provide guidance for implementing coordinated strategies between labour inspectorates and local CLM organizations.

- Existing organizational structures and fora for inter-agency collaboration should be built on wherever they exist. These should include all interested parties such as workers, employers and their organizations, labour inspectorates, and CLM initiatives. Where these platforms for collaboration and engagement do not exist, they should be put in place, at local and national levels.
- There should be agreement on procedures and operational rules of engagement and systems for reporting between the labour inspectorate and CLM programme. Since the legal authority rests with the labour inspectorate – whether at the national, regional, or local level – it is the labour inspectorate that has the authority to enforce any relevant legislation.
- The labour inspectorate should inform their inspectors of the existence and mandate of CLM. Effective communication between organizations is essential to achieve optimal collaboration on child labour. CLM organizations should report at designated intervals to the labour inspectorate (or relevant local government authority) on their operations, and also inform labour inspectors of any child labour violations if detected.
- Child-oriented protocols for inspections and follow up should be agreed by labour inspectorates and CLM organizations. These should include guidance on what to look for during inspections, how to interact with children, and what to do when child labour is discovered.
- National law should be updated to clarify for what purpose and under which circumstances and conditions inspections may be conducted in private homes and street-based workplaces, so that inspection action can be more effective in detecting and addressing child labour in these situations.
- Child labour data should be fed into an official and centralized database. Information on child labour cases should be incorporated into larger, existing record-keeping systems (particularly the labour inspectorates’) to promote information sharing where appropriate.
- In order to address child labour successfully, labour inspectors and child labour monitors must be effectively trained in the issues surrounding the subject.<sup>7</sup>
- CLM monitors should have a systematic plan for covering the area or sector they are assigned to.

<sup>7</sup> Within the Global Action Programme (GAP) on Child Labour Issues Project, the ILO Fundamental Principles and Rights of Work Branch (FUNDAMENTALS) has developed an e-learning course for child labour inspectors and monitors. The latter may wish to participate in the course to further develop their competencies with regards to the subject. See: [http://www.ilo.org/legacy/english/ipec/elearning\\_labourinspectors\\_and\\_clmonitors/module\\_1/multiscreen.html](http://www.ilo.org/legacy/english/ipec/elearning_labourinspectors_and_clmonitors/module_1/multiscreen.html).

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