



BetterWork

SYMPOSIUM REPORT

Strategic Labour Compliance in Indonesia

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International
Labour
Organization



International
Finance
Corporation
WORLD BANK GROUP



Key findings

“Classical model of Labour Inspection is not enough anymore. There are good companies treated as bad ones, and vice versa; laws and regulations are not upheld properly” (quote by Indonesian Trade Union Representative)

“Indonesia is transitioning from a traditional to a strategic approach on labour inspection” (quote by senior government official)

“Labour inspectors need to look at the case of non-compliance with a broader perspective, and map strategically if certain relevant stakeholders need to be engaged to improve compliance and how” (quote by ILO official)

Introduction

The classic model of labour inspection – a state monopoly over securing labour law compliance in enterprises through visitation and sanctioning powers – remains a hallmark of labour market governance in most countries. In an era of complex global supply chains, non-standard forms of employment and still vast informal work, the effectiveness of this model and the capacity of labour inspectorates to implement it has its limits. This is especially true in developing and middle-income countries like Indonesia where often under-resourced inspectorates face burgeoning workforces and rapidly changing labour markets. An enforcement model that seeks to cover all enterprises on a regular basis using a “find and fix” approach is, in most cases, unachievable.

Symposium

A “Symposium on Strategic Labour Law Compliance in Indonesia through the Labour Inspection System”, took place in Jakarta from 4–6 April 2017 to discuss an overall strategy for workplace compliance in Indonesia that addresses the labour market and governance characteristics of the country. The symposium provided an opportunity to look beyond the mandate of the inspectorate alone, to promising areas of partnership and coordination with other ministerial departments, the private sector and agencies both at the national and provincial levels. The Symposium was



organized by the Indonesian Ministry of Manpower and the International Labour Organization through its Labour Administration and Labour Inspection and Occupational Safety and Health branch and the Better Work Indonesia programme.

Representatives from Indonesian employers' and workers' organizations and relevant government Ministries and agencies including Coordinating Ministry of Economic Affairs, Ministry of Marine Affairs and Fisheries, Indonesian Social Security Agency (BPJS) took to the stage and shared their experiences and ideas on how to work together. Representatives of the Labour Inspectorates of the Philippines, New Zealand and Viet Nam showcased their own systems and reforms. Private sector was represented also by local garment and automotive manufacturers and multinationals sourcing and investing in Indonesia.

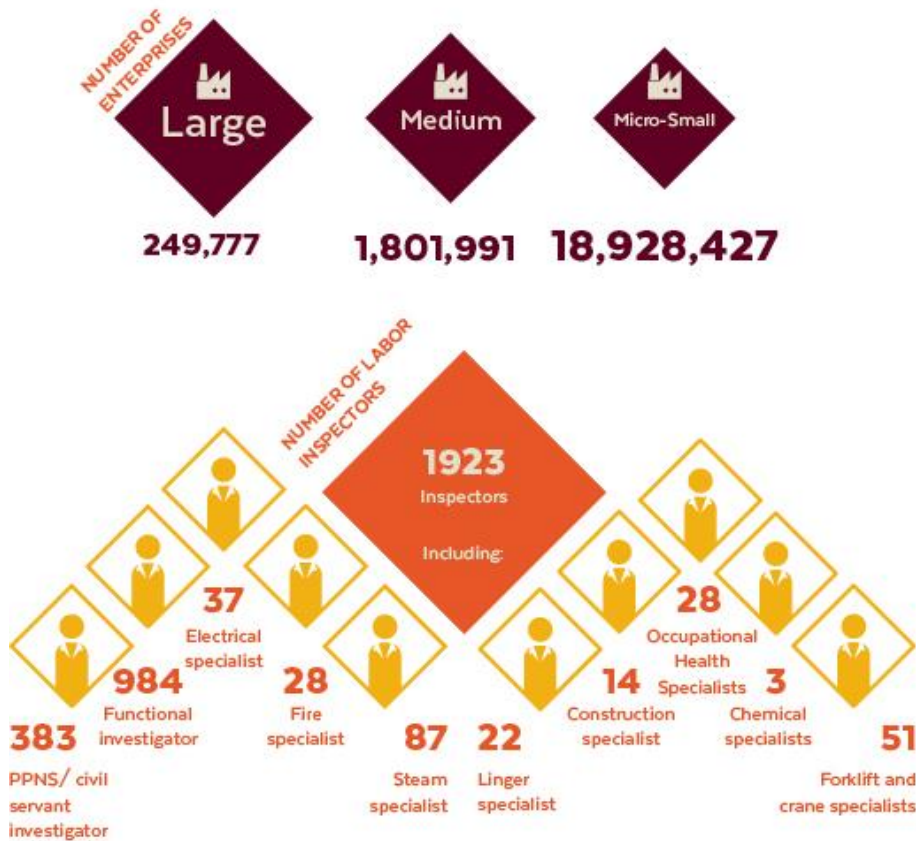
Indonesia's Labour Law inspection system

The labour inspection system in Indonesia focusses on inspection visits to worksites, an approach that senior officials in the Ministry admit is no longer viable. There is a huge gap between the existing available number of labour inspectors (1,923) and the number of companies to be inspected - more than 20 million (2016). It would take around 10 years for labour inspectors to visit each workplace in Indonesia, at least once. The ratio between labour inspectors and enterprises is 1:11,228. The total labour force in Indonesia is estimated to be 189 million people, which would give us a ratio of 1 labour inspector per around 100,000 workers.



