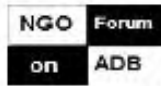


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ADB Safeguard Policy and Core Labour Standards *

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The draft safeguard policy of the Asian Development Bank (ADB) released in October 2007 is silent on the safeguards or protection of workers engaged in the implementation of ADB-funded programs and projects. Workers should be provided adequate protection and safeguards in Bank-funded projects, in such instances where: (i) infrastructure or construction projects employ workers under harmful working conditions; and (ii) restructuring or reform of government agencies or entire sectors (e.g. power) would adversely affect workers in the process.

However, as we have seen in several ADB projects, workers suffer from a number of work-related risks and damages. In the recent past, there were number of occasions that implementing agencies failed to ensure workers safeguards.

We know that there were several incidents in Southern Transport Development Project (STDP) in Sri Lanka that labourers faced several risks including deaths at the workplace. And we learnt there was not even a minimum level of arrangements or precautions to protect life, health and safety of the construction workers, many of them contractual workers suffering from worst forms of exploitation.

We also learnt that some ADB borrowing countries such as Uzbekistan and Tajikistan use child labour in the cotton industry which ADB is also supporting through grants in some projects. For example, the main objective of the ADB-funded 'Sustainable Cotton Subsector Project' (approved in 2007) is the repayment of farmer's debts and profitability of the Tajikistan cotton sector. However, the bulk of the workforce for cotton growing in Tajikistan consists of women and children, totalling roughly 600,000. The women and children are suffering from harsh working conditions like long working hours under the summer heat that can go as high as 120 degrees Fahrenheit. Children from seven years of age are already working in the cotton fields. Most of the children have acute health problems of exhaustion, intestinal and respiratory infections. On the other hand, violating the school curriculum and threatening to expel students from the school, school officials are forcing children to gather cotton. School children live in badly equipped and cramped barracks while working in the fields. This situation in Tajikistan is an illustration of how child labor can exist in an ADB-funded project.

We welcome ADB's publication of its Core Labour Standards (CLS) Handbook in 2006, in cooperation with International Labour Organisation (ILO), that commits the Bank to promote labour rights and respect for ILO's core labour standards.

Although the Handbook states that CLS should be integrated in ADB's project cycle, ADB is bound to fail in ensuring strict and mandatory compliance if CLS and other workers' issues are not incorporated into the Bank's safeguard policy framework.

In consultations on its draft safeguard policy, ADB has repeatedly announced the policy's intent to harmonize its safeguard policies with those of other MDBs. In particular, the Bank has suggested that the International Finance Corporation's (IFC) *Policy and Performance Standards* would be a key benchmark for that

* Core labour standards (CLS) are a set of four internationally recognized basic rights and principles at work aimed at ensuring workers' rights to trade union organization and collective bargaining, freedom from discrimination in the workplace, and the elimination of child labor and forced labor.

harmonization. ADB's draft Safeguard Policy, however, falls substantially short of IFC requirements in a number of substantive areas, including key sections on 'Labour and Working Conditions'.

IFC's chapter on 'Labor and Working Conditions' explicitly referred to ILO core conventions and requires all companies that borrow from IFC to comply with CLS and observe some other basic conditions, such as health and safety standards, protection for contract workers, and a policy for managing reductions in employment. IFC clients are expected to respect workers' freedom of association (FOA) and right to collective bargaining and "will not discriminate or retaliate against workers who participate or seek to participate" in the organizations of their choice, regardless of whether national law fully protects those rights.

The new IFC policy also require that all proposed IFC projects must include an assessment of the labor, health and safety impacts and risks of the project and adopt measures to respond to any deficiencies or negative impacts commensurate with the level of impact and risk. Since May 1, 2006, the new policy has been implemented on all IFC lending with strict norm of non-compliance with CLS could lead to cancellation of the IFC loan.

We strongly note that ADB's safeguard policies currently covers only three (3) policy areas - Environment, Involuntary Resettlement, and Indigenous Peoples. World Bank-IBRD has 10 safeguards -- Environmental Assessment (EA): Cultural Property, Disputed Areas; Forestry, Indigenous Peoples; International Waterways; Involuntary Resettlement; Natural Habitats; Pest Management; and Safety of Dams. World Bank-IFC covers some 14 policy areas, including 'Labor and Working Conditions'.

Such issues as child labor in Tajikistan and harmful working conditions of construction workers in Sri Lanka would be avoided if ADB institutes so-called 'Safeguard Categories' not only in its three safeguard areas, but also viz labor and working conditions. Adequate operational guidelines that ensure compliance with core labor standards in Bank-assisted projects should also be put in place.

On April 23, 2008 ADB announced that it will issue a second draft of its Safeguard Policy Update (SPU), based on feedback through their consultations worldwide. In addition, ADB will hold another consultation workshop at its headquarters in Manila for stakeholders to have an opportunity to review the revised document. The second draft will also be posted on ADB's web site for comments.

Our position at NGO Forum has always been to promote genuine and meaningful consultations with communities and other affected people of ADB-funded projects. As with any other affected peoples, we strongly recommend that workers and their organized unions need to be consulted in any project that can potentially be harmful to them.

We note that no trade unions had been invited to the SPU consultations. We support trade unions' position to be adequately consulted in the SPU processes, as with all relevant stakeholders of the Bank.

The consultations around ADB's 2nd SPU draft should provide workers and their trade unions a key opportunity to engage with ADB on its safeguards framework, and we strongly urge ADB should include Core Labour Standards and other basic labour safeguards in its Safeguard policy.

