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The Role of Labour Inspection in combatting Child Labour

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The Role of Labour Inspection in combatting Child Labour

1. Introduction

1.1. Historical background

In 1802, Parliament in Great Britain passed an “Act to preserve the morals of apprentices”. The definition of “morals” included what today would be termed as the occupational safety, health and welfare of these “apprentices”, who were in fact just child workers in different trades, most notoriously in mining, textiles, chimney sweeping, etc. “Enforcement” of this first ever child labour-protection legislation worldwide was entrusted to committees of respected men from society, but since compliance was entirely voluntary, these “monitors” proved ineffective. Thereupon, in 1833, the first four factory inspectors were appointed to H.M. Government to control, inter alia, excessively long working hours of children and young persons. The birth of labour inspection is thus historically linked to the felt need to effectively control and combat the worst abuses of children in the world of work and to safeguard their health.

This linkage of issues regarding labour inspection on the one hand, and child labour on the other, is further underlined by the fact that at the very first International Labour Conference of the ILO, in 1919, the years of its creation, new international standards were adopted by the community of ILO Members on both labour inspection and child labour protection: Convention No. 5, which prohibited work done by children of less than 14 years of age in industrial undertakings; and Recommendation No. 5, which urged member States to fulfil their obligation, already enshrined in the ILO’s Constitution, to set up a national system of labour inspection. This close interrelationship found further expression in subsequent ILO standard setting work. Thus, both the fundamental ILO Conventions and Recommendations combating child labour, ILCs Nos. 138 and 182, and ILRs Nos. 146 and 190 include provisions on enforcement by inspection systems; and likewise, both ILO Labour Inspection Conventions, No. 81 covering industry, commerce, mining and transport, and No. 129, covering all manner of agricultural activities, refer to the principal duty of labour inspectors to secure the enforcement of legal provisions relating to the employment of children and young persons.

1.2. Scope and nature of the problem

1.2.1. Child work and child labour

Although “child” can be defined in terms of age, some societies may see the fulfilment of certain social rites and traditional obligations as marking the transition from childhood to adulthood, whilst in others the integration of children into social and working life maybe so gradual that it is not possible to separate the phases. In the context of child labour, however, a child may be a person below the age limit of 15-years, set by the Minimum Age Convention No. 138 (1973) or, in the wider context of the UN Convention of the Rights on the Child (1989), below 18-years.

Some light work can be an essential part of a child’s socialisation and development process and a means of transmitting acquired skills from parent to child. From the age of 6 or 7 many will be helping around the home, running errands, or helping their parents on the family farm, tending livestock, fetching water or collecting wood. Not all work is harmful to children; work experience can involve acquiring the right sort of skills and responsibilities for the child to

become a useful member of the community. Children learn to take responsibility, and pride in their own activities. They might be involved in craft workshops and small-scale services, assisting their parents in ancillary tasks, acquiring skills and gradually becoming fully-fledged workers in family establishments or trades. Work of this kind is not without its problems, especially as regards the children's health and safety and their schooling, but it is not what is generally meant by child labour.

1.2.2. The scale of child labour

The concern is with children who are denied their childhood and a future, who work at too young an age, who work long hours for low wages, who work under conditions harmful to their health and to their physical and mental development, who are often separated from their families and who are frequently deprived of education. Such child labour is invariably carried out to the detriment of the child and is in violation of international law and usually, national legislation. According to ILO estimates, about 250 million children between the ages of 5 and 14 are working full or part time in developing countries. Almost half, some 120 million work full time, every day, all year round. Some 50-60 million are between 5 and 11 years old. Available data suggests that more boys than girls are economically active, but girls who are denied educational opportunities because of their role in household tasks and sibling childcare may not be accounted for in these statistics. Working in the early childhood years may indeed have a more significant impact on girls, reinforcing gender discrimination and resulting in a denial of life chances. Girls, moreover, are often engaged in work that exposes them to sexual and other forms of exploitation.

1.2.3. The nature of child labour

Child labour is basically a symptom of the underlying problem of widespread poverty and inequality in society. It is also cause of poverty, and in this context it becomes self-perpetuating. Poverty is deep-rooted and natural calamities, disasters, illiteracy, powerlessness and the lack of viable options further exacerbate the deprivations confronting poor parents who feel compelled to put a child to work. Poverty is not however the only factor in child labour and cannot justify all types of employment and servitude.

Poorly educated parents do not understand the long-term significance and value of education over the short-term economic gain of child work and the acquisition of skills. A family's dependence on a girl's labour at home and in the field may deny her access to educational and other opportunities. Education for poor children may be costly, inaccessible, of low quality and irrelevant. Children may decide to work to help increase the family income and there may be peer influence encouraging children to join working friends on the streets or elsewhere.

There is a market demand for child labour since children are generally docile, obedient, hired at cheaper rates than adults and dispensed of easily if labour demands fluctuate. They involve no long-term investment on the part of industry in terms of insurance or social security and low paid child labour may be a significant element for industries wishing to maintain a competitive edge in national and international markets. Children are unprotected, powerless and silent as far as their rights as workers are concerned. Children are often preferred in industries that are labour intensive, function with rudimentary technology and require laborious/repetitive work for long hours. It is suggested that in certain industries, like carpet making or electronics assembly,

children are employed because of the dexterity of their small fingers. Child labour persists because such laws as exist are not strictly enforced and political commitment is weak and there is no urge to comply.

Many children work in extremely hazardous occupations and in dangerous industries such as construction, mining, quarrying and agriculture. A large number of children are trapped in virtual slavery in many parts of the world. They are bought and sold across national borders, and commercial sexual exploitation of children is on the rise. The employment of very young children and girls is a particularly alarming problem. The younger the children, the more vulnerable they are to hazards at the workplace and to economic exploitation. ILO surveys show that in some areas up to 20 per cent of child workers are under the age of 10. The situation of the girl child deserves particular attention for various reasons, but particularly because of the nature of their work and the conditions under which they work. Much of their work is hidden from public view. For example, domestic service is a major sector of child employment. Girls working as child domestics are largely “invisible” workers, dispersed and mostly ignored. Isolated from home and sometimes virtually enslaved, they are frequently exposed to violence and sexual abuse. Those who do piecework at home are often exploited through the need to work long hours for minimal rates of pay and many children work in the informal sector, or on the streets. Not only are many children deprived of education but they do not get sufficient rest and enjoy little recreation.

1.2.4. The worst forms of child labour

According to ILO Convention No. 182 (1999), the worst forms of child labour comprise:

- \$ 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;
- \$ The use, procurement or offering of a child for prostitution, production of pornography or pornographic performances;
- \$ The use, procurement or offering of a child for illicit activities, in particular for the production and trafficking of drugs; and
- \$ 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. This is the primary area of intervention for labour inspectors.

1.2.5. Other potentially harmful work

Activities in this category, which are also under the purview of labour inspection systems in most countries in the world, comprise:

- \$ Work which exposes children to physical, psychological or sexual abuse;
- \$ Work underground, underwater, at dangerous heights or in confined spaces;
- \$ Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

\$ Work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and

\$ Work under particularly difficult conditions, such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

Even where children do not suffer the worst forms of abuse cited above, or otherwise dangerous conditions, then are often not allowed sufficient rest, or have to work in cramped conditions with inadequate seating or unsuitable tools and without appropriate welfare facilities.

Finally, many millions of children traditionally work in agriculture as part of the family unit, but are exposed risk from the fact that their home is a workplace which presents a wide variety of hazards.

1.2.6. Specific categories of child labour

1.2.6.1. Concentrated and visible child labour

Where children are at work in one place, easily visible, approached from outside, e.g.:

- seamstresses, tailors, metal workers, woodworkers (and their helpers in open shops);
- bakers, confectioners, cooks (and their helpers) preparing food for passers by;
- workers in small repair shops eg automobile repair;
- service workers in congested areas eg shoe shiners, car washers, car watchers;
- bag/boys and helpers in supermarkets, vendors, porters, cleaners, cashiers in markets;
- stone and brick breakers on road and building construction sites.

In rural areas:

- as part of the workforce on large commercial plantations, either individually or with their families;
 - in smaller-scale but still commercial agricultural production, or harvesting for either domestic or export use;
 - in agricultural processing;
- work on factory ships or on fishing fleets or fishing platforms.

1.2.6.2. Concentrated and invisible child labour

Where children work together or near each other, invisible or inaccessible to outsiders, e.g.:

- brick kiln workers, quarry workers;
- carpenters, helpers and carriers at construction sites;
- factory workers or helpers producing pottery, glass, metal products, plastic goods, jewellery, etc.;
- factory workers processing food products;
- traditional carpet and textile weavers whether in groups of households or small workshops;
- cigarette makers;
- workers in match, explosive and firework factories;

- miners for coal and minerals.