DIAGRAM 1: COMPARISON BETWEEN NUMBERS OF LABOUR INSPECTORS AND ENTERPRISES IN INDONESIA

Workload Labor Inspectors ratio to Large-Medium-Small Enterprises



LEGAL BACKGROUND

Labour inspection in Indonesia was established in 1948 with the passing of Law No. 23 of 1948 on Labour Inspection and Law Number 3 of 1951¹. Labour Inspection was centralized until the issuing of Indonesian Law on Local Government that “de-centralized” the system to the district level. Recently, responsibility over labour inspection has been moved from the district to the regional level (governor). Nonetheless, central government still holds some level of responsibility and control over labour inspection, in particular concerning capacity building of labour inspectors.

¹ Additional relevant legal instruments concerning labour inspection include: Law no. 1 of 1970 on Occupational Safety, Law No. 13 of 2003 on Manpower, Presidential Decree No. 21 of 2010 on Labour Inspection and Decree of the Minister of Manpower No. 33 of 2016 on Procedures for Labour Inspection



A total of 269,282 companies were inspected in the first six months of 2016, only about 1% of the total number of 20,980,216 enterprises. Government data on compliance is decentralized to the regional level and is mostly gathered and analyzed **manually**. Looking at data for 2016, main areas of labour law violations include the non-submission to Ministry of Manpower of labour related; minimum wage; overtime wage; existence of Occupational Safety and Health (OSH) Committees (P2K3); staff medical exams and non-availability of OSH experts in the workplace.

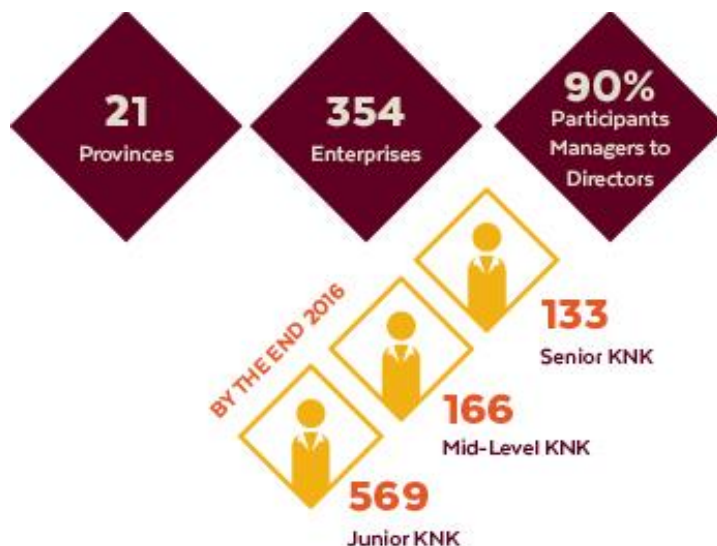
One of the key objectives of the Ministry of Manpower strategic plan for Development in Labour (2015 - 2019) is to improve enforcement of labour laws in Indonesia as non-compliance issues are seen as a challenge to further foreign investment in Indonesia. The improvement of labour compliance would be achieved through two main strategies:

- ◆ Labour Norm Experts (KNK)
- ◆ Labour Norms Compliance Program (PROKEP) and Labour Compliance Index (IKK)

Labour Norms Expert (KNK)

The Labour Norms Cadre or Expert (KNK) is an employee of an enterprise who is trained on labour norms in order to help employers control labour risks and improve labour norms compliance. KNK is part of the Government's "Compliance Program" or Program Kepatuhan (PROKEP). KNK is regulated by the Regulation of Minister of Manpower Number 257 of 2014. The following diagram contains statistical data on the implementation of KNK program so far:

LABOR NORMS CADREE (KNK)





NUMBER OF LABOR NORMS CADREE (KNK)



Labour Norms Compliance Programme (PROKEP) and Labour Compliance Index (IKK)

The Labour Compliance Programme and Index (IKK) aims to improve labour norms implementation, the operational control of labour inspection and the conduct and mentality of stakeholders. One of the underlying principles is that such a programme would **reduce the workload** of labour inspectors who would **share** some of their tasks with other stakeholder such as the employers or the KnK experts so that more of their time is dedicated to analysis and repressive measures. The Index would also provide a **more accurate and easily accessible** way of measuring labour compliance and performance which would be key for Indonesia's fulfillment of the Sustainable Development Goals (Goal 8). The programme and Index would develop as follows:

- ◆ All companies will conduct self assessment, but the implementation is to be done gradually.
- ◆ Assessment is done in two phases, self assessment by labour norms experts (KNK) and verification by labour inspectors.
- ◆ Period of assessment would cover January to December of each year
- ◆ every first quarter, the government will publicly report the assessment results in a Labour Compliance Index.

The Measurement system for labour compliance, which IKK is part of it, is still in development stage. Both the Labour Compliance Programme and Index will be regulated in the coming months by the Indonesian Ministry of Manpower.