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Core Labor Standards (CLS) are a set of four internationally recognized basic rights and principles at work: (i) freedom of association and the effective recognition of the right to collective bargaining, (ii) elimination of all forms of forced or compulsory labor, (iii) effective abolition of child labor, and (iv) elimination of discrimination in respect of employment and occupation. CLS are aimed at ensuring workers' rights to trade union organization and collective bargaining, freedom from discrimination in the workplace and the elimination of child labor and forced labor.

In 2006, Asian Development Bank (ADB) published its *Core Labor Standards Handbook* in collaboration with the International Labor Organization (ILO). As part of its 2001 Social Protection Strategy, the Handbook formally commits the Bank to comply with the internationally recognized CLS in the design and formulation of its loans. It also asserts that all ADB's developing member countries (DMCs), by virtue of being members of the ILO, are held to respect and promote the fundamental core labor standards.

As a result of trade unions' engagement with multilateral development banks like ADB, CLS are increasingly being mainstreamed into their operations and loan obligations.

In 2002, World Bank (WB) launched a website "*Core Labor Standards Toolkit for Staff Preparing Country Assistance Strategies (CAS)*" which provides a 3-step process for: (a) understanding CLS and their relevance to development and poverty reduction; (b) locating information on CLS on specific countries; and (b) diagnosing CLS in the CAS.

In 2005, ADB's *Procurement of Works Standard Bidding Document (SBD)* was amended to be

consistent with the MDB Harmonised Edition 2005; the document includes 22 labor-related clauses covering some areas of core labor standards. In March 2006, the MDBs' procurement departments adopted a new 'harmonized' SBD which contains obligatory requirements that include prohibitions of forced labor and harmful child labor for major public works contracts. Other requirements are related to respect for national labor laws and health and safety issues, e.g., HIV/AIDS prevention.

In February 2006, International Finance Corporation (IFC), WB's private sector lending arm, adopted the *Policy and Performance Standards on Social & Environmental Sustainability*, with a chapter on 'Labor and Working Conditions' that requires all companies that borrow from IFC to comply with CLS and observe some other basic conditions such as health and safety standards, protection for contract workers, and a policy for managing reductions in employment. IFC clients are expected to respect workers' freedom of association (FOA) and right to collective bargaining and "will not discriminate or retaliate against workers who participate or seek to participate" in the organizations of their choice, regardless of whether national law fully protects those rights. The new IFC policy also require that all proposed IFC projects include an assessment of the labor, health and safety impacts and risks of the project and adopt measures to respond to any deficiencies or negative impacts commensurate with the level of impact and risk. Non-compliance with CLS could lead to cancellation of the IFC loan.

In April 2007, WB adopted CLS clauses in contracts for public-sector construction infrastructure contracts which for the first time include requirements referring to all four CLS.

The *CLS Handbook* provides guidelines on how to integrate CLS into ADB's operational cycle:

1. As a first entry point, CLS should be considered during the preparation of the country poverty analysis (CPA).
2. At the pre-project design, the IPSA (initial poverty and social assessment), which is mandatory for all Bank projects, should identify issues related to CLS.
3. At the project design phase, checklists are in place for compliance with CLS, conformity with national labor law, and design of project assurances, covenants and loan agreements.
4. In preparing bidding documents, invitations to bid should include a specific reference to CLS and indicate that compliance with such provisions would be monitored during the project's implementation.
5. During project implementation, project staff should develop a consultation phase, address stakeholder concerns through dialogue, build the capacity of stakeholders to implement CLS, and monitor activities for compliance with CLS.
6. The project's completion and post evaluation reports should also focus on labor issues and how the CLS were implemented. Any adverse effects of the project on people, mitigation and compensation measures adopted, and the results of these measures should be assessed.

The ongoing review of ADB's safeguard policies provides a key opportunity for the Bank to strengthen its safeguards framework through incorporation of CLS and some other basic labor safeguards and make it a standard requirement that their borrowers comply with CLS, as has been adopted by IFC since 2006. As well, a labor impact assessment should ensure genuine and meaningful consultations with affected workers and trade unions such that impacts are identified and assessed early in the project cycle, and any adverse impacts are avoided, minimized, or mitigated. ADB should take cognizance of the fact that various categories of workers may be differentially affected by Bank-assisted projects, and hence, should design appropriate mitigation measures in compliance with CLS.

Many cases of CLS violations take the form of physical violence against union organizers and officials, apart from the usual discrimination and dismissals and other work-related anti-union/worker action. Slave labor and bonded labor are still found in the Asia-Pacific region, mainly affecting the most vulnerable, i.e., children and women.

About 60 percent of the workers in the region are in the informal economy; in some countries, informal economy accounts for over 90 percent. Informal economy workers or those engaged in 'atypical work' are the most exploited, most neglected and is characterized by low wages, long working hours, lack of social protection, lack of job security, absence of occupational health and safety measures, and are largely unorganized and exempted from labor laws.

Atypical work is commonly characterized by its contingency, transitoriness, different working conditions compared to regular workers in the same job, and precariousness of employment such as part-time job, dispatched workers, temporary or

contractual workers, or outsourced workers.

All workers have basic human rights and are entitled to all opportunities for full human development; this is consistent with and supports ADB's goal of poverty reduction in the region.

Public Services International (PSI) is a global trade union federation representing some 20 million women and men working in public services around the world. It has more than 600 affiliated unions in over 150 countries. PSI is an autonomous body, which works in association with federations covering other sectors of the workforce and with the International Trade Union Confederation (ITUC). PSI is an officially recognised non-governmental organisation for the public sector within the International Labour Organisation (ILO) and has consultative status with ECOSOC and observer status with other UN bodies such as UNCTAD and UNESCO.

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