1.2.6.3. Dispersed and visible child labour

Children working singularly or self-employed or apparently working singularly but in fact working for large enterprises, such as:

- delivery boys, messengers and errand runners;
- self-employed children providing services or goods on the street eg shoe shine boys and flower sellers;
- hotel restaurant café workers who serve customers, wash dishes, clean the premises and prepare food;
- entertainers and dancers who may move around with a troupe, some sports teams (camel jockeys), circus performers;
- professional beggars;
- conductors and helpers on long distance transport such as trucks, buses, rail, cargo steamers or passenger boats;
- children who guard fields against birds, monkeys, thieves;
- herders and guardians of plough animals and those engaged in livestock care, milking and fodder gathering.

1.2.6.4. Dispersed and invisible child labour

These are the children most unknown and hardest to reach in remote areas, isolated and powerless, and often also the most seriously exploited:

- domestic servants and children working in family based industries, such as craftwork;
- apprentices and attendants to skilled craftsmen, making shoes, jewellery and watches;
- children who assist with subsistence hunting, gathering, fishing and agriculture;
- children of refugees or recent immigrants to the city who are engaged in traditional occupations; and
- thieves, pickpockets, smugglers and those involved in the drug industry or pornography.

2. Principle of labour protection and inspection

2.1. Five major principles

2.1.1. The foundation of labour inspection

In its Constitution, the ILO requires all member States to set up a system of labour inspection. Two of its very first international instruments were the Labour Inspection Recommendations, 1919 (No. 5) and 1923 (No. 20). These first international standards on labour inspection, in particular Recommendation No. 20, already contain a set of basic principles (if only in a non-binding form) for modern labour inspection systems. In 1947, the ILO Conference adopted an ambitious set of standards: the Labour Inspection, Industry and Commerce Convention (No. 81) and three associated Recommendations: Nos. 81, 82 and 85. These new standards were comprehensive and far-sighted. The principles they laid down over 50 years ago are still valid and entirely relevant today, in fact ever more so, in the face of globalization, deregulation, down-sizing of public services, etc. In many ILO member States, they form the basis of existing labour inspection legislation, often transposed verbatim into national texts.

2.1.2. A public function

These instruments, first of all, set forth the principle that labour inspection is a public function, a responsibility of government, and that it is best organized as a system, within the larger context of a State system to administer social and labour policy and to supervise compliance with all national legislation, regulations and standards that give effect to it. Therefore, labour inspectors should have the status and independence of public officials, and exercise their powers and functions in an impartial manner compatible with their public office, free of undue pressures and constraints from outside. As representatives of the State in the world of work, labour inspectors are empowered with considerable executive rights, but also bound by a set of duties regarding the manner in which they exercise their functions. The proper exercise of these rights and duties is fundamental to the authority of inspectors and the inspection system as a whole.

2.1.3. Cooperation with social partners

A second principle concerns the need for close cooperation between labour inspection and employers and workers. This co-operation is essential. It often begins with the collaboration in the formulation of labour protection legislation and the general policies regarding its application at the workplace, notably a comprehensive, coherent and consistent national “enforcement” policy. Cooperation presupposes that participation of workers' representatives in suitable form is guaranteed, at both national and enterprise levels, and that employers assume their responsibilities in full measure.

The effectiveness of labour inspection is directly linked to the interest that management takes in labour protection issues, and the resources it devotes to solving them. As a rule, it is also linked to the presence and action of trade unions at the workplace. Hence the difficulty of ensuring labour protection in small enterprises, or when workers are not represented, or, more generally, in countries where the trade union movement is weak. The purpose of inspection is to see to it

that the greatest possible number of problems relating to the protection of an workers are solved at the workplace as a result, firstly, of dialogue and concertation between the actors directly involved employers and workers with supervision and advice by the labour inspectorate regarding compliance with legislation, minimum standards, and the terms of any relevant collective agreements, if enforceable.

2.1.4. Cooperation with other stakeholders

A third principle concerns the need for effective cooperation with other institutions, such as research institutes, universities, the prevention services of social security authorities, with NGOs active in the world of work, and with other experts; as well as the need to coordinate their respective labour protection-oriented activities. The complexity of technical, social and legal problems today is such that labour inspection cannot, as a general rule, ensure effective supervision of enterprises without external cooperation. It must have access to the aid of specialists (for instance doctors, chemists, legal experts, child labour specialists) and, it must cooperate closely with a host of other actors. No inspection department can have a staff of agents covering all fields of functional competence. But every inspector must have sufficient knowledge to understand and assess the nature of a problem, to call in specialists when needed, and to preserve coherence in the simultaneous intervention of actors in very varied fields. In this manner, labour inspection becomes capable of conducting a "global and coherent" action.

2.1.5. Focus on prevention

Another principle relates to labour inspection's increasing orientation towards, and emphasis on prevention. To speak of prevention in the context of labour protection implies, first of all, a determined effort to avoid incidents, disputes, accidents, conflicts, occupational diseases, illegal employment, etc. by assuring compliance with existing legislation and standards. Preventive orientation today, however, with the ultimate objective of developing a culture of prevention as a social and labour policy paradigm, aims more and more also at the broader goal of enabling individuals to lead a long, productive and healthy life, and at the same time to reduce the exponentially growing costs of non-prevention, or loss caused by all manner of incidents to individuals, enterprises, and society as a whole. It is therefore increasingly defined as a holistic or "open" concept, aimed at avoiding a multiplicity of technical, social, medical, psychological, economic, etc. hazards. One therefore notes a major change in labour inspection orientation since the mid-1990s, towards a broader, multi-disciplinary approach to prevention. This vision-of-the-whole is considered a prerequisite to dealing effectively in a preventative manner with the host of complex, interdependent problems that exist in the world of work today.

2.1.6. The need for universal coverage

A last principle to be mentioned here concerns the drive for universal coverage, that is, the need to extend labour inspection's protective and preventive action to the largest possible number of working people in all areas of activity. In principle, society should not, and labour inspection cannot tolerate a situation where certain categories of workers are protected and others not. Labour inspection is also based on the notion of solidarity and respect for the collective values of society. That is why labour inspection systems in many countries have in recent times extended

their coverage in various directions traditionally not under their responsibility, such as government administrations (the public services, the armed forces, the police), rural workpeople, the self-employed, the "informal" sector, etc. Some systems even go beyond the confines of formal employment relationships (in others still the basis for inspectors' intervention), to include in their responsibilities the protection of any member of the general public affected by work activities.

These fundamental principles are at the heart of an ongoing, concerted dialogue with labour inspection's partners on the role, scope and functions of inspection, its organization, methods and resources, with a view to continuously adapting them to economic, social and technical developments, in the global economy, to developing and maintaining a viable, sustainable perspective, and to meeting the many challenges in the ever faster changing world of work, and thereby in particular to contributing to balanced economic and social development.

2.2. International standards as sources of authority

2.2.1. Convention No. 150 and Recommendation No. 158

The sources of labour inspection authority are to be found in a comprehensive set of international labour standards. The concept of labour inspection as developed by the tripartite constituents of the ILO is that of a system embedded in a larger system of national labour administration. The ILO Convention on Labour Administration, 1978 (No. 150), entrusts member States with the obligation to establish a system of labour administration, encompassing all aspects and institutions of national labour policy. In the accompanying Recommendation (No. 158), Members are urged to set up a (sub-) system of labour inspection, integrated into the national labour administration structures. Within this system, consultation, cooperation and negotiation with employers' and workers' organizations must be ensured.

Convention No. 150 sets out the functions of labour administration: preparation, administration, coordination, checking and review of national labour policy, preparation and implementation of laws and regulations, tasks in relation to national employment policy, conditions of work and working life, terms of employment, services and advice to employers and workers and their organizations, etc. The staff of the labour administration system must be composed of persons who are suitably qualified and independent of improper external influences. They should have the status, the material means and the financial resources necessary for the effective performance of their duties. The extension of labour administration services to workers who are not, in law, employed persons, is to be promoted.

Three specific Conventions and a Protocol then deal exclusively with issues of labour inspection: ILO Conventions Nos. 81 (1947) and 129 (1969), on Labour Inspection in Industry and Commerce (as well as Mining and Transport), and Agriculture respectively. The Protocol of 1995 to Convention No. 81 covers the "non-commercial services" sector. A special Convention (No.178, 1996) addresses labour inspection of seafarers' living and working conditions. Other ILO standards, such as the Plantations Convention, 1958 (No. 110), have specific chapters on labour inspection, or make reference to the need for such a service to enforce relevant provisions, e.g. Article 9 of Convention No.155 (1981) on Occupational Safety and Health.

2.2.2. Convention No. 81 and Recommendations Nos. 81 and 82

Convention No. 81 is the basic instrument. It provides for a system of labour inspection to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers in industrial workplaces, as well as in commercial workplaces if the ratifying State accepts this extension (most of the now 130 Members which ratified this Convention to date have).