Other government agencies play a role in supporting compliance. The following table showcases examples of wider government efforts in improving compliance.



INSTITUTIONS	EFFORTS FOR COMPLIANCE
Ministry of Manpower	<ul style="list-style-type: none"> ◆ More training program for existing labour inspectors, and for newly recruited ones ◆ Training on industrial relations and OSH for employers and unions (role model approach) ◆ Coordination with other relevant Ministries, with local government office, coordination of services between central and local government ◆ Promoting social dialogue between workers and employers
Coordinating Ministry of Economic Affairs (compliance in Palm Oil Sector)	<p>The government issued Regulation of Agriculture Minister Number 11/Permentan/OT.140/3/2015 regarding Indonesian Sustainable Palm Oil Certification which was developed with inputs from relevant stakeholders. The certification includes environment and labour issues. With regard to labour issues, the following are part of the criteria: OSH; Elimination of child labour; facilitating the establishment of unions; facilitating the establishment of co-operative for workers. For implementing the regulation, the Government approaches both employers and workers, for better dialogue.</p>
Ministry of Marine Affairs and Fisheries (compliance in Fishing Sector)	<p>Training for inspectors in the Ministry; Issuance of Regulation of the Minister of Marine Affairs and Fisheries Number 35/PERMEN-KbP/2015 regarding System and Human Rights Certification for Fishing Industry. The criteria include, among others, OSH, labour contract, elimination of forced labour, etc. This regulation opens participation of both Government and non-governmental institution for certifying fishing industry, acknowledging the importance of coordination among relevant stakeholders</p>
BPJS (Compliance in Social Security)	<p>Scheduling more public awareness events, including and in particular to state owned enterprises. In this context, the use of technology is also applied, using the on-line media for socialization. Cooperation with Ministry of Manpower and Police, for various types of violations of the law on BPJS. If the violation falls under criminal violation, the Police will take necessary criminal investigation (Note: BPJS can only give administration sanction)</p>



Models for strategic labour law compliance

ILO's strategic compliance planning

Strategic Compliance Planning is a new approach for improving labour compliance beyond traditional routine inspections or response to complaints. In the strategic compliance model, the labour inspectorate is the entity mandated to achieve compliance and it is uniquely positioned to do so by **identifying and prioritizing** compliance issues and targets, **engaging** multiple stakeholders, and **wielding** multiple interventions.

Key elements of Strategic Compliance Planning include identifying and prioritizing compliance issues and targets. Proper **data collection** by government officials, or by credible NGOs working on a relevant area of work would be a necessary step.

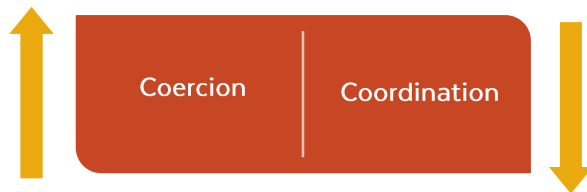
Next important steps would be mapping the non-compliance that occurs, to understand its forms, and the impact relevant to the industry. It is also important that labour inspectors carefully assess **what drives the non-compliance**, and see if there is pattern in terms of where the non-compliances occur in order to better define what type of influence or intervention might be needed to drive compliance.

In this model, **mapping of stakeholders** is also a necessary step. Efforts to improve labour compliance cannot be done by labour inspectors alone, and therefore, there is a need to involve other relevant parties to boost compliance. This would imply identifying, among others, the relevant players in one particular field, to see what kind of influence one might have and to what extent that influence might be useful for improving compliance. The stakeholders, or “others players” might be relevant other government institutions, NGOs, mass-media, employers’ organizations, trade unions, groups of buyers, etc.

As a final step, labour inspectors should assess the **type of interventions** needed to change the non-compliance, and develop detailed plans to operationalize such interventions. This could include, for example, multi-intervention escalation strategy and multi-stakeholders’ engagement.



Designing incentives and disincentives to Compliance



An effective system of legal compliance based on sanctions or **coercion is quite difficult** to achieve. It requires significant investment in capacity and infrastructure and careful analysis of the types of incentives most likely to work. People obey laws for reasons other than fear of punishment and they do so when they believe the laws are the product of a system they believe to be legitimate.

One key issue to also consider when looking into enforcement strategies is the **content of the law** itself. Law design must consider both the normative content and how best to promote compliance, including through enforcement programmes. Law design and implementation must be **participatory** and specifically targeted to policy goals and effective regulation.

To improve compliance, technical implications of rule / regulation have to be properly designed too. Rules need to be designed as easy to understand, enforce and comply with rules. Rules need to promote compliance by empowering labour administration to reach out and empower **other actors** to participate in promoting compliance. Furthermore, effective dispute resolution systems need to be available to promote compliance.

With regards to incentives to compliance, some examples are:

- ◆ Risk-rating of social security or insurance contributions
- ◆ Publication – positive or negative, could be in a form of awards and rewards, or naming and shaming
- ◆ Financial benefits
- ◆ Tax reductions (for example, tax/social security contribution reductions have been successful in Brazil in promoting enterprise registration and “formalization”
- ◆ Access to credit
- ◆ Access to government programmes and contracts
- ◆ Certification to carry out self-assessment
- ◆ Access to training which can be offered in the shadow of, or reaction to, non-compliance and as an alternative to sanctions.



Lessons on compliance from the garment sector: The Better Work Programme

The Better Work programme is an example of an innovative approach to promoting compliance with a focus on the garment sector. This global partnership between the ILO and IFC includes Brands, Donors, Governments, Garment Suppliers, Manufacturers, Workers and Trade Unions together in a strategic way. Better Work engages more than 100 brands across 7 countries, reaching more than 1,450 factories, and 1,900,000 workers and their families.

Better Work works closely with garment factories in identifying issues affecting their workplaces and addresses those through dialogue and collaboration between management and workers. One of the main strategies is to engage factories from the very start in **self-diagnosing or self-assessing** their own compliance issues.

SELF-ASSESSMENT APPROACH



The focus on sustained improvements, international buyers' support and worker management dialogue has paid off. Findings from Better Work impact assessment show that:

- ◆ Better Work is improving working conditions.
- ◆ Improving working conditions is an investment not a cost.
- ◆ Social dialogue and empowering women at work are key drivers for change.
- ◆ Improved working conditions have development impacts beyond the workplace.
- ◆ Sourcing practices of global companies impact working practices in the supply chain.



Better Work also believes that **public reporting** or the transparency of factories compliance levels also leads to significant improvements. For example, in Cambodia, Better Work recorded a significant improvement on compliance, up to 57%, as a result of public reporting. Companies that improved their compliance rate have become a public example for other companies in Cambodia.

The learnings and key points from Better Work experience in improving compliance on the ground are the following:

- ◆ Identify the synergies between private and public sector compliance strategies - More impact and more efficiencies!
- ◆ Foster cooperation and joint actions to reduce compliance risks in enterprises.
- ◆ Engage businesses throughout supply chain to promote the practices that improve and do not undermine compliance.
- ◆ Support national institutions and social partners to address specific challenges in their sphere of influence.
- ◆ Research on the impact and effectiveness of new strategies

VIEWS FROM ACADEMIA (MASSACHUSETTS INSTITUTE OF TECHNOLOGY):

the contribution of Better Work Indonesia to legal enforcement in Indonesia The study on “Better Work and State Regulation in Indonesia: Towards Reinforcement²” shows evidence of how private actors, including transnational ones like Better Work, can help the State by reinforcing laws and regulations. Nonetheless, private regulatory initiatives cannot substitute for the state, as they have their own weaknesses. Private initiatives are most likely to strengthen the state apparatus when there is social mobilization activating state institutions, and an authoritative guidance on legal questions. The study concluded this by comparing what Better Work Indonesia factories and non-Better Work Indonesia factories were doing in response to the 2012 increase on minimum wage. BWI succeed influencing factories in its program to engage in state institutions and follow the rules of the game hence reinforcing the state regulatory institutions. BWI achieved that by, among others, marking factories as non-compliant when they did not pay or legally renegotiated, and issued four “Legal Updates” informing all factories & buyers about requirements, based on Ministry of Manpower interpretation.

² file:///C:/Users/Betterwork/Downloads/Research-Brief_Towards-Reinforcement.pdf



The Philippines: a development approach and technological innovation in labour law compliance

Following 2009 Technical Audit Findings, the government of the Philippines concluded that the traditional labour inspection model suffered from: lower participation and compliance rates; low regularity of inspections; small number of workers covered; limited capacity of inspectors and low quality of inspection, and limited participation of social partner in efforts to improve compliance.

Since 2014, the Philippines is applying a new labour inspection system - Labour Law Compliance System (LLCS), which combines **regulatory approach** as well as strategic efforts to develop a **culture of voluntary compliance**. Elements of this new system include looking into the number, qualification and performance of labour inspectors; the role of social partners and process, system and technology issues.

The new system includes the implementation of joint assessments, zonal assessments and in-house OSH assessments as different modalities to conduct assessments/ inspections. And to fill the gaps between the number of labour inspectors in the Philippines and the number of working sites that need to be inspected, the new system focuses its inspection efforts on “**priority establishments**”, where working sites deemed to be hazardous, employing children, having issues with contracting arrangements, etc would be prioritized.

Philippines is also putting an emphasis in **increasing number of labour inspectors** and on capacity building. And as stakeholders other than labour inspectors are considered as equally important to improve compliance, the Philippines also organizes annual area-wide **summits with relevant stakeholders**.

Social partners are involved in the consultative process and have oversight function during assessments (they have a proper channel through which to provide feedback). The **training** program that the Government provides to labour inspectors also targets social partners.

There is also a new system and process for the implementation of inspection. **Better coordination** with other relevant government agencies is also being developed. Finally, a **new on-line web-based application system** has been implemented that uses IT gadgets for the transmission and processing of real-time collected data from the inspectors in the field, within 72 hours after assessment. This data is then used to generate reports, statistics and summons, including real-time monitoring of decent work indicators.