It deals with the organization and functioning of inspection services, the responsibilities of a central authority, their cooperation with other public and private services and with employers and workers or their organizations, the recruitment of qualified staff in sufficient numbers (including women) and with appropriate status, material means and facilities (offices and transport), the thorough regular inspection of workplaces, and the publication of reports and annual statistics on the work of the inspection services.

The Convention defines the functions of labour inspectors and their powers, i.e.: the power to enter freely any workplace liable to inspection, to carry out inquiries freely and in particular to interrogate persons alone, to examine documents and take samples; the powers to make orders with a view to remedying defects and to decide whether it is appropriate to give warning and advice or to institute or recommend proceedings. In return, inspectors are required to respect certain obligations: they are prohibited from having any direct or indirect interest in the undertakings under their supervision and shall not reveal manufacturing or commercial secrets of the workplaces they inspect, or the source of any complaint.

2.2.3. Convention No. 129 and Recommendation No. 133

Convention No. 129 applies to agricultural undertakings with salaried employees or apprentices, or -subject to a declaration by the ratifying State -also to tenants, sharecroppers and similar categories of agricultural "workers", members of cooperatives or even of the family of the operator. Regarding the organization, the functions and the staff of the system of, inspection, as well as the duties, powers and obligations of the inspectors, its provisions are, to a large extent, based on those of Convention No. 81.

Convention No.129 contains certain innovations which take into account special characteristics of agriculture and experiences gained since Convention No.81 was adopted twenty years earlier. These take the form of provisions on the organizational flexibility and structure of inspection services, the extension of inspectors' advisory or enforcement functions regarding conditions of life of workers and their families, the possibility of including in the system of labour inspection officials or representatives of occupational organizations, and of entrusting certain inspection functions at the regional or local level to other appropriate government services or public institutions.

2.2.4. The Protocol of 1995 to Convention No. 81

Finally, the Protocol to Convention No. 81, which is open to ratification by all Members having ratified that Convention, reaffirms the principles of the basic standard and promotes its application to "non-commercial services" (essentially public administration, public utilities, local

authorities, but also the armed services, the police, etc.), while at the same time providing the necessary element of flexibility to ensure that legitimate concerns, e.g. for national security and the proper functioning of the executive do not stand in the way of applying the Convention to that sector.

These standards provide the indispensable, indeed universal framework for the status and functioning of labour inspection. As such they are a source of strength and authority to the inspection system, the inspectors and the clients they are to serve.

2.2.5. Recommendation No. 146

This international standard, which accompanies the Minimum Age convention, No. 138 (1973), specifically emphasizes:

- strengthening labour inspection and related services by, for example, providing special training for inspectors on detecting abuses in the employment or work of children and young persons and on correcting such abuses;
- strengthening government services for the improvement of training offered in enterprises;
- placing emphasis on the role which can be played by inspectors in supplying information and advice on effective means of complying with relevant provisions of the law and in securing enforcement of the law;
- coordinating labour inspection and inspection of training to provide economic efficiency;
- having the labour administration services work in close cooperation with the services responsible for the education, training, welfare and guidance of children and young persons.

It further recommends that labour inspection should give special attention to:

- the enforcement of provisions concerning hazardous types of employment or work;
- the prevention of work during the hours when instruction is available where education or training is compulsory;
- taking measures to facilitate the verification of ages, such as:
 - maintaining an effective system of birth registration, including issuance of birth certificates;
 - requiring employers to keep and make available to the competent authority registers or other documents which give the names and ages or dates of birth of children and young people who are employed and who receive vocational orientation or training in their enterprises; and

issuing licences or other documents to children and young persons who work in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make checking employers' records impracticable and which indicate the eligibility to work.

The Recommendation suggests several measures that could make enforcement effective, such as the provision of appropriate training for the government officials concerned, especially inspectors and law enforcement officials.

2.2.6. Convention No. 182 and Recommendation No. 190

Convention No. 182 requires ratifying member States to:

- apply the Convention to children under 18;
- take immediate and effective measures to prohibit and eliminate the worst forms of child labour;
- designate monitoring mechanisms;
- adopt programmes of action;
- ensure effective enforcement, including penal or other sanctions;
- take preventative measures for the removal from work, rehabilitation and social integration of the children concerned;
- ensure access to free basic education;
- take account of the special situation of girls; and
- take steps to assist each other through international cooperation and/or assistance.

Recommendation No. 190 postulates the design and implementation of national programmes of action which aim at:

- identification and denunciation of the worst forms of child labour;
- preventive action and the removal from work, rehabilitation and social integration of the children concerned through measures that address their educational, physical and psychological needs;
- giving special attention to younger children, girls, hidden work in which girls are at special risk; and children with special vulnerabilities or needs;
- identifying, reaching out to and working with communities where children are at risk;
- raising awareness and mobilizing society;
- determination of the types of work that are hazardous;
- compilation of data;
- establishment of monitoring mechanisms to ensure effective implementation;
- designation of certain of the worst forms of child labour as criminal offences; and
- effective enforcement measures.

2.3. Functions of labour inspection

2.3.1. Main functions

Labour inspection systems may cover one or more different basic functions, or areas of responsibility which, while clearly distinct from each another, in fact are usually closely interlinked and interact on one another. These main functional areas are:

- general conditions of work;
- occupational safety and health;
- (illegal) employment; and
- industrial relations.

In some countries, a fifth dimension, that of social security, is sometimes added.

Article 3, Para. 1 of ILC No. 81 (and Article 7, Para 1 of ILC No. 129) says the following:

The functions of the system of labour inspection shall be:

- a) to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work, such as provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, in so far as such provisions are enforceable by labour inspectors;
- b) to supply technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;
- c) to bring to the notice of the competent authority defects or abuses not specifically covered by existing legal provisions.

Increasingly, new areas of responsibility are entrusted to labour inspection, such as employment equity, non-discrimination or others. Ensuring compliance with minimum age regulations is, in virtually all ILO member States, also incumbent upon labour inspection, either as part of its functional responsibilities under general conditions of work legislation, or under specific child labour regulations. From the point of view of labour inspection, work of children below the respective legal minimum age is essentially an issue of illegal employment, one of several, and labour inspection's approach will therefore be similar to dealing with, e.g. illegal employment of immigrants, etc. that is, it will focus on the illegal employer in the first instance, and not on the illegal employee, i.e. child worker.

2.3.2. Functional integration

One dominant trend in labour inspection systems development since the 1990s is the integration or concentration of functions under the responsibility of a single State labour inspection service. In many transition economies, State labour inspectorates have seen their functions extended to cover, for instance, illegal employment issues, in particular related to "black labour" and illegal immigrants (e.g. Hungary), or industrial relations matters such as the protection of elected workers' representatives in enterprises. The Baltic States and Bulgaria have successfully integrated occupational safety and hygiene inspection (formerly, and in some CEE countries still, under a separate inspectorate, usually under the respective ministry of health), with that of general conditions of work. Integration of safety and health inspection with the prevention functions of social security has taken place in Australia and New Zealand, and elsewhere. Strides towards functional integration of labour and factory inspectorates can be noted in an increasing number of English-speaking African countries, starting with South Africa, which has introduced the concept of a one-stop-service, Nigeria, Eritrea, Kenya, Mauritius and others.

These functional mergers have as their "leitmotiv" not only the drive for greater efficiency (i.e. rationalization, cost-reduction, avoidance of duplication and overlap), but rather that of greater effectiveness: mainly to establish, develop and strengthen the system's capacity for prevention. It is difficult to imagine how prevention can be efficiently and effectively organized if, for instance, occupational safety and occupational health (hygiene) enforcement remain the responsibility of different inspectorates, organized in different, unrelated and usually non-cooperating field services, under the administrative responsibility of separate directorates, answerable to different government ministries with different, often opposite political priorities. The same applies, *mutatis mutandis*, to the dichotomy between labour and factory inspection.

Conversely, merging, for instance, employment functions with other labour inspection responsibilities (as in Hungary, Kenya or South Africa) has clearly strengthened overall inspection performance, first quantitatively and then, with proper training and new enforcement policies, also qualitatively, and reinforced these systems' prevention capacity.

Finally, the merger of occupational safety and health inspection and workmen's compensation insurance functions, for instance in Australia (NSW, Victoria) and New Zealand, has led to the creation of strong, prevention-oriented organizations with access to a single enterprise-level data base, and all information on occupational accidents and diseases, thus capable of closely monitoring labour protection performance in different undertakings and sectors, enabling inspectorates to better set priorities for intervention in areas where enforcement is most necessary, and thus considerably optimizing available (but always scarce) resources with a view to ensuring significantly greater impact.