DIAGRAM ON THE IMPACT OF THE OLD SYSTEM VERSUS THE NEW SYSTEM

	BEFORE (2004-2013)	NOW (2014-2015)
Labour Standards Covered	23	94
Company Visitation	Once every 16 years	Once every 2 years
Establishment covered	233,425 (annual average: 23,000)	127,041 (annual average: 63,521)
Workers Covered	6,816,000 (annual average: 681,604)	5,781,000 (annual average: 2,900,000)
Amount restituted and workers covered	P 311,000,000 for 355,904 workers	P 234,000,000 , for 1,041,000 workers
Increase in personnel	Labour Inspectors: 284	Labour Law Compliance Officers: 574
Labour Inspectors per 100,000 employed in private establishments	1.5%	3.1%

New Zealand: results-based inspection planning and cross-agency collaboration

The main elements of New Zealand’s labour strategic compliance approach are conceiving the mission, understanding the context; identifying and leveraging relevant systems, involving others, understanding what drives demand; mapping supporting supply factors and avoiding ‘moral hazards’. Part of the context information to be considered is workforce composition, workforce trends, authorising environment (community belief in “fairness”), export ambition and discerning global customer expectations.



In this system, there are some approaches that need to be pursued, including:

- ◆ *Identify relevant regulatory and business system.* This approach requires labour inspectors to focus not only in one particular working site but rather, to look at the case with broader perspective. He/she needs to check all regulatory aspects that might be relevant to the case, and to learn the specific business system related to the working site. Relevant regulatory system may include: immigration, citizenship, occupational licensing, incorporation/registration, taxation, collective bargaining, and resource allocation.
- ◆ *Use an industry/sector lens to reach into the system.* As part of the efforts to understand the case with much broader perspective, labour inspectors need to look at the case and relevant aspects around the case with an industry/sector perspective. This will guarantee better understanding of how the system works.
- ◆ *Drive demand for changes:* this may include targeted enforcement, visible deterrence, or media publicity;
- ◆ *Find out what the problem is; what is the envisaged result:* immediate results labour inspectors want to achieve may include, for example: legal precedent, media publicity, public accountability. Other results may include: engagement from international market or engagement from sector leaders.
- ◆ *Define what method and actions that need to be taken.* This could be initially enforcement but could evolve to relationship building and support.
- ◆ *Map those who need to be involved:* These could be other agencies, industry bodies, and perhaps, the media.

Viet Nam: targeted sectoral campaigns and the role of self-assessments in inspection planning

The government of Viet Nam faces similar challenges than other countries in labour inspection. These include the gap between the number of labour inspectors and the number of enterprises; limited funds; lack of proper equipment and IT based data management system; the level of capacity of labour inspectors; the complex issues of OSH and labour relations especially in the informal sector and old fashioned traditional inspections methods. There has been attempts to innovate through “self-assessment” by enterprises of implementation of labour regulations; coordination with Better Work Vietnam; labour inspection campaigns; Inspection in the informal sector, and application of information technology in labour inspection operation.



DIAGRAM X: POSITIVE AND DIFFICULTIES OF EACH OF TYPES OF INNOVATIONS

TYPES OF INNOVATIONS	POSITIVE IMPACTS	DIFFICULTIES AND CHALLENGES
Self-assessment	<ul style="list-style-type: none"> ◆ New way for monitoring the implementation of labour law by enterprises without conducting inspection ◆ Saving of resources both in terms of finance/ personnel for inspection activities ◆ Employees can supervise the process of filling out the form of the employer as they both have to sign the form ◆ Both employers and employees gain better understanding of law requirements when they fill out the form 	<ul style="list-style-type: none"> ◆ Enterprises fill out and send forms by themselves, so the information/answers may not be correct and do not reflect the real situation in the enterprise. ◆ Selected criteria in the form focus on the most important and critical violated areas/issues, thus requiring certain level of law understanding from those who fill out the form. ◆ There is no sanction imposed on enterprises that do not complete and submit the form to Viet Nam's Ministry of Manpower ◆ The process is manually conducted. The online system for submitting and handling the forms is not yet set up



TYPES OF INNOVATIONS	POSITIVE IMPACTS	DIFFICULTIES AND CHALLENGES
Coordination with Better Work Viet Nam³.	<ul style="list-style-type: none"> ◆ Improve the capacity of labour inspectors and Better Work Viet Nam (BWV) enterprise advisors (EAs) ◆ BWV EAs are the "extended arms" of the Labour Inspectorate and strengthen compliance with labour laws at participating factories ◆ Overcome the shortage of labour inspectors. 	<ul style="list-style-type: none"> ◆ Number of EAs in BWV is not sufficient to meet the demand. ◆ Some enterprises participating in BWV have, in some occasions, done so to evade labour inspection ◆ The coordination of BWV with some local labour inspectorates is not timely and effective
Labour Inspection Campaigns⁴	<ul style="list-style-type: none"> ◆ Strengthen compliance with labour laws, improve working conditions ◆ Raising awareness about labour legislation for employers and employees ◆ Promote the responsibility of employers and trade unions in labour relations ◆ Enhance the role of labour inspectors in advocacy, legal guidance and inspection work in specific areas 	<ul style="list-style-type: none"> ◆ The resources to carry out the campaign are limited (both in terms of personnel and finance) ◆ The effect of communication activities are not easy to measure ◆ The participation of employer representatives is limited

³ This coordination includes Training of trainers for labour inspectorate, Training for heads of inspection teams, Training for Enterprises advisories (EAs), Development of materials and tools to improve the compliance of the labour laws in garment enterprises; signing the Protocol on Handling Zero Tolerance Issues in Better Work participating factories in August 2016. The on-going pilot on Persistent non-compliance companies: labour inspectors will conduct inspection visits at persistent low compliance BW enterprises

⁴ These campaigns are a tripartite effort to increase the compliance of labour legislations in a specific sector and have included: Communication activity: equipping the employers and employees with the knowledge and skills necessary in labour laws, thereby raising the awareness and improving the OSH conditions for the employees; Inspection activity: take a practical look, guide businesses to implement measures to ensure compliance at the workplace and handle violations in the implementation of labour laws of the workplace.



TYPES OF INNOVATIONS	POSITIVE IMPACTS	DIFFICULTIES AND CHALLENGES
Inspection in Informal Sector	<ul style="list-style-type: none"> ◆ Ensure workers working in the informal sector benefit from good OSH conditions ◆ Extend the influence of the labour inspection system to greater number of employees and employers. ◆ Propagation and dissemination of labour legislations to employees 	<ul style="list-style-type: none"> ◆ The labour inspectorate is small and carries out many tasks ◆ Labour inspectors have not been trained to conduct inspection in the informal sector ◆ Employees working in the informal sector often work for themselves and with their families, so access is difficult
Application of information technology (IT) in labour inspection	<ul style="list-style-type: none"> ◆ The application of IT in the analysis and reporting of inspection activities helps to keep the information up-to-date ◆ The Ministry Inspectorate has an information channel to disseminate inspection activities to businesses and citizens ◆ The online software (which includes a complaints and denunciations handling software) helps to handle the routine work of labour inspectors and complaints quickly and promptly. 	<ul style="list-style-type: none"> ◆ The use and application of IT applications by some inspectors (especially older labour inspectors) is difficult. ◆ Labour Inspectors are often away (field visits) so the online information may not be up-to-date ◆ The set-up and maintenance of the operation of websites, online software requires huge human and financial resources. IT equipment and internet connectivity are not always available

National stakeholders' views and recommendations

In no particular order, what follows is a summary of the different views from trade unions, employers' organizations, labour inspectors, KnK experts and others gathered during the symposium. Some of these views have been presented in the form of general recommendations and also targeted ones, to the government of Indonesia, on how the current labour inspection and enforcement system should evolve:



Building capacity of employers: While laws and regulations are indeed important, labour inspectors should not be only looking for violations when conducting their role and mandates. Labour inspectors should also provide technical assistance related to laws and regulations, in order to empower business communities; Inspectors need to provide feedback, and avoid to solely look at the violations of certain standards and apply sanction without further feedback.

Simplifying labour laws: Government should avoid complicated situation within Indonesia with the issuing of complicated laws and regulations which hampers Indonesia's businesses competitiveness towards foreign companies in the global market.

Promoting dialogue, transparency and accountability: labour inspection work is discussed behind closed doors. Government is urged to implement its own plan to involve unions more in the process of labour inspection. Improved communications channels between industry and government; government program for improving industrial relations in Indonesia

Improving quality and skills of labour inspectors: focus not only on the quantity of labour inspectors, but also on the quality of those labour inspectors. More qualified labour inspectors are needed not only for upholding law but also to provide any assistance needed for better compliance

Providing rewards to companies with high rate of labour compliance: Employers' organization recommended the Government to provide more rewards to those companies that comply and contribute to the economic values of the industry

Improving quality of data collection and its use for labour compliance: the forum of labour norm experts (KNK) suggested to improve quality of labour data collection and for that data to be further utilized for targeted compliance campaign, development of rewards program for compliance, etc.

Improving selection process for foreign investors interested in investing in Indonesia: representative of unions recommended the Government to take into account labour compliance reputation when selecting foreign investors interested in investing in Indonesia, as a type of precautionary measure.

Industry approach: government should understand the industry (macro wise), and understand the tight competition in the industry, especially in relation with foreign competitors.



SOCIAL PARTNERS AND PRIVATE SECTOR VIEWS ON CURRENT EFFORTS TO MODERNIZE LABOUR INSPECTION IN INDONESIA

VIEWS OF	COMPLIANCE CHALLENGES	ADVANTAGES OF PROKEP	ROLE OF UNIONS/PRIVATE SECTORS IN PROKEP	VIEWS ON INSPECTION SYSTEM AND SUGGESTIONS FOR IMPROVEMENT
APINDO	<ul style="list-style-type: none"> ◆ Too many complicated laws and regulation, very hard to understand and follow ◆ Inconsistency on labour inspection system, i.e., regarding the schedule, the standard used and follow up actions taken 	<ul style="list-style-type: none"> ◆ Improve sense of belonging and responsibility. Workers and employers feel that they have the same responsibility for compliance, for the interest of both. 	<ul style="list-style-type: none"> ◆ Union need to be part of the “role model” concept in PROKEP, example for workers on compliance ◆ Private sector needs to show to community of employers that compliance is not burden, but investment. This will attract more companies to join PROKEP 	<ul style="list-style-type: none"> ◆ Regulations have to be simplified ◆ Consistency of inspection has to be improved, in term of coordinated regulations, coordinated standards as benchmark, frequency and type of inspections, etc ◆ LKS Bipartite has to be improved, as a channel of dialogue between employers and workers. ◆ Higher number of Collective Bargaining Agreements. ◆ The KNK Program should be expanded to as many as possible companies in Indonesia including to small businesses. Self-assessment approach has to be improved, and expanded to various enterprises (with proper quality control) ◆ Rewards for companies with good rate of compliance. Employers emphasized that rewards should be attractive for business, avoid “ceremonial only” type of rewards ◆ Targeted compliance program. Government has to strategically map those type of business and carefully and strategically impose compliance program, each with well-measure actions taken and to avoid “generic prescription” to all type of business regardless of each “unique” circumstances/problems.