2.4. Conditions for effective labour inspection

ILO Convention No. 81 provides the essential benchmarks:

- labour inspection should be organized as a system (Article 1) applying to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers are enforceable (Article 2);
- it should cover a basic set of functions, such as hours of work, wages, safety, health and welfare, the employment of children and young persons, and other connected matters (Article 3.1);
- inspectors should supply information and advice to employers and workers on how to comply with the law, and alert the competent authorities on any defects or abuses not covered by existing legal provisions (Article 3.1);
- labour inspection should be placed under the supervision and control of a central authority (Article 4.1);
- effective cooperation with other government services and private institutions (NGOs) engaged in labour protection, as well as with employers and workers and their organizations must be promoted (Article 5);
- inspectors must be public officials assured of stability of employment and independent of changes of government and improper external influences (Article 6);
- they must be recruited with sole regard to their qualifications and adequately trained for the performance of their duties (Article 7);
- their number must be sufficient to secure the effective discharge of these duties in regard to, *inter alia*, the number, nature, size and situation of workplaces, the number of workers employed, and the number and complexity of the legal provisions to be enforced (Article 10);
- they must be properly equipped with local offices and transport facilities (Article 11);
- they must be provided with proper credentials and properly empowered (Articles 12 and 13);
- workplaces must be inspected as often and as thoroughly as is necessary to ensure the effective application of relevant legal provisions (Article 16); and
- adequate penalties for violations of legal provisions enforceable by labour inspectors and for obstructing inspectors in the performance of their duties must be provided for by national laws and regulations and effectively enforced (Article 18).

These provisions have been accepted as binding minimum standards by now 130 ILO member States. In fact, Convention No. 81 has been designated as one of the ten most important standards of the ILO by its Governing Body in the mid-1990s. Any Member can go beyond these provisions, but none should fall behind. Some countries that have not ratified these standards (perhaps for constitutional reasons) nevertheless apply them in practice, although without ratification they forsake many of the positive effects these standards exercise, for instance in the context of structural reform programmes. In many countries, however, the reality of labour inspection still falls dramatically short of the minima prescribed in the Convention.

3. Inhibitions to effective labour inspection of child labour

3.1. Lack of political will

Notwithstanding their obligations under international standards, a major obstacle to labour inspection in many countries is the lack of political support. This is often expressed in state budget allocations; in many developing countries, the whole labour administration system receives less than 1 per cent of the national budget; sometimes, it is a mere 0.1 per cent. Labour inspection services in turn receive only a fraction of that sum. This is in stark contrast to the fact that the cost to the State of poor labour protection, in the form of accidents, illnesses, absenteeism, abusive exploitation, industrial conflict and the like, is in many countries in excess of 5 per cent of total GDP. There is substantive evidence that an effective and efficient labour inspection system can significantly reduce these losses. Strong political support for labour inspection and commitment to standards, for instance in many industrialized market economy countries, in the last ten years, has made a measurable difference in the performance of their labour inspectorates, and therefore in the reduction of socio-economic losses, at both macro and micro levels.

Although labour inspectors may be convinced of the usefulness of their work, they have no control over the political and social environment in which they operate. It is hard for them to single out child labour abuse in workplaces where other labour regulations are being ignored. Labour inspectors are often frustrated because, on the one hand, they are asked to enforce the rules while, on the other hand, the underlying message is not to disrupt the economy. Lack of political will and therefore political support for inspectors when they meet resistance and defiance inevitably undermines their morale and their confidence as well as weakening their determination to achieve improvements.

3.2. Shortcomings in the law: the need for reform

Political will and commitment must not only translate into adequate resources; they must first and foremost provide an appropriate policy framework and legal base for labour inspection. Large volumes of outdated, fragmented and increasingly complex regulations effectively impede labour inspection services in the functional and rational execution of their duties. In some countries, the labour code alone contains several thousand articles, supplemented by even larger numbers of parallel or subsidiary regulations. This is true of child labour provisions, which are often found in several different laws and are sometimes inconsistent with each other. With inconsistencies and gaps in the law, varying minimum ages, confusing and different definitions, if any, of hazardous and non-hazardous work, out-dated, fragmented and excessively complex regulations spread through different and sometimes inconsistent laws the job of understanding, explaining and ultimately enforcing such requirements becomes for labour inspectors difficult and at times virtually impossible. Inspectors may also be required to master thousands of technical and legal standards in the area of safety and health alone, an impossible task that often results in inertia or stagnation.

Many countries have streamlined their regulatory framework, weeding out contradictory, often overlapping or outdated regulations and standards. Others have mandated all their regulatory agencies to make the legislation more easily understandable, more relevant, more “user-friendly”, and this has contributed in no small degree not only to a better understanding by

employers of what is required of them, and thus improved compliance with the law, but also to more effective supervision of compliance by labour inspectors.

Strengthening inspection of children's working conditions is only possible if a rational distinction is made between "hazardous" and "non-hazardous" work, on the basis of clear guidelines which ensure that a child's development needs are not prejudiced and that there is a real prospect of protection from abuse and exploitation. Using the guidelines on "hazardous work" in the new Worst Forms of Child Labour Recommendation, 1999 (No. 190), instead of prevailing broad generalizations like "dangerous to health", can certainly help to make the legislation more workable. Introducing a clear age limit, in conformity with ILO Convention No. 138, below which no child may work can also help to rationalize child labour laws, and thus facilitate inspection and standard setting.

Some countries prohibit work during school hours but do not have accompanying compulsory education regulations, or they have minimum ages for child labour and education that do not coincide. Others have compulsory education laws but still charge even low-income families school fees, or do not provide equitable access to schools. Consistency between law and policy is critical for effective child labour inspection, a requirement that some countries have not yet achieved.

The commitment to eliminating child labour must be clearly established in national laws and policy. This requires the political will to eradicate child labour and place it as a priority on the national agenda. States must establish comprehensive and clear bodies of legislation on child labour and labour inspection. The complexity and limitations of the law can be a serious barrier to effective law enforcement. The absence of a comprehensive and rational set of standards at the national level on both child labour and labour inspection makes the work of the labour inspectorate difficult, if not impossible.

3.3. Educational, attitudinal and economic factors

3.3.1. Traditional prevalent aspects

Even given the political will and clear and comprehensive regulations and standards which clearly state that child labour will not be tolerated, strict enforcement alone is unlikely to be successful. In addition to the practical problems of inspecting, discussed below, it is self-evident that where child labour has proliferated without sanctions over a long time there are also educational and attitudinal approaches to be made. Employers, parents of the children themselves have to be educated and persuaded of the need for change.

Companies often argue that the employment of children is necessary to enable them to remain competitive within their own country or internationally. Whilst those engaged in industry with a world-wide export market are sometimes susceptible to pressure from public opinion or organised purchasers (such as football authorities insisting that products are certified as not made by child labour), equitable compliance across whole purely domestic industries is more difficult to achieve.

The imposition of sanctions, while aiming at compliance by employers, might unintentionally drive the children into more dangerous or degrading forms of work, into even less visible

workplaces. Inspectors are likely to be sympathetic to parents in extreme poverty who appear to have no alternative to putting their children to work. However, preventive measures are also likely to achieve the aim of raising awareness throughout society of the desirability of eliminating child labour one and for all. In the context of child labour, it is necessary to develop, within the inspection services, a clear, considered, coherent and consistent policy establishing the balance needed to be struck between the two broad categories of labour inspectors' methods of intervention - namely sanctioning and "prevention".

3.3.2. Attitudes and ethical conduct of inspectors

The limitations of labour inspection are often also related to the attitude of labour inspectors. One must not close one's eyes to that. In some, mostly developing, countries the attitude is one of accepting bribes and perks. Corruption can play an important role. ILO has evidence of such situations. In countries where such unethical conduct persists, enforcement is far beyond inspectors' abilities and possibilities, and other approaches need to be sought. One could start with the advisory and/or facilitating role of labour inspection to regain trust and rebuild confidence, and re-establish a reliable position of authority.

4. The authority of labour inspectors

4.1. Defining the authority of labour inspectors

The authority of labour inspectors must be clearly defined. There must be an unambiguous definition of the role and functions of the labour inspectorate, as well as of its authority in relation to child labour. The legislation must establish the general principle that labour inspectors may enter and search premises, and specify sectors or areas where this power is limited. The mandate of the labour inspectorate must be established not only to guide its own action but also for the sake of other government agencies, employers' and workers' organizations and NGOs that have a role to play in securing the rights of children, as well as the children and their families themselves, so that they all understand the role of the labour inspectorate and utilize it effectively.

With clear authority to enter and search workplaces, special provisions must regulate inspectors' access to places where child domestic workers are employed or where children work in private homes. They also have to be protected against acts of intimidation by third parties or senior officials. Obstructing their work must incur severe penalties or sanctions. If labour inspectors have a direct or indirect role in prosecution, they need to network with other agencies connected with law enforcement, such as the office of the state prosecutor or attorney-general, judges and the police; they will also require training on how to investigate complaints, to conduct inquiries at the workplace or in their own office environment, to initiate prosecutions and to give evidence.