VIEWS OF	COMPLIANCE CHALLENGES	ADVANTAGES OF PROKEP	ROLE OF UNIONS/PRIVATE SECTORS IN PROKEP	VIEWS ON INSPECTION SYSTEM AND SUGGESTIONS FOR IMPROVEMENT
Trade Unions	<ul style="list-style-type: none"> ◆ Institutional problems, “disharmony” between relevant laws, Labour Inspection, with its “centralistic” approach, and Law Number 23/2014 (revised by Law Number 2/2015) on Local Government which gave more authority to local government and therefore creates problems to the mandate and authority of labour inspectors at central level ◆ Corruption and collusion, non-compliance cases settled behind closed doors ◆ Freedom of association is limited in many companies, or even non-existent 	<ul style="list-style-type: none"> ◆ One tool for improving compliance 	<ul style="list-style-type: none"> ◆ Union asked for more role, i.e., for designing PROKEP in respective company. 	<ul style="list-style-type: none"> ◆ Improvement of the function of LKS Bipartite as a channel of social dialogue (Note: this was also raised by employers). The intention to have an improved dialogue exists yet the weakness of concrete follow up and implementation after the dialogue is an issue ◆ Revision of Law 3/1951 on Labour Inspection, to ensure the participation of tripartite constituents as relevant ◆ Synchronization of law on labour inspection and law on local government (centralized vs decentralized approach) ◆ Improved law enforcement; sanction must be given to those that violates standards, from administrative sanction to criminal to “social sanctions” (publishing of list of companies not compliant) and withdrawal of permit if necessary ◆ Reward to “good companies” with high rate of compliance. This can be given in various ways such as incentive on tax, easiness for business activities and permit request, assistance from the Government to attract international buyers (by publication of good companies on any possible international Government’s business brochures etc) ◆ Improved selection process by the Government for those international investors interested in investing in Indonesia (i.e., checking respective reputation globally on labour issues etc)



VIEWS OF	COMPLIANCE CHALLENGES	ADVANTAGES OF PROKEP	ROLE OF UNIONS/PRIVATE SECTORS IN PROKEP	VIEWS ON INSPECTION SYSTEM AND SUGGESTIONS FOR IMPROVEMENT
KNK	<ul style="list-style-type: none"> ◆ Inconsistency of laws/regulations, at central and local level. Some regulations developed by central government have been changed at local level, justified by the power of “local autonomy” 	<ul style="list-style-type: none"> ◆ For workers and employers, there are now more knowledge sharing event on labour standards/compliance ◆ More education/training program on labour issues (and needs to improved more) ◆ As one additional channel of communication between different parties 	<ul style="list-style-type: none"> ◆ Union, as well as private sector, have to be part of PROKEP, and of compliance campaign in general, for all stakeholders have to move together to improve compliance 	<ul style="list-style-type: none"> ◆ The use of Manpower’s Ministry data on compliance must be improved, for more strategic planning or better campaign of compliance, for example, with regard to the possibility of designing more reward and punishment (incentive or disincentive) method for the future. ◆ Intensify labour inspection, but tailored with other compliance campaign outside the law enforcement method ◆ Intensify capacity building on compliance for workers and employers, to get more good quality compliance cadre ◆ Improved social dialogue mechanism among tripartite constituents, intensify closer collaboration with relevant parties (NGOs, private sectors, media, etc)



Compliance proposed interventions by sector (results of group work)

The 3rd day of the Symposium was designed for group work limited to Indonesian stakeholders only. The idea was to provide a half-day session for Indonesian participants to share knowledge and ideas also based on the experiences shared by other countries on the first two days of the Symposium. The outcome of this session was developed as an initial proposal for strategic sectoral labour law compliance in Indonesia, looking at the garment, fishing, construction and palm oil sectors.

GUIDING QUESTIONS	GARMENT	FISHING	CONSTRUCTION	PALM OIL PLANTATION
Key compliance challenges in your sector	<ol style="list-style-type: none"> 1. OSH 2. Freedom of Association 3. Minimum wages 	<ol style="list-style-type: none"> 1. OSH 2. Recruitment system of those working on fishing vessels 3. Placement of those workers working on foreign fishing vessels 4. Regulation on working Hours and Rest Hours 5. Child labour 6. Competency of those working on fishing vessels 7. In production factory (not at sea), the challenges, among others: minimum wages, freedom of association 	<ol style="list-style-type: none"> 1. Level of wages 2. Employment relation (type of employment) 3. OSH 4. Social Security 	<ol style="list-style-type: none"> 1. Type of employment 2. Working hours 3. OSH 4. Discrimination (gender) 5. Child labour 6. Working contract