4.2. The qualities of labour inspectors

The labour inspectorate itself must be an efficient and trained cadre of permanent staff who have the necessary status within the public service to be able to perform their responsibilities. They need to know the law, the industrial and commercial environment and the measures that have to

be taken to protect workers in general, and working children in particular. They must be able to maintain records, collect statistics, analyse data and write reports. The inspectorate must also have an infrastructure of support services for record keeping and maintaining the confidentiality of information. The impartiality and authority of labour inspectors has to be ensured through the system of recruitment, their conditions of employment and, most importantly, their expertise and conduct.

Given their protective and preventive responsibilities, labour inspectors must be able to interact with workers and employers and obtain their cooperation in upholding with the law. In so far as they have a role to play in conflict resolution, they need to have conciliation skills and considerable sensitivity. They must be trained in communication skills as their responsibilities require that, in addition to employers and workers, they collaborate with a range of government officials and technical personnel. Networking with medical doctors, engineers and other professionals concerned with health and safety and other labour protection issues at the workplace may also be necessary.

In developing countries generally there is however a great shortage of human and material resources to carry out the functions of labour inspection. There may perhaps be genuine intentions to apply the law, but performance fails to measure up to these intentions. Posts exist but qualified inspectors cannot be found and there are insufficient funds for training and purchasing equipment.

4.3. Training inspectors in child labour issues

In order to make labour inspection more effective in the fight against child labour, labour inspectors must be familiar with the problem and aware of the possible consequences for children. The appropriate training of inspectors therefore is a critical dimension of effective enforcement. Positive country experiences and best practices, as well as international standards, must be used to improve the quality of training so that the inspectorate can respond to its dual role of prevention and protection. The experiences of past inspection visits should be introduced as case studies in the training process. There is an urgent need to improve skills in data collection, maintaining records, writing reports and conducting the various interventions in order to ensure effective monitoring. Practical exercises in this regard should be introduced into training. Inspectors need to be made aware of the intrinsic value of abolishing or regulating child labour as part of the broader dimension of guaranteeing children's rights. Knowledge of international standards and reporting procedures must therefore be integrated into the training of labour inspectors in order to help them fulfil their role in identifying the shortcomings of laws and policies.

Any significant role in combatting child labour inevitably requires labour inspectors to be trained in number of additional areas, starting with the phenomenon of child labour itself, its incidence and range and the desirability of its abolition, as well as the relevant international standards and national regulations. In view of the sensitive nature of child labour, there is a need for training in the psychology of handling intimidated and bewildered children whose only experience is of poverty, insecurity and often violence, and who have no knowledge of their rights or the functions of labour inspectors. Employing women labour inspectors when dealing with cases involving child labour can be helpful since they are perhaps perceived as less daunting to the children involved; they are certainly more acceptable where only girls are employed or where

religious attitudes require that women talk to girl workers and inspect their working conditions.

Labour inspectors engaged in combatting child labour, often have considerable sympathy for the child workers and their families and the impossible dilemmas they face; for many parents, especially mothers alone and parents in situations of extreme poverty and deprivation, there is simply no alternative to putting their children to work. Working children mean survival of the family unit and there is no perspective before them other than immediate, physical survival. Training is the appropriate way for inspectors to acquire the necessary professional understanding in such emotionally demanding situations. A clear policy and effective methods need to be developed on this aspect of the work.

4.4. Resources for and status of inspectors

The role of labour inspectors in combatting child labour raises considerations of their status and working conditions. Inspectors' status needs to be enhanced and their working conditions improved, if labour inspection is to be carried out in the most effective and efficient way. Labour inspectors regularly find themselves under considerable undue pressure not to perform their tasks properly because of the threat they appear to represent to important economic interests, whether corporate or more local. They therefore need recognition, respect and support at the political level and from the community, but this is difficult to achieve if their independence is threatened, their status low, and their salaries and working conditions inadequate. Unfortunately, this is often the case and, in such circumstance, will result in low motivation and poor performance and, at worst, a serious risk of corruption, and further downscaling of status. The problem of attracting new entrants to the inspectorate in some countries is a measure of these general problems. It is necessary to improve salaries and conditions in various ways, and possibly but not necessarily increase the number of inspectors, for labour inspection involves far more than simply visiting all workplaces - which would be impossible anyway.

5. Managing the inspection of child labour

5.1. A clear policy

A labour inspectorate must have a comprehensive national enforcement policy including clear policy instructions on labour inspection and child labour which should, at least:

- emphasize prevention as the main aim and develop prevention-orientation methods of intervention;
- address the need to balance advisory and supervisory elements, unannounced inspections and the considered use of sanctions; and
- address the use of complementary inputs such as birth registration and school attendance records, information services, use of the media, voluntary compliance programmes and codes of practice, credible monitoring systems and collaboration with other organisations and authorities.

The policy should in particular include methods aimed at informing, persuading, influencing or stimulating employers of children to comply with the law on a sustainable basis.

5.2. Prevention policies and practice

During the 1990's there has, initially in the labour inspectorates of market economy countries, been increasing emphasis on "prevention" as contrasted with "enforcement" as a major strategy, not only in achieving compliance with occupational health safety and employment legislation but in creating a climate of continual working environment improvements.

5.2.1. A newly defined concept

Prevention, in terms of the prevention of injury, ill health, unfair employment practices or industrial conflict has been an important element in many ILO Conventions. Prevention however in the context of contemporary labour inspectorate thinking implies first of all, of course, a continuing determined effort to avoid incidents, disputes, accidents, conflicts, occupational diseases, illegal employment and so on, by assuring compliance with existing legislation and standards. Beyond this however preventive action today has the ultimate objective of developing a "culture of prevention" as a means of enabling individuals to lead long, productive and healthy lives and at the same time reducing the growing cost to individuals, enterprises and society of a wide range of untoward incidents and occurrences.

5.2.2. A new emphasis on prevention

The driving force behind the new change of emphasis has followed from the realisation that in order to meet major changes in the world of work, labour inspectorates must broaden their compliance techniques. Inspectors face two sets of challenges: first those stemming from rapid and complex technological change, the fragmentation and growing volume of labour legislation and standards, fragmentation of the labour market with changing patterns of employment and changing views of the role of the state. Secondly however there is the pressure on the public administration to reduce public spending, ensure efficient administration and decentralised services, and there are pressures which affect the labour inspectorate as much as other departments. Inspectorates are therefore faced with the need to improve their productivity, increase their efficiency and effectiveness and develop new or revise existing policies, strategies and intervention methods. In particular:

- it is increasingly apparent that with changing patterns of employment and inevitably limited resources labour inspectorates can never hope to compel the whole of industry commerce agriculture and the public sector into compliance by "police methods".
- even compliance with minimum standards, if prescribed by law, is not necessarily sufficient to provide the best standards desirable and achievable;
- case can be made for persuading enterprises and departments to work to high standards of protection as a matter of self-interest in terms of efficiency, cost saving and public image as well as morality; and

- the policy of working with employers, trade unions and the technical, medical scientific community in agreeing the standards of protection which were acceptable to all parties in the end saves inspector resources and eases the process of compliance.

5.2.3. The ultimate aim of prevention

Quite simply the aim is to create a “culture of prevention”, in which compliance with agreed standards is regarded as the norm, as an indicator of efficiency as well as social responsibility. And beyond that a culture of prevention requires commitment to a programme of continual improvement, both the costs and benefits of which become increasingly clear not only to employers and workers but also to governments and the general public.

5.2.4. Dealing with the unconvinced and the uncooperative

The emphasis on prevention is expressed not simply in the relationship between the inspector and the individual enterprise. The key to all preventive joint working lies in the increasingly close relationship between labour inspectorates, sectoral employer bodies and trade unions, with, where necessary, inputs from technical, scientific and medical experts, which result in the agreement of standards and programmes of implementation. Such agreements, overseen of course by labour inspectorates on the ground, increasingly reveal those enterprises which have not participated or accepted the agreements, who seek perhaps short-term profit by cutting corners and allows the labour inspectorate economically to concentrate its enforcement resources on compelling defiant enterprises or sectors of activity to comply.

5.2.5. Implication for the labour inspectorate

As industrial and commercial sectors and individual enterprises increasingly adopt “preventive policies”, labour inspectorate becomes part of the process of facilitating change and “building-in” prevention, rather than engaging simply in its traditional inspection and enforcement activities. Greater emphasis is now placed on the development of labour protection policies at the workplace and prevention rather than cure. In one sense this makes the work of inspectors more difficult and complex because they must have a knowledge of the business operations of the enterprise, social relations within it and its structure and procedures. The purpose of inspection is no longer limited to promoting compliance with the law. Under the preventive approach inspectorates acquire legitimacy through their competence, efficiency, technical power and person power. A preventive approach to labour inspection requires the inspector to be more an advisor than an enforcer. The preventive approach has three main consequences in that inspectors deal more with top management, they advise management rather than do management’s job and they are better trained to have a good understanding of the management process and labour relations. Under a preventive approach to labour inspection, inspection services rely on their technical knowledge and power and person power, the persuasiveness of the individual, rather than on the power conferred by their position. In the context of child labour this change of emphasis will be seen to be particularly significant.

5.3. Clear strategies

In consequence of the above, clear strategies are necessary to:

- establish priorities in those situations which are most abusive or most hazardous to minors;
- define clear objectives for intervention:
 - S elimination of the illegal employment of children;
 - S establishment of preventive measures to improve the working conditions of young persons who are legally employed;
- \$ extend intervention to all types of workplaces:
 - S urban and rural;
 - S registered and unregistered;
 - S visible and invisible;
- \$ adopt concrete measures, bearing in mind that the purpose of inspection is to ensure compliance with the law and not just to apply sanctions.

5.4. Planning and setting priorities

Provided there is both a clear policy in the matter and the political will for action, the central inspection authority can organize inspection programmes that either include child labour among other aspects to be investigated, or are dedicated specifically to combatting child labour.

Sometimes inspection plans are based on campaigns or special national or sectoral action programmes aimed at problems which are already serious, or may be expected to become serious — for example, problems related to a particular substance or process used in an industry, problems related to particular categories of workers (including child workers) or problems which have been assessed as particularly serious throughout a given industry. Priority might be given to searching out and eliminating the worst forms of child labour prevalent in a given country.

5.5. Special inspections, investigations and follow-up visits

Besides ordinary or regular inspections, there may be special inspection visits, follow-up visits or team visits, each of which has its own set of prerequisites, methods and consequences, etc. Inspection may deal with specific issues (e.g. occupational safety and health) or it may address all aspects of protection of the workers. An integrated approach is obviously more cost-effective, but it is also more demanding and requires a higher level of competency. Special visits may concern the investigation of accidents or complaints or the collection of data; they may also be ordered specifically to detect and deal with cases of illegal child labour. Often, inspections for the purpose of investigating illegal forms of employment are organized as team inspections, involving agents from outside the inspectorate such as labour administrators, other government agents, representatives of labour market organisations, experts or monitors from NGOs, and possibly others.

Efficient inspection also depends on the rigour with which follow-up visits are undertaken. Such visits must be made if an employer has been ordered to take certain action within a specified period, after which he or she faces legal charges. Follow-up visits are also useful when a new regulation or policy has been introduced and the inspector wishes to ascertain whether the requisite action has been taken. In programming its inspection activities in respect of child

labour, it is important to give it due priority and a specific allocation of time or “inspector days”, to prevent the work being squeezed out by other functions.

5.6. Complaints

Inspection visits to workplaces may be initiated by the inspection service itself or prompted by complaints from the public. Normally complaints are made by those affected — the victims — or by their representatives. However, child workers or members of their family do not normally report instances of child labour (except perhaps in cases of forced labour), because their circumstances are such that they see no alternative and they therefore have an interest in perpetuating it. They may not even know whether there are laws against it.

Members of the public, as individuals or as members of an organization, could play an important role in reporting child labour; in most countries where child labour is prevalent specific abuses are rarely reported, but heightened public awareness and better training of inspectors can increase the number of complaints.

5.7. Coordination and cooperation with other authorities and the social partners

Labour inspection alone cannot solve the problem of child labour. But it can certainly make a very valuable contribution if the conditions are right. This means cooperation with the ministries of education, health, social affairs, etc., whose mission it is to protect the safety and welfare of the public in general, and of children in particular. It means cooperation with local authorities, who can help locate the establishments employing child labour and facilitate access for the labour inspectors.

It is essential to establish good working relations with employers and workers organisations and others, such as the community, who can assist labour inspectors in carrying out their duties. The importance of cooperation and coordination has to be emphasized because it creates an atmosphere where the labour inspectorate is viewed not only as reporting on violations but as working together with all the actors involved towards the elimination of child labour. Working with government agencies, employers and workers and other concerned groups such as NGOs is particularly important, as these groups are often well placed to identify instances of abuse and to support children once they have been removed from employment.

Inspection procedures should specifically include cooperation with the police, social services and juvenile courts. The use of intermediaries has proved particularly useful in dealing with sensitive aspects of child labour. And they should encourage collaboration with employers’ and workers’ organizations, for instance, through the collective negotiation and workers’ representation machinery and other consultative arrangements at the enterprise level.

5.8. Collection of data

Inspectors should also contribute to the systematic gathering of information on the nature and extent of child labour, for instance on a sectoral basis, data which can be then used in policy development, planning monitoring, publications, research etc.

6. Particular difficulties in combatting child labour

Earlier, the main political, legal, economic and organisational factors which tend to prevent effective reduction in the scale and seriousness of child labour were mentioned. This part considers how these and other cultural, institutional and practical problems inhibit the efforts of labour inspectors to effectively combat child labour on the ground.

6.1. Political Will and effective Legislation

Even where the political will exists to ratify international Conventions and adopt effective legislation, that is only a starting point unless accompanied by programmes of action, joint initiatives with employers' organisations and trade unions and appropriate media publicity. In many countries the legislation was enacted following a long struggle by groups of citizens who denounced the exploitation of children by unscrupulous employers. Promoted by public opinion and then by an administration which was convinced of the usefulness of constructing a defence against abuse, labour legislation made it possible, in combination with other measures such as compulsory school attendance, raising living standards in a context of economic development and reducing inequalities, to decrease the number of children at work and abolish the most scandalous situations.

In some countries, however, and in particular those which became independent in the second half of the 20th Century legislation on child labour was grafted artificially onto a fragile economy and a society which had not incorporated the underlying values of the international Conventions and treaties designed to protect children. In such a context legislation can only be effective if it is backed by strong political will to implement it and is adapted to the real situation of working children.

Unless this is done and the initiative is driven by an action programme which is given due publicity, the labour inspectors' actions and arguments will not be seen as part of a national campaign and they will have individually to justify their actions in the face of local practice and prejudice.

Even if appropriate legislation to outlaw all or certain categories of child labour or to define unacceptable types of work by age, the associated legislation on the registration of births, necessary to prove age, may not exist or not be followed, making enforcement of age related legislation extremely uncertain. There may also not be adequate legislation on compulsory education for the children removed from work or minimal social care, which again faces the inspector with the practical dilemma of deciding whether it may not be worse or more dangerous for the child to be removed from work but continue at risk on the street or in less "visible" employment. There are seldom childcare facilities for the dependent children of often extremely young mothers who therefore have no alternative but to bring their children to work and possibly expose them to toxic solvents, fungicides and herbicides. Although faced with the adverse practical consequences of such institutional inadequacies and the lack of vocational training facilities the inspector is not able, in isolation, to do anything to fill the void.

6.2. Poverty and economics

Whilst in earlier chapters poverty has been seen as one of the key causes of child labour and the economic, and specifically competitive and cost, pressures described, the labour inspector is

confronted with the practical consequences face to face on the ground. He or she sees the poverty, the economic powerlessness of the prime producers or service providers and the lack of any trade union presence in many sectors, and he or she is acutely aware of the economic consequences for the family of removing children from work in certain circumstances. It is rather different from prosecuting a large corporation.

There is in fact the vicious circle of under-development and child labour. Economic under-development is associated with low productivity which in turn results in low living standards, the general poverty of the population, low incomes and inadequacies in food, education, training, housing, hygiene, sanitation and health care. These conditions reduce the capacity to work leading to fatigue, premature ageing, accidents, disease, absenteeism and consequently reduced income, indebtedness and increased poverty. There is then increasing pressure for the employment of children which results in low school attendance rates, low levels of general and vocational education, low wages and with continuing lack of adequate food, housing and health care. The consequential low capacity to work and to consume completes the circle of economic under-development. This is the cycle that inspectors see, not as economic theory, but in the unenviable lives of real people. And inspectors are being asked to intervene at one point only in the circle without being able to influence the prior conditions or ameliorate the consequential damage.

6.3. Cultural factors

Action against child labour may also encounter obstacles in the form of existing cultural standards. There may for instance be a certain fatalism which questions the need to take action against the exploitation of children and questions the values, ideology or religion inspiring such measures. Abolishing such practices may be seen as a luxury reserved for those to whom life offers other alternatives than merely submitting to the fate of a social category, an ethnic class, a caste or a religious group. Ethically child labour may not be seen as an alarming phenomenon subject to a condemnation from an ethical or social viewpoint. Being idle and a social parasite are causes of misconduct and delinquency and are contrary to the values of solidarity within the community.

Parents may themselves have worked from a very young age, not having been to school and may see this as part of a tradition, in which the children of poor families have always worked for their survival and that of the family. They may have no experience of families which escaped this economic constraint. Traditionally too it may have been that only some of the children were able to go to school and to succeed. Whilst awaiting the success of the eldest son or the most intelligent child, the other children had to work to contribute to his education.