GUIDING QUESTIONS	GARMENT	FISHING	CONSTRUCTION	PALM OIL PLANTATION
<p>One priority compliance challenge to focus on</p>	<p>Minimum wages. The group emphasized that their focus was on the implementation of the minimum wages regulation, rather than on the formulation of the minimum wages itself. This is based on the information given that many garment factories paid their workers less than what are regulated on the minimum wages regulations.</p>	<p>Regulation on Working Hours and Rest Hours</p>	<p>OSH. Data shared and referred: BPJS Employment Program 2015 - 105,182 OSH cases, 38% of working accident</p>	<p>Status of employment relation (type of employment)</p>
<p>Main causes of selected non-compliance case. Initial diagnosis.</p>	<ol style="list-style-type: none"> 1. Ineffective labour inspection 2. Lack of capacity of employers 3. The process for wages establishment 4. Lack of knowledge on minimum wages 5. Non-existence of unions 	<ol style="list-style-type: none"> 1. No knowledge on Working hours and rest hours, both workers and employers 2. Lack of “knowledge sharing event” on this particular regulation 3. The remote area of working sites (in the middle of the sea); Lack of coordination among stakeholders 	<ol style="list-style-type: none"> 1. This industry requires high cost 2. Lack of intention to pay attention to OSH 3. Lack of attractive incentive scheme 4. Construction work management system of this sector is not working properly 	<ol style="list-style-type: none"> 1. Unclear employment contract 2. Company policy 3. Employers avoid legal responsibility 4. Insufficient regulations 5. Wages below standard



GUIDING QUESTIONS	GARMENT	FISHING	CONSTRUCTION	PALM OIL PLANTATION
<p>Main actors in the sector and their influence to improve this compliance issue</p>	<ol style="list-style-type: none"> 1. Government 2. Employers 3. Unions 4. Buyers/brands 5. Wages Board 6. Government includes Ministry of Manpower, Ministry of Trade, BKPM (Coordination Board for Investment) 7. When list of actors are mentioned, it is necessary to define what our expectation is from each of them, with regard to their influence for compliance. 	<ol style="list-style-type: none"> 1. Employers 2. Workers 3. Government: Ministry of Manpower, Ministry of Marine Affairs and Fisheries, Local Government, Head of Ports 4. Marine Police, Indonesian Navy, Ministry of Foreign Affairs and the National Board for Placement and Protection of Indonesian Overseas Workers (BNP2TKI) –The other actor that may influence compliance is Mass-media, who can help to raise awareness of public in general regarding the need of compliance in fishing sector to avoid possible case of forced labour, trafficking in persons, for example. 	<ol style="list-style-type: none"> 1. Employers: (main and sub-contractors) 2. Association of Construction Companies 3. Labour inspectors 4. General Work Office (PU) 5. Workers/Unions 6. Auction Committee of Construction Work 7. BPJS Office (Employment Program), Ministry of Finance etc 	<ol style="list-style-type: none"> 1. Company's management 2. Local government 3. Workers 4. Labour inspectors 5. Investors 6. Local leaders 7. Local Plantation Office (to be more specific on "local Government"). NGOs on palm oil like Sawit Watch, Investors in palm oil plantation. The other stakeholders added were the Roundtable on Sustainable Palm Oil (RSPO). Other stakeholders mentioned were international buyers and the Association of Palm Oil Companies (GAPKS)



GUIDING QUESTIONS	GARMENT	FISHING	CONSTRUCTION	PALM OIL PLANTATION
<p>Key compliance interventions (3-5) you propose to address the non-compliance issue</p>	<ol style="list-style-type: none"> 1. Self-assessment system 2. Improvement of recruitment of labour inspectors 3. Capacity building of stakeholders 4. The use of IT system 5. Developing lists of bad investors, or otherwise, develop attractive rewards. Report of this must be available to the public, and joint campaign on wages could be organized. 6. Use of IT system must be seen as a tool, strategy - to avoid confusion with strategic compliance planning itself 	<ol style="list-style-type: none"> 1. Develop standard operational procedure, more regulations, and KNK program, 2. More knowledge sharing event on regulations in fishing industry 3. Improved coordination among government institutions 4. The use of mass-media for exposing non-compliance 5. Reward those that comply 6. Implementation of the new regulation of Indonesian Minister of Marine Affairs and Fisheries on the Human Rights Certification for Fishing Industry 	<ol style="list-style-type: none"> 1. Development of Compliance Index that is provided for public 2. Integration between Labour inspection and permit request mechanism 3. Capacity building for workers and employers 4. Constructive and attractive reward system, and is being integrated with relevant government institutions: tender priority, tax incentives, simplified process of license for those companies with high compliance index etc 5. It was advised to all participants to check small enterprises too so both big and small construction enterprises will be well-monitored (all way down too sub-contractors) and joint liability may be considered to be applied in Indonesia. 	<ol style="list-style-type: none"> 1. Pembinaan 2. Inspection 3. Law enforcement 4. Social dialogue 5. Regulations that are palm oil friendly 6. Innovation on inspection system 7. Review of PHL 8. implementation of the Indonesian Sustainable Palm Oil System (ISPO) 9. "naming and shaming" method