Society may see work by children as a normal stage in the process of growing up and working young has been seen as the best form of education in community life. They may be seen as both gaining experience of the power and authority which they have to respect and also of companionship and solidarity between equals. They learn their place in the social hierarchy. Indeed child workers may not therefore see themselves as victims but as assuming responsibility and respect of their family, themselves and their own development. They may adopt the cultural attitudes which tend to legitimise the fact that they go to work at an early age and if not gifted at school come to see themselves as otherwise inferior but with work conferring a status of its own.

Again in certain cultures housework performed by young girls, the assistance provided by children in the fields or running a small shop is not considered to be real work. Children are often considered to be the property of the family with only the parents able to decide whether they have to work, go to school or stay at home. Nobody but the parents or those to whom they delegate their authority is entitled to interfere with them or their future. Inspectors have therefore also to counter a large number of cultural beliefs and attitudes.

There is also a lack of understanding of the inspector's role, suspicion of him or her as a prying outsider and fear that if their children are found to be illegally employed the parents themselves will suffer punishment. In such circumstances the inspector must rely on tact and powers of persuasion to win their confidence, obtain and give information and then take necessary remedial action. There is in any case widespread ignorance of the law often understandable because of its inconsistencies, and compounded by illiteracy among employers and workers.

Indeed in the face of such obstacles it is necessary to assess whether the envisaged changes are acceptable to the social environment at that stage or whether they have to be spread over time with the initial emphasis on information activities, raising the awareness of the public and training the key players. However these are supportive actions that the labour inspector is not in a position to provide in isolation.

A common problem for inspectors is also the uncooperative attitude of child workers themselves (often forced on them by their employers). The work provides them with an income, however small, and sometimes the chance to get some minimal training which, in the face of the alternative of inadequate schooling followed by unemployment, may well appear preferable.

6.4. Organisational deficiencies

Mention has already been made of the undesirably resource-wasteful fragmentation of labour inspection, but this is often compounded for the inspector in the field by the absence of effective arrangements for cooperation and coordination at the top, let alone at regional and local level. As a result, local labour inspectors may have no contact with those responsible for parallel or particular aspects of child labour, whether with the police authorities combatting illicit activities such as prostitution, pornography or drug trafficking or occupational health and safety specialist inspectors, and there will be no appropriate arrangements for coordination or information-sharing. At worst there can be rivalry and competition, leading either to duplication or more often with each authority leaving the problem to the other. And yet labour inspectors with their wide responsibilities and geographical coverage could so usefully be the eyes of the police, telling them of suspected illicit activities and, if unable to deal with particular health and safety issues themselves, drawing the attention of occupational health and safety inspectors to particularly complex or serious cases of hazardous employment of children.

Labour inspectors in the field may also be adversely affected by organisational deficiencies of a different kind such as lack of training, lack of transport, lack of information and guidance, lack of clear programmes and priorities and a lack of support when dealing with the particularly sensitive and intractable problem of child labour.

7. Dealing with specific inspection problems

7.1. Finding and gaining access to premises

One of the difficulties in eliminating child labour or improving the working conditions of minors is that the work often takes place in the informal sector. If labour inspection activities are planned solely on the basis of the official registers of businesses, they will cover only a fraction of the establishments in the country. And it is not often that any significant number of child workers will be found in these officially registered businesses, at least in industrializing countries.

In some countries only registered, established, large or medium-sized and, in many cases, exclusively urban enterprises are monitored. In such cases, inertia and limited resources may inhibit inspectors from fulfilling their advisory and enforcement function elsewhere, particularly in small businesses in the informal sector of the economy. In these circumstances it is often difficult to track down cases of child labour. If inspectors are able to extend their action beyond registered businesses, however, they are more likely to succeed in identifying areas employing child workers.

Since most incidences of child labour occur in the informal sector in both urban and rural areas, in home-based activities carried out by the children's families or, as in the case of domestic service, in "invisible" workplaces such as the child's own or someone else's home, they are very difficult - indeed often legally impossible to reach by inspectors. They face problems of legal intervention in such informal work situations, not to speak of the practical problem of gaining access to shifting workplaces in the informal sector (e.g., the street).

In most countries, the law provides that when workers live and work on the same premises, the occupier's permission is required before those premises may be entered. If permission is refused, there is usually little the inspector can do, despite the fact that a large number of people may be involved whose conditions of work could be quite unsatisfactory. Indeed, often this requirement is abused for the very purpose of hiding illegal forms of employment, including child labour from the inspectors' intervention.

7.2. Lack of understanding of the inspector's role

The difficulties involved when people are living in scattered private dwellings provide considerable scope for fraud. It also happens that the people whom the inspector is there to protect do not fully understand what inspection is about, or are too frightened to cooperate. In such circumstances, the inspector must rely on tact and powers of persuasion to win their confidence, obtain information and then take the necessary remedial action.

The mere presence of a stranger, i.e. the labour inspector, might alert children working in agriculture and other sectors to disappear from the worksite. Labour inspectors therefore often need to act very quickly in order to be effective. On the other hand, parents often need to have their children near them while they work, for where there is little work parents have to take advantage of whatever opportunities, are on offer.

7.3. Lack of children's cooperation

A common problem for inspectors is the uncooperative attitude of child workers themselves (often forced on them by their employers) and their parents for whom the negative connotations

associated with child labour are not immediately obvious. It provides them with an income - however small - and sometimes the chance to get some minimal training, which could be, in some cases, more attractive than the apparent alternative of inadequate schooling followed by unemployment - and thus they do not perhaps appreciate the intervention of labour inspectors. Apart from the difficulty of facing such potentially negative reactions, inspectors often also have no choice but to resort to some legal or even physical force in order to fulfil their obligations. This is unseemly in professional terms, and also raises the serious issue of their own safety. This in turn raises the broader issue of the limitations on the proper conduct of labour inspection in dangerous and violent conditions, and emphasizes the need to enhance and improve the status and working conditions of labour inspectors generally (as mentioned above). Where children would not cooperate with the inspectors, there had been some success using a multidisciplinary approach working with, for example, the juvenile police, the labour courts or the social services.

7.4. Enforcing compliance and applying sanctions

For many reasons evident in the foregoing sections, the application of sanctions in this area of labour inspection is by no means straightforward. The reasons include the proving of age, the difficulty - referred to - of actually discovering illegal child labour, the economics of the family in poverty, the attitude of parents and the children themselves, as well as the considerable expenditure in inspector time and resources to bring just one case to court. The low status of inspectors in some ILO member States seriously weakens their determination to press for any enforcement measures. But such difficulties cannot be allowed to excuse inaction or half-hearted enforcement.

Inspection without, in the final analysis, determined enforcement and enforcement without the visible application of available and effective legal sanctions will not reduce the scale of child labour. Besides, unless laws prohibiting the exploitation of children are seen to be vigorously and equitably applied and enforced, the well-intentioned and compliant employers will become disillusioned for being put at a competitive disadvantage, while ruthless and uncaring employers will continue to benefit from defying the law with impunity.

While clear legislation and political support are important, the effective programming of various types of inspection and investigation is also vital. Then, when serious cases of illegal exploitation of children are discovered or when children are found to be exposed to serious mechanical, chemical or psychological risks, and particularly where the employer fails to cease such practices immediately, the application of sanctions must be swift and certain.

Inspectors must then, furthermore, be encouraged and supported by their hierarchy in ensuring that serious contraventions are taken to court and effectively prosecuted. Equally important, such cases must be widely publicized, not only as a warning to other non-compliant employers, but also as an encouragement to the cooperative ones, and as a signal to society at large that the exploitation of children will not be tolerated.

ANNEX: 1999 Meeting of Experts

I. Background

Following a proposal by an Informal Ministerial Meeting on Child Labour held during the International Labour Conference (1996), the Governing Body decided that a Meeting of Experts on Labour Inspection and Child Labour should be convened. This Meeting was held in Geneva, in September 1999. It was convened for experts on labour inspection and child labour to share ideas and experience on: the role of labour inspectors in combating child labour; best practices and approaches; and to formulate recommendations for future national and international action. The need to develop successful means to end the exploitative practices of child labour - which was the objective of the Meeting - was and is high on the international agenda.

The Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted in 1998, places an obligation on all member States to respect, promote and realize, among other objectives, the effective abolition of child labour; and the Minimum Age Convention, 1973 (No. 138), now increasingly ratified, remains a fundamental instrument on child labour. These instruments promote comprehensive interventions to strengthen law enforcement and labour inspection. The latter has a key role to play in designating hazardous activities, identifying workplaces where they exist, and tackling the very difficult question of obtaining access to the informal sector, rural areas; private homes, and small home-based industries where child labour occurs, as well as taking account of the situation of girls and other vulnerable groups.

Following are the two sets of recommendations adopted unanimously by the High-level Tripartite Meeting of Experts, and contained in its formal report (MELICL/1999/D.7) to the ILO's Governing Body.

II. Action at national level

A. Governments, in close collaboration with employers' and workers' organizations, should create, promote and ensure a political environment and policy framework within the context of national labour and social policies, which fully underscores the importance of abolishing child labour. Ministries of labour have a special responsibility in this regard. It is only with strong political commitment that the labour inspectorate of a member State can play a leading, indeed any, role in the eradication of child labour, and particularly its worst forms. Therefore:

1. Members should observe the Declaration on Fundamental Principles and Rights at Work and its Follow-up, 1998, whereby all member States have an obligation, based on the fact that they are a Member of the Organization, to respect, to promote and to realize the principles of all core labour standards including the effective abolition of child labour.

2. Members should ratify ILO Conventions on child labour, particularly the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and on labour inspection, particularly the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Administration Convention, 1978

(No. 150). Furthermore, they should take the complementary ILO Recommendations (Nos. 20, 81, 82, 133, 146, 158 and 190) into consideration when formulating their policy framework.

3. Members should establish a comprehensive national policy on labour inspection as well as a coherent and consistent enforcement policy that should include a clear policy on labour inspection of child labour and related issues.

4. Members should establish comprehensive, clear bodies of legislation on child labour and labour inspection to give full expression to the policy framework, and strengthen the authority of the labour inspectorate in relation to supervising compliance with child labour legislation. Legislation on child labour and legislation on labour inspection should cover all kinds of formal and informal employment or work arrangements.

5. Political commitment should include allocating a sufficient budget necessary to maintain and operate an effective labour inspection system to ensure that it can contribute to improving working conditions and eradicating child labour. In addition, adequate resources should be allocated for the rehabilitation and social integration for children removed from child labour.

B. Labour inspection should, if possible, go beyond the minimum standards contained in Article 3 of Convention No. 81 (and Article 6 of Convention No. 129), and take a more proactive, prevention-oriented role. Labour inspectors should not only identify children working in illegal conditions during an inspection, remove them from the workplace where appropriate, and prohibit the employer from continuing to employ them, but should also play an advisory role and facilitate measures to complement any supervisory action.

C. Labour inspection should actively participate in the national determination under Article 4 of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the exact list of hazardous work to be prohibited for children under 18 years of age and to be eliminated as a matter of urgency.

D. Labour inspection systems should be functional, professional and effective, operate within efficient structures, and comprise an adequate number of properly trained, equipped and motivated inspectors. A professional labour inspection system should use the available resources in an economical and systematic way, inter alia, by means of prioritizing, proper planning and programming of all the activities that it has to perform by law. Such a system should be based on the framework of a larger labour administration system, headed by highly competent managers and strongly supported by the responsible political authorities.

E. Inspectors should be well informed, independent and well trained also in child labour issues. Familiarity with child labour issues and sensitivity to the situation of children who are working, particularly in hazardous work, are essential if labour inspectors are to contribute successfully to abolishing child labour.

F. In dealing with child labour, the labour inspectorate should plan and programme its inspection activities in such a way that every establishment liable to inspection, and where child labour is known to occur or may be expected, is inspected with reasonable frequency, and should react speedily to complaints.

1. Inspections should contribute to the gathering of information on the nature and extent of child labour, disaggregated, as far as possible, in the manner suggested in Paragraph 5(2) of the Worst Forms of Child Labour Recommendation, 1999 (No. 190).

2. Such information should be stored in a database reflecting the situation at the enterprise level, and in a workplace information management system and made accessible for planning, monitoring, research, etc.

3. The information should be used as a management tool by the labour administration to target its work on child labour, particularly the worst forms of child labour.

4. The information should contribute to building a national database on child labour and be used to develop publications on child labour, for example on the actual child labour situation at the national level and could be used to develop policies by the ministry of labour or for advocacy and awareness-raising purposes.

5. The information gathered should be communicated to the International Labour Office in a suitable form, for instance in the context of reports under article 22 of the Constitution.

G. To eradicate child labour, a comprehensive set of measures must be taken that require the collaboration of other actors. First, it should be ensured that labour inspectors work closely with other departments of labour administration. Furthermore, the labour administration services should work in close cooperation with services responsible for health, education, training, welfare and guidance of children and young persons.

H. Good active working relationships should be sought with employers' and workers' organizations at all levels and other concerned groups such as NGOs, as these are often well placed to identify instances of abuse and to support children once they have been removed from work.

I. Labour inspectors responsible for child labour should also be competent and be given specialist support to be able to ensure the enforcement of provisions concerning hazardous types of work. This requires training of labour inspectors to successfully detect hazardous work agents, processes and working conditions.

J. Labour inspectors must be empowered to use improvement notices, stop notices, prohibition notices as well as their powers of inspection and prosecution to target the worst forms of child labour. Sanctions should be available as a powerful tool and all necessary measures should be taken to ensure that the authority of the labour inspectorate is supported by the police and judiciary system.

K. Labour inspectors should be protected in their capacity as agents of the government and should be provided with police protection where danger or threat of bodily harm is evident. In addition, they should be indemnified against legal actions arising from the due exercise of their professional duties.

L. Labour administration services should develop innovative activities to target the informal sector, for example, awareness-raising in the community, contributing to the education of employers, cooperatives, producer organizations and trade unions, forming working

relationships with workers' and employers' organizations, NGOs, faith-based organizations and women's groups. The policy should also include methods to educate children and their parents about the existing dangers and occupational consequences of child labour. Innovative mechanisms should be developed to reach illiterate populations.

M. Labour inspection should have adequate organizational structures conducive to the effective supervision and prevention of child labour.

N. Inspection services should be strengthened by ensuring adequate conditions of work for inspectors at least in line with the standards laid down in the relevant ILO instruments, in particular Article 6(1) of Convention No. 81 and Article 8(1) of Convention No. 129. All efforts must be made to ensure a balanced inspectorate in terms of race, gender, ethnicity, religion and geography and give due regard to in-service training.

O. A comprehensive national enforcement policy for labour inspection should include clear policy instructions on labour inspection and child labour, which should:

1. emphasize prevention as a main aim and develop prevention-oriented methods of intervention;
2. address the need to balance advisory and supervisory elements, unannounced inspections and the considered use of sanctions;
3. address the use of complementary measures such as birth registration and school attendance records, information services, use of media, voluntary compliance programmes and codes of practice, memoranda of understanding, credible monitoring systems, where necessary, in collaboration with other actors.

P. The policy should include methods aimed at persuading, influencing and stimulating employers of children to comply with the law on a sustainable basis.

III. Future ILO action

In order to give effect to the principles and rights contained in the 1998 Declaration on Fundamental Principles and Rights at Work and its Follow-up, the ILO as the constitutionally mandated and competent international body that sets and deals with international labour standards and promotes fundamental rights at work, should:

1. Vigorously promote the ratification and full application of ILO Conventions on labour inspection and child labour and acceptance of their accompanying Recommendations, particularly the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, the Labour Inspection (Agriculture) Convention, 1969 (No. 129), the Labour Administration Convention, 1978 (No. 150), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182).
2. Support, in full respect of tripartism, the activities of member States to eliminate child labour through technical cooperation undertaken by its International Programme on the Elimination of Child Labour (IPEC), including continuing support for sustainable projects and credible systems of monitoring and verification.

3. Continue to develop and strengthen member States' labour administration and, in particular, labour inspection systems through increased advisory and technical cooperation services, aimed, inter alia, at enhancing the authority, status, freedom from interference, employment rights and conditions of service of labour inspectors.
 4. Support inter-agency cooperation for enforcement and follow-up, and enhance interdepartmental cooperation in the ILO both at headquarters and in the field, including the strengthening of labour administration expertise in the multidisciplinary teams (MDTs).
 5. Provide technical assistance to Members' labour inspectorates to combat child labour, including:
 - (a) technical assistance, at regional and national levels, for policy development and, where necessary, legislative and organizational reform;
 - (b) training on ILO Conventions, mainly on the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and related Recommendations, emphasizing the criteria defining the worst forms of child labour and hazardous child labour in Convention No. 182 and Recommendation No. 190;
 - (c) training on enforcement of child labour legislation including ways to target the worst forms of child labour as a priority;
 - (d) development of, and instruction in, the use of training modules on labour inspection in general, and inspection of child labour in particular.
 6. Continue, through IPEC, together with governments, employers' and workers' organizations, NGOs, and international organizations such as UNICEF, to establish and implement sector-wide programmes that include monitoring of the child labour situation and working with rehabilitation programmes, including the dissemination through ILO publications of best practices in monitoring and verification systems.
 7. Further its work in developing cooperation in the United Nations system and with multilateral agencies on the basis of the Declaration, taking into account the need for international policies which support the effective elimination of child labour and the strengthening of the labour inspectorates.
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